

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

_____	)	
<b>IN RE GENETICALLY MODIFIED RICE</b>	)	<b>4:06 MD 1811 CDP</b>
<b>LITIGATION</b>	)	
	)	<b>TRIAL COMMENCING</b>
_____	)	<b>JANUARY 18, 2011</b>

**DEFENDANTS' OBJECTIONS AND COUNTER-DESIGNATIONS TO  
PLAINTIFFS' DESIGNATION OF DEPOSITION TESTIMONY**

Accompanying this pleading are specific objections and counter-designations in response to plaintiffs' affirmative deposition designations. The Bayer Defendants reserve the right to modify or supplement these objections and counter-designations based on the court's rulings on the pending motions in limine.

The parties have agreed that a number of depositions will likely remain unchanged from the Louisiana MDL trial, with the parties preserving claims of error based on the Court's prior rulings. The Bayer Defendants hereby submit objections and counter-designations for the designated testimony which plaintiffs have indicated will differ from what was played at the prior trial. To the extent that plaintiffs' designations for other depositions change unexpectedly, the Bayer Defendants reserve the right to add counter-designations and objections.

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>A. AYERS</b>		
<p>The Bayer Defendants object to plaintiffs' use of this deposition at all. Mr. Ayers, as the testimony shows, was not directly involved in any of the field trials of LLRICE or the decisions leading to Plaintiffs' injuries. Almost all of the testimony elicited is simply a sounding board for plaintiffs' attorneys' arguments and relevant only if Mr. Ayers were serving as a corporate rep. Plaintiffs should not be allowed to use this deposition – provided as a discovery mechanism for plaintiffs to gather Mr. Ayer's likely testimony – to argue in front of the jury for an extended period.</p>		
7:5-7:9		
7:15-7:17		
7:21-8:20		
23:13-18		26:16-17; 27:1-25;
28:1-8		
29:17-30:14	Foundation	
31:18-31:21	Foundation; relevant only if corporate rep.	
32:3-32:9		
33:4-18		33:19-34:14; 34:16-35:2; 38:2-5; 38:15-23; 39:21-40:24
40:25-41:2		41:2-4
41:5-10		42:4-44:1
46:17-20		46:21-47:1 47:15-48:14
49:3-49:16	Responsible party – ethical duty	
49:17-50:1		
50:8-51:6		
51:7-23		
52:9-52:17		
53:14-54:3		
54:8-15		
54:21-55:7		
56:2-57:24	Irrelevant when not testifying as corporate rep	
59:23-62:1	Irrelevant when not testifying as corporate repo	

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
62:4-62:8	Irrelevant when not testifying as corporate rep	62:9-63:12
63:13-64:6	Irrelevant when not testifying as corporate rep	64:7-24
64:25-65:21	Irrelevant when not testifying as corporate rep	66:7-67:18
69:15-70:1	Irrelevant when not testifying as corporate rep	
70:19-71:6	Improper questioning using testimony of another corporate rep in another trial. Responsible party MIL; Lawyer objection at 73:8.	
71:19-73:19	Improper questioning using testimony of another corporate rep in another trial. Responsible party MIL; Lawyer objection at 73:8.	73:20-74:3
76:18-76:25		
78:7-79:10	78:22-79:6 Responsible Party; 79:7-10 Improper expert testimony	
81:10-81:19	Irrelevant; no foundation; attorney argument	
82:18-20	Irrelevant; no foundation; attorney argument	82:16-83:3
84:19-85:2	Irrelevant; no foundation; attorney argument	
85:11-86:7	Foundation; improper expert testimony; attorney argument	
86:14-87:19	Irrelevant; prejudicial	
87:20-88:10		
88:13-91:1	Irrelevant, attorney argument; lack of foundation	

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>T. BREGGER</b>		
11:13-11:19		11:20 -13:4 16:1 – 17:7
29:11-30:10		30:11-30:14; 31:15-32:14
32:15-33:8		
34:8-35:1 (ending at “Bayer”)	Object to inclusion of legal reasons for choosing particular countries.	
47:10-50:4		18:13-20:4; 21:4-9; 35:21-40:2; 51:21-53:7; 54:5-55:2
59:16-60:19		58:22-59:15; 60:20-62:22; 400:9-16 beginning with “TII” 401:1-402:20
62:23-63:10		63:11-14;
63:15-63:17		
65:8-65:16		64:5-65:7
67:15-69:2		69:3 – 69:11 76:20-77:22 (end with “him”) 251:11-252:15 253:2-14 402:21 – 403:11 403:21 – 405:20
69:12-70:3		70:4-70:18
70:19-70:22		70:23-71:3
71:4-71:11		71:12-15
71:16-71:19		
71:21-72:12		
74:10 (starting with “Do you think”)-74:14		73:23-74:1; 74:3-5
74:17-75:14		75:15-75:18 75:20-76:2
78:20-79:14		77:23-78:19
84:20-85:21		
86:4-88:9		
91:13-91:18		92:13-93:2
93:13-93:22		
94:14-95:6		96:1 – 96:18 111:7-112:12 221:11-222:12 222:24-224:12
102:11-104:9		101:4-19

