

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

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**IN RE GENETICALLY MODIFIED RICE  
LITIGATION**

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) **4:06 MD 1811 CDP**  
)  
) **FIRST GROUP OF**  
) **LOUISIANA REMAND**  
) **CASES**

**THE BAYER DEFENDANTS' RESPONSE TO THE FIRST REMAND  
PLAINTIFFS' MOTION TO EXCLUDE DANIEL FISCHEL**

Plaintiffs' motion is misguided on all counts.

First, while Professor Fischel does not have a Ph.D. in economics, he is fully qualified to offer the opinions he reached in this case.

Second, Professor Fischel's "yardstick" method is a well-established methodology for measuring damages. Plaintiffs' criticisms of specific aspects of his "yardstick" analysis—for example his choice of benchmark prices—at most are matters of differing expert opinion that raise issues for cross-examination, and are not reasons to exclude Professor Fischel's testimony.

Third, Professor Fischel cited multiple grounds for his conclusion that the damage period ended in late 2007. Plaintiffs may take issue with these analyses, but they have no basis to exclude them.

Finally, while plaintiffs in all the MDL cases are backing away from the Li/Wailes paper as quickly as they can, it is a peer-reviewed study that found that the impact of the LibertyLink 601 event "was very short lived." The Li/Wailes paper serves as appropriate support for Professor Fischel's other analyses coming to this same basic conclusion.

**I. Professor Fischel Is Qualified to Offer His Opinions in This Case.**

Plaintiffs recognize that there is no requirement that an expert have any particular degree in order to be qualified to testify about alleged damages. Nevertheless, because Professor Fischel does not have an economics degree, Plaintiffs claim that he “lacks the basic qualifications necessary” to offer his opinions in this case. D.E. 3918, First [La.] Remand Pls.’ Br. to Exclude Designations, Reports & Test. of Fischel, Schulman, Helms and McHughen at 8 (“Pls.’ Br.”). Nothing could be further from the truth.

Professor Fischel is clearly an economist. He is a Professor of Business at the Kellogg School of Management at Northwestern University, and previously served as a Professor of Law and Business at the University of Chicago Graduate School of Business and as Director of the Law and Economics Program at the University of Chicago Law School. He has served as a consultant or advisor on economic issues to, among others, the United States Department of Justice, the Securities and Exchange Commission, the Chicago Board of Trade, the Chicago Mercantile Exchange, and the New York Mercantile Exchange. (Resume at 1, 28; Fischel Dep. I 158:14-159:2, Nov. 11, 2010.)<sup>1</sup>

He has published fifty articles in legal and economic journals and these articles have been relied on by numerous courts, including the United States Supreme Court. His article, *Use of Modern Finance Theory in Securities Fraud Cases Involving Actively Traded Securities*, 38 Bus. Law 1 (1982), is the lead article describing the application of econometrics and financial economics to securities fraud litigation. He is also co-author of *The Economic Structure of Corporate Law* (Harvard Univ. Press 1991) with Judge Frank H. Easterbrook of the Seventh

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<sup>1</sup> Professor Fischel’s resume is Exhibit A to the July 29, 2010 Fischel/Bamberger/Mordecai Report (“Report”). The Report is Exhibit 5 to Plaintiffs’ Brief. Professor Fischel’s deposition is Exhibit 1A (“Fischel Dep. I”) and 1B (“Fischel Dep. II”) to Plaintiffs’ Brief.

Circuit Court of Appeals. (Resume at 2-4; Fischel Dep. I 176:6-177:1.)

He has testified over 250 times as an expert witness on economic issues. Dr. Fischel was repeatedly qualified in those cases as an expert on lost profits damages analyses. (Fischel Dep. I 29:4-18, 158:14-159:2.) He has never been excluded from testifying on Daubert grounds. (*Id.* at 91:10-95:16.)

The fact that Professor Fischel does not have a Ph.D. in economics does not preclude him from testifying here.

