

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

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Trials Commencing  
May and July, 2011

**THE BAYER DEFENDANTS’ RESPONSE TO THE ARKANSAS PLAINTIFFS’  
MOTION TO EXCLUDE DESIGNATION, REPORTS AND TESTIMONY OF  
DR. NICHOLAS KALAITZANDONAKES**

Arkansas Plaintiffs’<sup>1</sup> motion to exclude Dr. Kalaitzandonakes raises no new issues for the Court. In their latest motion, the Arkansas Plaintiffs incorporate prior plaintiffs’ Motions to Exclude Designation, Reports and Testimony of Dr. Nicholas Kalaitzandonakes and Memorandum in Support. Pls. Mot. to Exclude Kalaitzandonakes at 1, D.E. 3917 (incorporating by reference previous motions and briefing in support as to the Missouri and Arkansas initial trial pool plaintiffs and Mississippi plaintiffs, D.E. 1441, D.E. 1442, D.E. 1568).

The Bayer Defendants<sup>2</sup> likewise hereby incorporate their responses to the Missouri and

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<sup>1</sup> 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 Vichy Richey, members of Richey Harms, 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 Investing 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”)

<sup>2</sup> For purposes of this motion, the Bayer Defendants are Bayer CropScience LP, Bayer CropScience Holding, Inc., Bayer CropScience LLC, Bayer CropScience Inc., Bayer Corporation, Bayer BioScience NV, Bayer CropScience AG, and Bayer AG. Bayer CropScience AG, Bayer BioScience NV, and Bayer AG join these motions reserving all jurisdictional

Arkansas plaintiffs' motion and the Mississippi plaintiffs' motion. (D.E. 1502, D.E. 1931 and D.E. 3631). The Bayer Defendants restate and preserve their position that the Arkansas Plaintiffs' motion should be denied in its entirety.

The Court has rejected prior plaintiffs' motions multiple times on these grounds, finding that Dr. Kalaitzandonakes is an expert in the field of agricultural economics, that his proposed testimony is relevant, that he used well-accepted principles of economic analysis, that his data sources are appropriate, and that he reliably applied his methodology. Oct. 9, 2009, Mem. & Order at 44, 46-47, D.E. 1604; *see also* Dec. 9, 2009, Mem. & Order D.E. 2075.

There is no reason for the Court's decision here to be any different. The Arkansas Plaintiffs' motion should be denied.

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objections. The use of this shorthand reference does not concede that any particular defendant was engaged in any particular activity.

Dated: February 18, 2011.

Respectfully submitted,

/s/Lester C. Houtz

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**CERTIFICATE OF SERVICE**

This is to certify that I have this 18th day of February, 2011, electronically filed a copy of the foregoing with the Clerk of Court to be served by operation of the Court's electronic filing system upon the parties of record.

/s/Lester C. Houtz

Lester C. Houtz