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
104:17-104:21		
105:16-105:23		106:10-11; 106:13-108:18
110:4-111:1		
113:2-114:13		116:17-117:7
118:8-118:18		121:15-121:21; 157:15-159:22
128:8-129:10		123:18 – 123:22 124:4 – 124:21 127:23 – 128:6 129:11- 129:17
129:18-129:20		129:21 – 130:9
136:17-136:20		135:10-135:22; 137:3 - 136:8
165:12-166:6		156:4-157:5; 166:7 – 166:15
166:16-166:18		166:19 – 167:5
172:11-172:22		
173:1-173:18		173:20 – 174:2 176:1 – 176:11
176:12-176:23		
177:4-177:18		
178:11-179:11		
179:12-179:24		180:1 – 180:3 180:5 – 180:7 374:2 – 374:7
180:9-182:3		
182:7-182:8		184:3 – 184:9 374:2 – 374:7
184:10-184:17		
184:20-184:22		
304:3-304:14		310:10-311:18 312:22-313:18
304:20-307:1		310:10-311:18 312:22-313:18 406:8 - 407:8 ending with “from” 407:16-408:24 409:4-5 409:11-14 409:18-21 409:23-410:22 411:1-5 411:8-15 411:18-412:13 412:20-21
378:12-378:21		
380:20-381:9		

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
381:20-384:11		
385:6-386:16		
387:16-388:1		
388:5-391:7		412:23 - 413:22
397:19-398:2		398:6 - 399:1

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
<b>B. CUMMINGS</b>		
Pursuant to an agreement between the parties, objections and counter-designations for the testimony of Bob Cummings will be provided at a later date, when it becomes clear whether this witness will appear live and when plaintiffs have narrowed the designations to include only those they anticipate will be read or played.		

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
<b>A. DeLISLE</b>		
24:2		Mitten (Kyle Dep): Pages 9 through 150; Pages 367-374:24
25:10-25:13		
33:19-35:3		
70:15-70:23		
72:5-72:19		
91:16-93:2		93:9-96:20
112:1-112:8	FRE 402, 403, Hearsay	
116:9-117:6	FRE 402, 403, Hearsay	
118:9-118:24	FRE 402, 403, Hearsay	117:20-118:8
137:21-138:23		
140:1-141:10	FRE 402, 403	
158:1-159:4		
159:6-159:13		
273:22-274:2		
274:9-274:22		
292:2-292:16	FRE 402, 403,	
292:20-293:18	FRE 402, 403,	

PLAINTIFF'S DEPOSITION DESIGNATIONS	BAYER'S OBJECTIONS	BAYER'S COUNTER-DESIGNATIONS
<b>A. DELISLE (Kyle)</b>		
9:15-25		10:1-8; 12:20-24; 155:8-157:14;161:9-162:20; 163:2-164:1; 164:15-165:23; 166:6-7
13:5-13:21		166:12-167:2; 168:13-17
40:16-41:7		
46:8-11	FRE 403, 601, 602: Object to 46:25-47:3 foundation; Object to 47:7-13: foundation, improper testimony/comment of counsel, argumentative	
46:25-47:3	FRE 403, 601, 602: Object to 46:25-47:3 foundation; Object to 47:7-13: foundation, improper testimony/comment of counsel, argumentative	
47:16-21	FRE 403, 601, 602: Object to 46:25-47:3 foundation; Object to 47:7-13: foundation, improper testimony/comment of counsel, argumentative	
51:4-9	Foundation; Vague; Unclear whether she has knowledge of any relationships or which she is talking about. Does not come close to legal standard in LA for imputing liability.	
51:11	Foundation; Vague; Unclear whether she has knowledge of any relationships or which she is talking about. Does not come close to legal standard in LA for imputing liability.	
53:16-54:5		55:4-56:5; 169:10-170:1
56:14-21	FRE 401, 403, 601, 602: Object to vague, foundation, calls for legal conclusion. Moral duties MIL.	51:13-52:2; 52:4-7; 64:24-65:3; 65:5-11
58:16-20		58:12-15
66:15-19		66:20-23
66:24-67:10		
69:24-70:17		70:18-22
71:4-21		

