

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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

This Order Applies to all Non-Producer Cases, including:

Texana Rice Mill, Ltd., et al. Case No. 4:07CV0416 CDP
v. Bayer CropScience LP, et al.

Tilda, Ltd. Case No. 4:07CV0457 CDP
v. Riceland Foods, Inc., et al.

Beaumont Rice Mills, Inc. Case No. 4:07CV0524 CDP
v. Bayer CropScience LP, et al.

Tubbs Rice Dryers, Inc., et al. Case No. 4:07CV0671 CDP
v. Bayer CropScience LP

Basile Rice Drier & Storage, Inc. Case No. 4:07CV1015 CDP
v. Bayer CropScience LP

Veetee Rice Ltd. Case No. 4:07CV1211 CDP
v. Riceland Foods, Inc., et al.

Cache River Valley Seed, LLC, et al. Case No. 4:07CV1293 CDP
v. Bayer CropScience LP, et al.

Kennedy Rice Dryers, LLC Case No. 4:07CV1773 CDP
v. Bayer CropScience LP, et al.

Farmers Rice Milling Co., Inc. Case No. 4:07CV1780 CDP
v. Bayer CropScience LP

Planters Rice Mill, LLC Case No. 4:07CV1795 CDP
v. Bayer CropScience LP, et al.

Riviana Foods, Inc.
v. Bayer CropScience AG, et al.

Case No. 4:08CV0375 CDP

Rickmers Reismuehle GmbH
v. Riceland Foods, Inc.

Case No. 4:08CV0499 CDP

Rickmers Reismuehle GmbH
v. Producers Rice Mill, Inc.

Case No. 4:08CV0500 CDP

CASE MANAGEMENT ORDER No. 9

This Case Management Order applies to all Non-Producer Cases, which are defined as those cases where at least one plaintiff is not solely a “Producer” as that term is defined in 7 C.F.R. § 718.2: “an owner, operator, landlord, tenant, or sharecropper, who shares in the risk of producing a crop and who is entitled to share in the crop available for marketing from the farm, or would have shared had the crop been produced.” The list above includes all cases previously identified by the parties as meeting this definition. This order applies to those cases listed above and to any cases later transferred to this district meeting the definition of Non-Producer case. Lead Plaintiffs’ counsel is responsible for notifying the Court of any cases that should be included in this order, as they arrive or if they have already arrived but were omitted from this order.

IT IS HEREBY ORDERED that beginning October 21, 2008, all documents relating to only one of the individual non-producer cases should be filed in the **individual case only, using the individual caption and case number**

assigned to that case, and a copy should **not** be filed in the main MDL case. Any document that relates to more than one non-producer case should be filed in all cases to which it relates **and** in the main MDL case. **This order applies only to the Non-Producer Cases.** The provisions of Case Management Order No. 1 with regard to filing continue to apply to all other cases.

IT IS HEREBY ORDERED that the following schedule shall apply in the **non-producer cases**, as defined above:

1. None of these cases is stayed. Discovery, pleadings, and motion practice on all issues should proceed. Counsel for plaintiffs are urged to meet and confer with Lead Defense Counsel to discuss the issues of amendment, service, and responsive pleadings set out in this order, to avoid needless duplication of effort, and to meet these deadlines in the most efficient way possible.

2. Motions to amend pleadings or to join additional parties must be filed no later than **December 1, 2008**. Motions to amend must state whether existing opposing parties object to or consent to the motion.

3. In any case where no amendments are sought, plaintiffs shall achieve service on any unserved defendant no later than **December 1, 2008**. In any case where plaintiffs move to amend their complaint, previously unserved defendants must be served no later than 20 days following the granting of the motion to amend. New defendants must be served promptly and in accordance with the Federal Rules of Civil Procedure. Failure to promptly serve any defendant may result in the dismissal of claims without prejudice.

4. Any party who has been served but has not responded to a pleading making a claim against that party must file a responsive pleading no later than **December 12, 2008**, or within the time limits set by the Federal Rules of Civil Procedure, if that date is later than December 12, 2008.

5. 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 file a statement to that effect no later than **December 1, 2008**. 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**. This Case Management Order will then apply to the newly-filed case. 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.

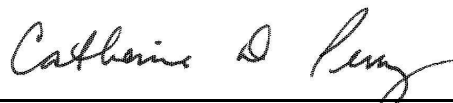
6. Plaintiffs' expert disclosures under Fed. R. Civ. P. 26(a) shall be made no later than **May 5, 2009**, and the depositions of these witnesses shall be completed no later than **June 8, 2009**. Defendants' expert disclosures under Fed. R. Civ. P. 26(a) shall be made no later than **July 7, 2009**, and the depositions of these witnesses shall be completed no later than **August 7, 2009**. Plaintiffs' rebuttal expert disclosures shall be made no later than **September 5, 2009**, and the depositions of these witnesses shall be completed no later than **September 30, 2009**.

7. The parties shall complete fact discovery directed to the Bayer Defendants no later than **April 3, 2009**, and they shall complete all other discovery no later than **August 14, 2009**.

8. Any motions to dismiss, for summary judgment, motions for judgment on the pleadings, or *Daubert* motions or other motions to exclude or limit expert testimony must be filed no later than **November 9, 2009**. Opposition briefs shall be filed no later than 30 days thereafter or **December 9, 2009** and any reply brief shall be filed no later than 14 days thereafter or **December 23, 2009**.

9. Any Non-Producer plaintiff who wishes to have his or her case considered for inclusion in the group of cases to be tried first in this district, or who believes his or her case should be governed by the CMO deadlines for producer cases, shall, after meeting and conferring with counsel for all other parties to that case, file a motion for inclusion in the early trial group. The motion must be filed no later than **January 16, 2009**, must state whether the other parties agree, and must contain a proposal for completion of discovery and motions on a schedule earlier than that set out above, so the case could be ready for trial earlier.

10. This Case Management Order applies to all non-producer cases. Counsel for all parties are cautioned that motions to change the deadlines for any one specific case are discouraged, and will be granted only on a showing of the most extraordinary circumstances. With the exception of any cases that might seek an early trial in this district as discussed in paragraph 9, it is my intention to keep all non-producer cases on the same schedule, with few, if any individual variations in deadlines.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 21st day of October, 2008.