

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED) Case No. 4:06MD1811 CDP
RICE LITIGATION) ALL CASES

CASE MANAGEMENT ORDER No. 10

This order applies to all cases other than the Non-Producer Cases, which are governed by Case Management Order No. 9, entered this same date. This order results from the discussion held at the conference on October 16, 2008, and the proposals of the parties submitted before that conference. It does not resolve all of the issues presented, and I expect to issue another Case Management Order, which will resolving those other issues, by the end of the month. That Order will supplement this one, but will not change these dates.

Accordingly,


IT IS HEREBY ORDERED:

1. *Lexecon* waiver: Plaintiffs' lead counsel must file a list of any plaintiff who wishes to waive the requirements of *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26 (1998) and consent to venue to permit trial in this district must no later than **December 1, 2008**. The list must provide the plaintiff's name and the Eastern District of Missouri caption and case number of each case in which that plaintiff is a party. The list must specify if, for any case, fewer than all the plaintiffs have consented to *Lexecon* waivers. No later than **December 12, 2008** any other party to that case who objects to the trial taking place here must file a statement of objection. If no objections are filed, any case in

which a plaintiff has provided a *Lexecon* waiver must be dismissed without prejudice, and shall be refiled as a new case in this district no later than **January 5, 2009**. As stipulated by defendants, for statute of limitations purposes, the date of filing the original suit shall be deemed the date the refiled suit is commenced, so long as the claims and parties are not changed.

2. **Plaintiff fact sheets**: All plaintiffs whose cases were pending in this district before October 1, 2008, and who have not already done so must provide completed plaintiff fact sheets to lead defense counsel no later than **November 20, 2008**. All plaintiffs whose cases are already pending in this district and have not already done so must provide the four categories of documents requested in the plaintiff fact sheet no later than **December 15, 2008**. Any plaintiffs whose cases were or will be docketed in the Eastern District of Missouri on or after October 1, 2008, must provide lead defense counsel with the completed plaintiff fact sheets, along with the four categories of documents, within sixty days of their cases being docketed in the Eastern District of Missouri.

3. Defendants shall identify deficiencies in plaintiff facts sheets and/or document production no later than **January 12, 2009** for plaintiff fact sheets and documents received by December 15, 2008, or within thirty days of receipt for plaintiff fact sheets and documents received later. Plaintiffs shall cure any such deficiencies within thirty days of receiving the notice of deficiency from defendants. Failure to comply with this order may subject the suits to dismissal or other sanctions.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 21st day of October, 2008.