PLAINTIFF'S DEPOSITION DESIGNATIONS	BAYER'S OBJECTIONS	BAYER'S COUNTER-DESIGNATIONS
85:8-11	Objection, no question asked and no witness testimony designated; won't object to 85:8-15	
86:22-24		87:7-22; 172:12-173:20; 173:23-174:3
92:11-15		92:16-18; 88:21-89:1; 89:3-89:24
92:20-93:16		
95:2-96:2	FRE 402; 403; Improper StarLink Testimony.	35:22-24; 36:1-7
96:17-22	FRE 402; 403; Improper StarLink Testimony.	
97:12-98:4		
116:3-20	FRE 402; FRE 403. Improper attorney argument at 115:12-15.	
116:22-117:13		
117:15-16		
119:19-25	compound and vague;;	
120:3	compound and vague;	
120:5-17	compound and vague;	
120:19-121:4	compound and vague;	
124:17-19		
124:21-25		
125:14-17		
125:19-128:5	FRE 402; FRE 403; Donna Mitten's personal feud with Delisle is confusing and prejudicial.	174:4-175:19; 176:2-12; 181:1-183:10
128:7-21	FRE 402; FRE 403; Donna Mitten's personal feud with Delisle is confusing and prejudicial.	
129:20-130:24		
131:1-3	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
131:6-14	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
131:18-132:11	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
132:18-21	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	

<b>PLAINTIFF'S DEPOSITION DESIGNATIONS</b>	<b>BAYER'S OBJECTIONS</b>	<b>BAYER'S COUNTER-DESIGNATIONS</b>
132:23-133:4	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
133:14-16	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
133:18-134:1	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
134:3-134:7	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
134:9-134:10	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
134:12-14	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	134:16-134:23
135:16-22	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	
135:24-136:10	FRE 402; FRE 403; Prejudicial. Has to do with commercialization efforts.	

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>F. EVERSHEIM</b>		
Based on communication from Plaintiffs, the Bayer Defendants anticipate using the June 2010 duration report, with all parties preserving their objections based on the Courts prior rulings. To the extent that there are any changes from those positions, the Bayer Defendants reserve the right to add counters and objections.		
15:5-15:9		15:14-15:18, 16:1-16:21
15:14-15:18		
158:11-159:10	FRE 402 relevance; FRE 403 prejudice. Violates Judge Perry's ruling at pre-trial conference on similar Gadsby testimony (601/604 got out and were not supposed to get out).	
161:10-161:14		
161:19-162:21		
167:20-168:11		
168:14-169:2		
169:5-171:17		82:22-87:16; 90:10-99:4; 100:3-103:8
172:23-173:10		171:18-172:7; 74:22-75:11; 103:9-104:21
174:6-174:8	FRE 402; FRE 403. Improper Starlink testimony. Violates Judge Perry's ruling on Starlink MIL because suggests Bayer was at fault for Starlink.	
174:11-175:8	Same	120:20-125:19; 732:15-735:11
175:24-177:3	Same as to 175:24-176:3	
202:18-202:19		
204:1-207:13		127:7-130:11; 726:21-727:5
208:10-208:11		727:6-731:2
209:2-210:19		
211:10-211:24		
221:17-221:19		
222:16-224:12		
225:4-225:14		225:15-22
249:5-250:13		
250:18-253:23		140:8-145:8
254:4-255:1		
257:14-258:21		

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
258:24-260:2		
260:5-260:22		
262:7-263:1		
276:23-278:11	FRE 402; FRE 403. Improper Starlink testimony. Violates Judge Perry's ruling on Starlink MIL because suggests Bayer was at fault for Starlink.	
278:20-279:1		
279:7-279:12	FRE 402; FRE 403. Improper Starlink testimony. Violates Judge Perry's ruling on Starlink MIL because suggests Bayer was at fault for Starlink. Also violates Judge Perry's ruling at pre-trial conference on similar Gadsby testimony (601/604 got out and were not supposed to get out).	
279:15-279:23	Same objections	
294:11-294:17		
294:21-295:10		
321:12-321:20		
322:4-322:17		
323:12-323:21		
327:12-328:5	FRE 403: Plaintiffs' designation omits the prior lines in which Dr. Eversheim makes clear there was a program. This snippet is wrenches out of context in an attempt to mislead the jury given that Dr. Eversheim is only accepting the question's premise rather than testifying that there was no program.	326:21-327:11 (if the Court overrules Bayer's objection)
328:14		
330:4-331:7	Same objection (in addition to the comment above, note that the witness testifies at 332:18-23 that he does not have knowledge regarding the subject matter)	