## **II. Professor Fischel's "Yardstick" Analysis Is a Well-Established Methodology for Analyzing Lost Profits and Price Impacts of Events.**

Plaintiffs pretend that Professor Fischel's "yardstick" methodology is something unique to him, and claim to have found no authority supporting its use in this case. (Pls.' Br. at 9.) In fact, the truth is exactly what Professor Fischel testified to in his deposition: "I would describe it as the conventional approach for analyzing lost profits or lost revenue, or at least a conventional approach. . . . I think the literature on calculating damages in lost profits cases will have discussions of the yardstick method." (Fischel Dep. I 170:8-171:13.)

To cite only a few references supporting Professor Fischel on this point:

- "The 'yardstick' approach compares profits earned or prices paid by a plaintiff with the corresponding data for a firm or in a market unaffected by the violation. In either case, the plaintiff is required to show that the two sets of time periods, firms, or markets are generally comparable except for the effect of the violation. Whether the plaintiff has met this burden of showing comparability ordinarily is a question for the trier of fact."<sup>2</sup>
- "*Yardstick Approach*: The expert gathers an index of firms similar to the plaintiff's firm and compares the plaintiff's performance with the index's

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<sup>2</sup> ABA Section of Antitrust Law, *Antitrust Law Developments* 877 (5th ed. 2002) (footnotes omitted).

performance. This approach assumes that, but for the defendant's actions, the plaintiff would have performed as well as the yardstick."<sup>3</sup>

- “There are two related ways in which the market model of finance theory can be used to calculate the value line [i.e., the but-for price of a security]. The first approach is to develop a comparable index which approximates what the returns on the security would have been had the fraud not occurred. The second approach is to use an event study procedure which treats the fraud-related disclosures as events and substitutes the predicted return on the event days.”<sup>4</sup>

Professor Fischel's “yardstick” analysis is thus nothing exotic. As he made clear in his Report (¶ 11), and as Plaintiffs' experts acknowledged (Carter Rebuttal Report ¶ 63-64; Babcock Rebuttal Report ¶¶ 2-3), the “yardstick” method is nothing more than a traditional “benchmark” analysis, in which the price effects of an event are measured by comparing the post-event price you are interested in with other comparable benchmark prices that would not have been affected by the event in the same way. Dr. Carter did much the same thing in regards to rice export volume: he compared U.S. long-grain exports after the LibertyLink incident with medium/short grain exports, which he expected would not have been affected by the incident, and drew conclusions based on the “relative performance of exports by rice class.” (Carter Suppl. Report ¶ 7 & Fig. 2, Jan. 28, 2009.)

Here, Professor Fischel identified four rice markets that are closely related economically to the market for U.S. long-grain rough rice but which would not be expected to have been negatively affected by the LLRICE contamination, and he used prices from these four markets as “yardsticks” or benchmarks. He compared these benchmarks to two different U.S. long-grain rough rice price series (mid-south long-grain rough rice prices and CBOT long-grain rough rice prices) in two different ways (he examined the spread between the U.S. price and the benchmark

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<sup>3</sup> Elizabeth A. Evans, *The Economics in Accounting for Litigation*, in *Litigation Services Handbook: The Role of the Financial Expert* 3-9 (Roman A. Weil, et al. eds., 4th ed. 2007).

<sup>4</sup> Bradford Cornell & R. Gregory Morgan, *Using Finance Theory to Measure Damages in Fraud on the Market Cases*, 37 *UCLA L. Rev.* 883, 897(1990).

price and the ratio between the U.S. price and the benchmark price). In all, Professor Fischel performed sixteen different benchmark analyses, *all of which* supported his conclusion that the price effects of the contamination ended by the next marketing year. (Report at ¶¶ 11-13.)

This is a straightforward application of the well-established “yardstick” or benchmark methodology.

