

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED RICE LITIGATION))))))	4:06 MD 1811 CDP TRIAL COMMENCING MAY AND JULY, 2011
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ARKANSAS PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO EXCLUDE DESIGNATION, REPORTS AND TESTIMONY OF RONNIE HELMS

Plaintiffs, Rudy Hufford and Cheryl Hufford (partners of Hufford Farms); Ronald Catt (as husband and wife with Judy Catt); Gary Richey, Jeramy Richey, Tina Richey and Vicky Richey, members of Richey Farms, joint venture successor to R&R Farms Joint Venture; Mark Williams and Pamela G. Williams (individually and as partners of Williams Farms G.P.); Guy Brinkley; Aylene Williams individually and as trustee for the J.L. Williams Family Trust; Frank Binkley, Lynn Gene, Inc. Eifling Investment Co., Sam Don, Inc., Rebecca Lynne, Inc., Clayton Lee, Inc., Don L. Eifling, Inc., and D. Lynn Eifling, Inc. (partners of Don Eifling & Son), Jeffrey Keeter, Robert J. Venable and Robbin V. Tuller (partners of RJR Farms, Keeter Farms, Inc. and P&K, Inc)., Dennis Brown, Sherry Brown and Coty Brown (partners of Legacy Farms Partnership) (collectively the "Arkansas Plaintiffs") move to exclude the expert designation, reports, and testimony of Defendants' expert Ronnie Helms under Rules 702, 703 and 403 of the Federal Rules of Evidence as well as the principles of *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993). The Arkansas Plaintiffs hereby incorporate by reference the following documents previously filed by the Missouri and Arkansas plaintiffs in the bellwether trials: (i)

Plaintiffs Motion to Exclude Expert Designation, Report and Testimony of Ronnie Helms (D.I. 1443); (ii) the Memorandum in Support of Plaintiffs' Motion to Exclude the Designation, Report and Testimony of Ronnie Helms (D.I. 1444); and (iii) the Reply in Support of Plaintiffs' Motion to Exclude the Designation, Report and Testimony of Ronnie Helms (D.I. 1570) and all exhibits attached thereto (collectively, the "Prior Filings"). The Arkansas Plaintiffs also refer to this Court's Memorandum and Order of October 9, 2009 (D.I. 1604), Memorandum and Order of December 9, 2009 (D.I. 2075), Memorandum and Order of June, 7, 2010 (D.I. 2981) and Memorandum and Order of October 4, 2010 (collectively, the "Prior Orders").

This Court has consistently held in its Prior Orders that Helms cannot offer testimony as to lost profits, as he is not an economist or accountant. In addition, none of Helms' prior opinions regarding individual damage issues specifically related to any of the Arkansas Plaintiffs. He has offered no reports or opinions regarding the specific damage calculations performed any of the Arkansas Plaintiffs as required under the Federal Rules of Civil Procedure. Helms does not have the requisite foundation, and should not be permitted to offer, any opinions as to damages generally, including estimating future crop yields, or as to any topic specifically related to the Arkansas Plaintiffs' claims or farming practices.

CONCLUSION

For these reasons and the reasons set forth in the Prior Filings, the Arkansas Plaintiffs request that the Court strike Helms' designation as an expert, strike his reports, and exclude his testimony at trial.

Dated: January 20, 2011

Respectfully submitted,

GRAY, RITTER & GRAHAM, P.C.

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Plaintiffs' Executive Committee

CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this 20th day of January 20, 2011, electronically filed a copy of the foregoing with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the parties of record.

/s/ Don M. Downing