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
332:5-333:6	Same objection (in addition to the comment above, note that the witness testifies at 332:18-23 that he does not have knowledge regarding the subject matter)	
333:15-333:19	Same objection (in addition to the comments above, note that the witness testifies at 333:22 that he is "not aware" of the facts assumed in this question)	
333:22-334:3	Same objection (in addition to the comments above, note that the witness testifies at 334:6-7 that the facts assumed in this question are "beyond [his] knowledge")	
334:6-334:12	Same objection (in addition to the comments above, note that the witness testifies at 334:14 that he "didn't know" the facts assumed in the question)	
334:14-334:21	Same objection (in addition to the comments above, note that the witness testifies at 334:24-335:1 that he was "not in charge" of the field trials)	
334:24-335:9	Same objection (in addition to the comments above, note that the witness testifies at 335:12-14 that he "doesn't know")	
335:12-335:22	Same objection	
336:3-336:11	Same objection	
336:14-336:15	Same objection	
352:9-352:11	FRE 602 - lacks foundation; calls for speculation; FRE 402; FRE 403	
352:14-352:22	FRE 602 - lacks foundation; calls for speculation; FRE 402; FRE 403	

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
352:24-353:8	352:24-353:3: FRE 602 – lacks foundation; calls for speculation; FRE 402; FRE 403	
353:16-353:21		
354:13-354:18		
354:24-356:4	355:22-356:4 – FRE 602, lacks foundation	
356:8-356:21	FRE 602, lacks foundation	
361:9-361:13		
361:16-361:17	FRE 402; FRE 403. Improper Starlink testimony. Violates Judge Perry's ruling on Starlink MIL because suggests Bayer was at fault for Starlink.	
420:18-421:6		
423:3-423:8		
424:3-424:6		
424:16-424:21		
425:11-426:1		
426:9-427:20		
429:9-430:1		
430:19-431:5		
431:12-432:4		
432:16-433:22;		432:5-15
434:5-434:21		
435:1-435:18		
435:22-436:21		
436:24-437:24		
438:2-438:3		
497:15-498:6		
504:13-506:2	FRE 802 – hearsay	
506:5-506:12	FRE 802 – hearsay	
506:23-507:7	FRE 802 – hearsay	
527:17-528:2	FRE 802 – hearsay	
528:22-529:4		530:6-16
529:7-531:10		
531:18-531:21		
532:7-532:17	FRE 602 – lacks foundation; calls for speculation	
533:3-533:16		
543:12-544:18		
544:21-544:23		

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
551:11-551:13		
552:22-553:24		
554:15-554:23		
556:12-556:20		
558:5-560:9		
561:3-561:10		
570:12-570:15	Violates Judge Perry's ruling at pre-trial conference on similar Gadsby testimony (601/604 got out and were not supposed to get out).	
570:18-570:23	Same objections.	
571:8-571:20	Same objections.	
572:6-572:7 (end with "Exhibit 4581")		
573:10-574:17	Same objections 574:15-17.	
574:24-575:2		
575:5-576:5		
625:24		
626:12-626:20		
628:7-629:18		
630:13-631:19		
632:22-634:13		
634:16-635:1		
635:3-635:4		
635:13-635:14		
637:2-639:19		
640:22-641:15		
641:18-642:6		
642:9-642:12		
643:12 (beginning with "Oh")	Objection: no further discussion designated of this exhibit	
677:3-680:19	FRE 602: the witness makes clear at 679:20-23 – this is instead Mr. Davis's own testimony on what he believes the document means	
681:4-681:12	FRE 602: lacks foundation	
681:18-682:13		
682:16-682:17		
682:20-683:8		

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
692:5-692:15	Violates Judge Perry's ruling at pre-trial conference on similar Gadsby testimony (601/604 got out and were not supposed to get out).	
692:17-692:23	FRE 602: the witness makes clear he doesn't know "any detail here"	
693:1-693:2	Same	
736:18-737:12		
737:15-738:22		739:4-739:20, 739:23-24,
		740:3-24
		15:14-25:24
		27:8-28:13
		29:2-29:19
		31:2-33:13
		34:6-35:2
		35:9-38:18
		42:10-43:14
		43:17-43:18
		44:21-46:21
		49:1-52:7
		52:9-52:9
		52:18-53:10
		53:13-53:14
		54:1-54:11
		55:4-55:19
		57:14-60:20
		62:3-64:10
		65:8-66:12
		67:6-67:17
		67:20-71:14
		71:16-72:17
		73:21-78:7
		78:8-81:4
		81:16-82:14
		82:22-87:16
		90:10-91:12
		91:15-91:19
		91:21-97:4
		92:13-92:22
		97:8-97:10
		97:12-99:4
		100:3-105:14