### **III. Plaintiffs’ Specific Criticisms of Professor Fischel’s Analysis Are Misguided.**

Plaintiffs criticize Professor Fischel for (1) his choice of benchmark prices; (2) his proceeding without conducting a “cointegration” statistical analysis; and (3) his use of the price spread existing between the benchmark prices on August 18, 2006 as the baseline spread in his analysis. (Pls.’ Br. at 10-13.) None of these criticisms rises to the level of a Daubert challenge. Professor Fischel provided valid reasons for why he made each of these choices in his damage analysis. Plaintiffs’ experts may disagree with those choices, and Plaintiffs are free to cross-examine on those choices at trial, but these are all issues that go to the weight that the jury may choose to give Professor Fischel’s testimony, not its admissibility.

#### **A. Professor Fischel had a valid reason for his choice of benchmarks.**

Plaintiffs criticize the four price series that Professor Fischel used as benchmarks to compare to U.S. long-grain prices, but Professor Fischel had a justification for using each of these. He found that each of the four price series was highly correlated with U.S. long-grain prices, which suggests that they are proper benchmarks. (Report ¶ 12 n.8.) Each of the price series is also used by industry participants and academic researchers as a benchmark for U.S. long-grain prices. Thus:

- Thai prices were used as a benchmark for U.S. prices in the Li/Wailes paper and the Schulman report in this case, were used by Professor Babcock in his model of U.S.

exports in this case,<sup>5</sup> and have been identified by the USDA as a significant influence on U.S. prices.<sup>6</sup>

- The Adjusted World Price is calculated by USDA for use in rice marketing assistance programs, and is meant to reflect world rice prices adjusted to be comparable to U.S. rice prices.<sup>7</sup>
- Professor Carter and Professor Babcock both use U.S. medium grain prices in their analyses.<sup>8</sup> Moreover, both Professor Fischel (Report Ex. R) and Plaintiffs (Pls.' Br. at 12) report that some consumers consider medium-grain rice a substitute for long-grain rice, thus indicating that they are related in ways that make medium-grain prices a proper benchmark.

Plaintiffs claim that each of these benchmark price series is flawed: that the Adjusted World Price “is not a transactional price;” that the Thai price is a milled rice price, not a rough rice price; and that the U.S. medium grain prices may have been affected by the LibertyLink incident. (Pls.' Br. at 12.) Plaintiffs never explain why a “non-transactional” price or a milled price are automatically improper comparisons, and in Professor Fischel’s opinion neither the “non-transactional” nature of the Adjusted World Price nor the fact that the Thai price is a milled price disqualify them as proper benchmarks. Plaintiffs’ experts may have some reason for disagreeing with this, but if they do, that is a matter of competing expert opinions, not a Daubert issue.<sup>9</sup>

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<sup>5</sup> Babcock Report ¶¶ 33-34, Apr. 3, 2009. He assumes that the prices of U.S. rough rice, U.S. milled rice, and Thai rice are related. *Id.* ¶ 35.

<sup>6</sup> Econ. Research Serv., U.S. Dep’t of Agric., Outlook Report No. (RCS-200601), *Rice Background* 10-11, 23-24 (Dec. 2006).

<sup>7</sup> Cong. Research Serv., The Library of Cong., *Agriculture: A Glossary of Terms, Programs, and Laws* CRS-4 - CRS-5 (2005 ed. updated June 16, 2005).

<sup>8</sup> Babcock Report ¶ 36; Carter Supplemental Report ¶ 7 & Fig. 2.

<sup>9</sup> Plaintiffs’ suggestion that the LibertyLink incident affected the price of medium grain rice also gets them nowhere. Plaintiffs say that demand for medium-grain rice rose as demand for long-grain rice fell. (Carter Rebuttal Report ¶ 67) If that is true, it would imply that the incident reduced the price of long-grain rice but increased the price of medium grain rice, which would have the effect of **increasing** the spread between the two prices. Any damage calculations based on this increased spread would only benefit Plaintiffs. So long as the incident did not affect the

**B. There was no need for Professor Fischel to do a cointegration analysis.**

Plaintiffs criticize Professor Fischel for not doing a statistical cointegration analysis such as was done by Dr. Carter or Dr. Schulman. Professor Fischel did not perform this statistical test because he concluded it was unnecessary and unhelpful, and he conducted a different statistical analysis justifying his choice of benchmarks.<sup>10</sup> (Fischel Dep. I 172:13-175:18, 180:5-181:4.) In fact, the cointegration tests advocated by Plaintiffs are known to have low power and are often unable to demonstrate cointegration even when economic principles indicate cointegration.<sup>11</sup>