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
		104:19-21
		105:9-105:11
		106:1-109:19
		110:5-111:7
		111:8-111:13
		111:16-112:7
		112:9-112:23
		113:22-114:2
		114:19-117:1
		119:4-120:11
		120:13-120:13
		120:15-120:16
		120:18-120:18
		120:20-125:19
		126:22-127:21
		127:7-130:11
		130:4-130:11
		133:1-133:6
		133:20-133:24
		134:3-134:3
		134:9-134:18
		134:20-135:24
		136:19-139:20
		140:8-145:8
		145:17-150:4
		151:9-151:12
		151:18-152:7
		152:10-152:18
		152:20-152:22
		153:1-153:1
		153:3-153:7
		171:18-172:7
		193:23-196:7; 196:16-197:11
		222:14-222:15
		286:18-287:1
		289:9-289:19
		303:16-304:2
		304:13-305:4
		357:13
		439:4-439:10
		466:18-19 (counter applies to 466:8-466:14)
		485:13-17, 485:18-186:4
		496:7-14

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
		567:6-18
		699:11-17
		699:20-22
		714:20-715:22
		717:1-717:6, 717:9
		718:14-719:21
		726:21-728:1
		727:6-10
		727:23-24
		729:6-729:7 729:9-730:19
		731:3-732:11
		732:15-733:4
		733:6-733:8
		733:10-733:12
		733:14-733:20
		733:22-734:2
		734:4-734:9
		734:11-734:15
		734:17-734:20
		734:22-735:1
		735:3-735:7
		735:9-735:11
		744:22-745:14

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>M. GADSBY 30(B)(6)</b>		
12:6-12:12		
12:15-12:18		
13:16-13:20		
99:7-99:14		
156:5-156:18		
156:23-157:1		
157:3-157:11	157:12-158:13	
158:14-159:10		
159:20-160:3		
232:16-233:13		
233:22-234:4	FRE 402 - FRE 403. "Responsible party" MIL.	
234:5-234:22	FRE 402 - FRE 403. "Responsible party" MIL.	
235:6-235:12	FRE 402 - FRE 403. "Responsible party" MIL.	
239:19-244:2		
246:1-246:11	FRE 402 relevance; FRE 403 prejudice. Violates court order that neither party can rely on compliance or noncompliance with the regulations as evidence for or against liability.	
254:22-255:14		
256:3-256:5		
256:8-256:10		
256:12-256:13		
256:16-256:21		

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
258:5-259:20	FRE 402 relevance; FRE 403 prejudice. The Court ruled that repetitive questioning regarding regulatory violations and the fact that LLRICE was not contained “should not be played to the jury” because “it’s not an issue in the case” and is only played to “see how bad [the witnesses] look when they answer.” Pretrial Conf. Rough Tr. 5:12-6:7, Jan. 7, 2010. This testimony - repeatedly asking whether Bayer told various people and entities that it was not scientifically possible to contain the LLRICE – falls in the same category. It is irrelevant and highly prejudicial.	
261:24-262:7		261:2-9
262:10-263:2		
263:5-263:12		
263:24-264:2		
264:5-264:21	Bayer objects to 264:8-264:21 on cumulative grounds.	
265:3-265:14		
267:13-267:17		

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
268:6-268:17	FRE 402 relevance; FRE 403 prejudice. Falls in same category as Court's ruling above on repeated testimony regarding the fact that LLRICE got out. Repetitive questions about ways LLRICE could have gotten out followed by "performance standards" questions leaves strong impression in jury's mind that liability should be based solely on the fact of release and the regulation rather than the relevant standard of care.	
268:20-269:2	Same objection.	
269:5-269:12	Same objection.	
269:15-269:23	Same objection.	
270:2-270:12	Same objection.	
271:3-271:6	FRE 402 relevance; FRE 403 prejudice. Subsequent bad Acts MIL: Garrett. Furthermore, testimony falls in same category as Court's ruling regarding asking Bayer witnesses whether 601/604 got out. Also, this testimony particularly prejudicial and misleading because it falsely implies that seed locked away in cold storage posed a risk of volunteers which are rice plants that come up in subsequent seasons from seed <u>planted</u> in prior seasons.	
271:9-272:6	Same objection.	
272:11-272:15	Same objection.	
272:18-273:3	Same objection.	
275:14-275:19	Same objection.	
275:23-276:2	Same objection.	
276:6-276:19	Same objection.	
277:24-278:5		
278:8-278:20		
278:23-279:3		

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
282:22-283:3	FRE 402 relevance; FRE 403 prejudice. Pending MIL. Violates court order that neither party can rely on compliance or noncompliance with the regulations as evidence for or against liability.	
283:6-283:11	FRE 402 relevance; FRE 403 prejudice. "Responsible Party" MIL.	
283:15-284:6	FRE 402 relevance; FRE 403 prejudice. "Responsible Party" MIL.	
284:9-284:10	FRE 402 relevance; FRE 403 prejudice. "Responsible Party" MIL.	
284:12-284:16	FRE 402 relevance; FRE 403 prejudice. "Responsible Party" MIL.	91:4-92:3, 92:13-97:7
287:2-288:23		
289:3-290:3		
290:22-292:19		
292:20-294:21		
295:15-296:22		
297:1-297:7		
297:13-297:16		
298:11-298:24		
299:18-301:4		
301:7-301:13		
301:16-302:11		
304:9-304:20		
305:7-305:12		
305:15-305:18		
311:10-311:17	FRE 402 - 403. Subsequent bad acts MIL: Garrett.	
311:21-312:4	FRE 402 - 403. Subsequent bad acts MIL: Garrett.	
312:7-312:12	FRE 402 - 403. Subsequent bad acts MIL: Garrett.	
313:12-313:15	FRE 602 – lacks foundation. FRE 402 - 403. Subsequent bad acts MIL: Garrett.	
313:19-314:11	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
314:14-314:21	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
314:24-315:1	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
315:10-315:20	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
316:1-316:16	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
316:19-317:13	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
317:17-318:4	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
320:18-320:24	FRE 402 - 403. Subsequent bad acts MIL: Croughan.	
390:22-391:17		
443:3-444:22		
445:11-445:23		
498:4-499:19		
499:24-500:13		
543:6-545:8	FRE 402-403; relevance; prejudice. Subsequent bad acts MIL: Garrett. Also, prejudicial and misleading. Ms. Gadsby corrected this portion of her deposition were she erroneously recalled that Bayer's hybrid rice Arize had tested positive for 601. She corrected it both in the deposition on page 532:4-535:2; 535:12-536:11, and in her errata sheet (no event specific testing performed on Arize hybrid rice from Garrett farms). Other than Ms. Gadsby's short-lived faulty recollection, there is no evidence that Bayer's hybrid rice tested positive for 601. This testimony is confusing and prejudicial.	

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>M. GADSBY (10/1/09 and 10/2/09)</b>		
345:2-350:18	The Bayer Defendants object to this designation as an improper extension of discovery against the Bayer Defendants. Object to all of it as irrelevant and prejudicial. Object to 349:19-22 as argumentative.	350:19-24; 353:24-356:1; 388:13-391:8; 391:11-393:10

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
<b>K. GLOVER</b>		
<p>Pursuant to an agreement between the parties, objections and counter-designations for the testimony of Keith Glover will be provided at a later date, when it becomes clear whether this witness will appear live and when plaintiffs have narrowed the designations to include only those they anticipate will be read or played.</p>		

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
<b>D. MITTEN</b>		
15:11-15		
15:18-20		
15:21-16:16		
18:1-18:10		
22:16-24:5		24:6-25:4
25:5-25:18		
66:8-66:9		
66:14-66:22		
66:24-67:4		
67:16-68:4		
78:10-13		
79:1-22		
80:1-81:14		
82:2-11		
85:17-86:14	FRE 401 – relevance; FRE 403 – prejudice; MIL responsible party	
86:21-88:17		
89:4-90:3	FRE 401 – relevance; FRE 403 – prejudice	
91:4-14	FRE 401 – relevance; FRE 403 – prejudice; MIL responsible party	
95:9-20		
97:12-98:8		
101:15-19		
101:21-102:18		
103:4-11		
103:13-14		
105:24-108:20		
109:21-110:6		
111:16-112:3		
148:19-150:6		
150:23-151:14		151:15-19
153:1-154:9		
156:17-158:24		159:1-161:2
162:11-22		
162:23-163:23		163:18-163:23
184:4-20		
184:24-185:24		
186:1-187:1		
187:19-188:18		
189:7-191:22		188:19-189:6

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
192:10-194:13		
194:20-195:14		
195:17-196:22		
197:2-197:19		
198:17-198:19		
201:1-204:6		
247:15-248:11		
248:24-249:17		
250:7-251:3		
251:20-254:2		
254:5-257:6		
257:17-258:10		
262:17-262:24		
264:19-23		
277:4-10		
278:12-281:18		
283:15-284:22		
286:4-18		
287:14-22		
474:5-475:4 (ending with "2206")	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
475:12-15	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
478:5-479:1	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	479:2-479:11
479:12-480:3	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
481:2-483:5	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
486:19-487:24	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
488:1-488:12	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
489:8-490:7	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
495:17-497:3	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	497:4-498:3
525:2-5	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
525:14	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	
526:4-13	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
527:6-9	FRE 402 – 403: Subsequent bad acts MIL on Croughan.	527:10-16
546:4-547:5		
547:18-550:12		547:6-17
754:1-754:5	Calls for a legal conclusion; Responsible Party MIL	
754:7-754:10	Calls for a legal conclusion; Responsible Party MIL	
764:18-765:2		
765:5-765:12		
766:12-16		
766:19-767:4		
767:15-768:8		
831:20-23		
831:24-832:17		
875:15-878:1		
890:18-894:8		1239:21-1241:10
898:10-18		
943:6-23		
948:11-22	Subsequent remedial measures Court excluded Exhibit 3942 in limine. See. Trial Tr. 16:13-20	
949:17-20	Subsequent remedial measures	
950:1-951:22	Subsequent remedial measures. Bayer also objects on grounds of Rule 403, as this testimony relates to changes implemented in connection with Bayer's hybrid rice program. Court excluded Exhibit 3942 in limine. See. Trial Tr. 16:13-20.	
952:11-14	Subsequent remedial measures	
956:12-957:4	Bayer objects to Exhibit 1062 and related testimony under FRE 403 as it relates to a proposed pilot commercial introduction which never occurred, not regulated field trials.	

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
958:14-961:6	Bayer objects to Exhibit 1062 and related testimony under FRE 403 as it relates to a proposed pilot commercial introduction which never occurred, not regulated field trials.	
961:7-14	Subsequent remedial measures. This testimony refers to a "biotechnology industry initiative" that called for the use of independent auditors subsequent to the events at issue in this case.	
961:18-24	Same objection.	
962:1-12	Same objection. Bayer also objects under FRE 403, as the referenced exhibit (Exhibit 1062) relates to a proposed pilot commercial introduction which never occurred, not regulated field trials.	
1002:13-1003:10	Bayer objects to 1003:6-10 on grounds of FRE 403. The question asks whether confinement protocols and procedures were changed in the wake of Starlink, but Starlink did not involve regulated field trials and had nothing to do with confinement protocols. This Q&A is therefore prejudicial and likely to confuse the jury	
1004:22-1006:8	Bayer objects to Exhibit 1062 and related testimony under FRE 407 as a subsequent remedial measure and FRE 403 as it relates to a proposed pilot commercial introduction which never occurred, not regulated field trials.	
1009:2-14	Bayer objects to Exhibit 1062 and related testimony under FRE 407 as a subsequent remedial measure and FRE 403 as it relates to a proposed pilot commercial introduction which never occurred, not regulated field trials.	
1010:1-1011:5	FRE 602 - lacks foundation; calls for speculation	

<b>PLAINTIFFS DEPOSITION DESIGNATIONS</b>	<b>DEFENDANTS' OBJECTIONS</b>	<b>DEFENDANTS' COUNTER-DESIGNATIONS</b>
1014:6-14		
1032:17-1033:10		
1033:11-1034:14		
1162:4-1162:12		
1162:16-11:64:2	Relevance prejudice: this repetitive "it got out" testimony is just like that the Court excluded from Margaret Gadsby.	
1164:6-1164:7		
1164:14-1165:23	Responsible Party MIL	
1166:1-1168:18	Responsible Party MIL	
1168:20-1173:17	Responsible Party MIL	
1174:1-1174:5	Responsible Party MIL	
1174:8-1175:5	Responsible Party MIL	
1175:8-9	FRE 401, 403, 602. Improper suggestion that violation of regulation is evidence of liability.	
1175:17-1176:20	Same objections.	
1177:10-1178:11	Same objections.	
1178:15-1180:1	Same objections.	
1180:3-1180:4	Responsible Party MIL	
1180:18-1180:21	Responsible Party MIL	
1181:2-1182:23	Responsible Party MIL	
1191:5-1191:23	FRE 402 relevance, FRE 403 prejudice; subsequent bad acts MIL regarding Garrent.	
1192:7-1192:16	Same Objections	
1194:15-1195:14	Same Objections	
1195:18-1196:15	Same Objections. Additionally 1196:2-15 is pure attorney argumentation. Improper StarLink testimony.	
1198:10-1198:12	FRE 402 – relevance; FRE 403 prejudice; pending MIL	
1198:15-1199:15	FRE 402 – relevance; FRE 403 prejudice; pending MIL	
1199:18-1200:3	FRE 402 – relevance; FRE 403 prejudice; pending MIL	

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
1202:17-1203:4	402; 403. This testimony is exactly like what the Court excluded in the prior trial under the "Gadsby Rule" – repeated questioning on the uncontested fact that LLrice was found in commercial rice coupled with questions about the regulations.	
1206:2-1207:1		1246:1-1247:12; 1248:7-1249:4
1207:21-1208:4		
1208:6-1208:21		
1212:4-1212:17		
1215:12-1216:20		

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>R. OUZTS</b>		
13:7		
15:23-16:1		
17:9-13		
18:2-19:19		
22:22-24:23		
25:7-26:16		
38:20-40:5	Objection; 402 403: Responsible Party.	
40:21-41:6	402/403; Repetitive "It Got Out" testimony like that the Court ruled out from Gadsby.	80:1-4; 639:19-641:2;
41:8	Improper expert testimony; speculation; harm to other farmers because these claim (basically) only market losses, which Ouzts does not believe exist.	221:17-19; 221:21-222:21; 389:8-390:7; 449:23-450:1; 450:4-7; 451:1-452:7
42:2-42:11		
42:14-42:18		
42:20-42:21		
43:5-43:12		
43:14-44:10		50:19-51:4; 56:7-57:10; 834:21-23; 835:15-836:8
44:12-45:5		794:16-795:6; 798:1-798:5; 798:20-22; 799:2-799:14
45:8-45:11		
45:13-46:12		
112:18-113:11	Improper expert testimony; Discussing allegations related to other lawsuits; fact of an accident not probative of negligence	
113:13		
113:15-113:20	Improper expert testimony; fact of an accident not probative of negligence	80:1-4; 80:7-11; 142:19- 144:4; 144:6-7; 351:21- 352:8; 352:11-20; 360:4-7; 360:9-12; 351:21-352:8; 352:11-20; 680:5-680:10;
113:23-114:5		
119:8-12	Object to 119:8-119:22; Foundation; Speculation; Responsible party MIL; calls for a legal conclusion;	639:19-641:2

119:16-119:22	Object to 119:8-119:22; Foundation; Speculation; Responsible party MIL; calls for a legal conclusion;	117:9-17; 117: 19-24; 639:19-641:2; 799:24- 800:10; 800:18-23
146:11-14		
151:15-151:19		
151:21-152:18	403 prejudice; calls for a legal conclusion	
152:20-153:3	403 prejudice; calls for a legal conclusion	142:19-144:4; 144:6-7; 351:21-352:8; 352:11-20; 360:4-7; 360:9-12; 351:21- 352:8; 352:11-20; 801:11- 802:13.
153:7-154:23	403 prejudice; calls for a legal conclusion	142:19-144:4; 144:6-7; 351:21-352:8; 352:11-20; 360:4-7; 360:9-12; 351:21- 352:8; 352:11-20; 794:16- 795:6; 798:1-798:5;
156:9-156:14	Foundation; calls for speculation.;	
156:19-157:7	Foundation; calls for speculation.;	
157:16-158:2	Foundation; calls for speculation.;	
158:4-158:15	Foundation; calls for speculation.;	
196:17-197:6		
197:8-197:9		200:5-15; 618:17-620:1
665:3-12		
666:13-667:22	Irrelevant commercial growout unrelated to plaintiffs' injuries.	794:16-795:6; 798:1-798:5; 813:20-815:6
699:3-700:11	Hearsay; no foundation	472:8-473:17
700:13	Hearsay; no foundation	472:8-473:17

PLAINTIFFS DEPOSITION DESIGNATIONS	DEFENDANTS' OBJECTIONS	DEFENDANTS' COUNTER-DESIGNATIONS
<b>R. SHILLITO 30(B)(6)</b>		
12:9		
12:15-12:16		
13:9-13:12		
14:18-14:24		
89:11-90:24		
91:2-94:18		94:19-95:3
95:4-96:8		

Dated: January 7, 2011

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 7, 2011, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Glen E. Summers