Indeed, when Plaintiffs' own experts inspect price series to see if they are related, as Professor Fischel did here, they do not first perform a cointegration analyses. Thus, Dr. Carter states:

Additional support for the fact that cash prices farmers actually receive in the southern growing region move closely with CBOT prices is shown in Figure 4, where the weekly average nearby CBOT prices are plotted along with weekly rough rice prices for the "mid-south" rice growing area . . . . Rough rice prices in this large growing region area . . . are highly correlated with CBOT prices, as the correlation coefficient is 0.98, indicating almost perfect correlation between the CBOT and farm price. Examination of Figure 4 leaves no doubt that cash prices received by rice farmers in the south move up and down with Chicago futures prices.<sup>12</sup>

This is the same analysis performed by Professor Fischel. Nowhere does Dr. Carter mention cointegration. Similarly, Professor Babcock compares the U.S. milled rice price (the "Houston

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price of U.S. long-grain rough rice and medium-grain rice *in the same direction*, medium-grain rice is an appropriate benchmark for long-grain rice.

<sup>10</sup> Plaintiffs claim that Dr. Schulman contradicted Professor Fischel on this point, but they are incorrect. Dr. Schulman was testifying about his Error Correction Model, and he stated that in order to have confidence in a model of that kind, he would want to run a cointegration analysis. He did not say that a benchmark analysis of the type that Professor Fischel performed must be preceded by a cointegration analysis. (Schulman Dep. II 438:4-24, Dec. 8, 2010.) Dr. Schulman's deposition is Exhibit 4A ("Schulman Dep. I") and Exhibit 4B ("Schulman Dep. II") to Plaintiffs' Brief.

<sup>11</sup> See, for example, Peter Kennedy, *A Guide to Econometrics* 324-25 (6th ed. 2008).

<sup>12</sup> Carter Report ¶ 30 (footnote omitted).

FOB price”) to a U.S. farm price for long-grain rice and the Thai rice price using a regression analysis, without performing a cointegration analysis. (Babcock Report ¶¶ 35 & 48.)

Finally, Plaintiffs claim that a cointegration test is needed to rule out spurious correlation such as a correlation between the “price of haircuts in Tokyo and the price of gasoline in Texas.” (Pls.’ Br. at 10.) But this example has nothing to do with the facts of this case. Professor Fischel compared the price of long grain rice with other benchmarks which all involved the price of rice. Plaintiffs concede that U.S. rice competes with rice from other countries (e.g., Thailand) for export sales, so it is clear that U.S. rice is sold in a world market. If the price of U.S. rice and Thai rice were not cointegrated, the difference between U.S. and Thai prices could diverge from each other indefinitely. But, the economic reality of rice markets is very different. Consumers in other countries would be expected to respond to a substantial increase in the price of U.S. rice by switching to rice from other countries.<sup>13</sup> Any claim that U.S. and Thai rice prices would be expected to diverge indefinitely makes no economic sense and does not withstand scrutiny. Yet this is the claim Plaintiffs are making when they claim that U.S., and Thai price are not cointegrated.

**C. The spread between the U.S. long-grain rough rice price and the benchmark prices on August 18, 2006 is a reasonable baseline from which to assess damages.**

Professor Fischel chose the spread existing between U.S. rough rice prices and the benchmark prices on August 18, 2006 as the baseline from which he calculated damages. He testified that this was the proper baseline because this was the price spread in existence

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<sup>13</sup> See, for example, Pimbuha Rusmevichientong & Harry M. Kaiser, *Measuring the Effectiveness of U.S. Rice Export Promotion Programs*, 14 Nat’l Inst. for Commodity Promotion Res. & Evaluation Q., First Quarter 2008 (Cornell Univ.) (which measures the cross-elasticity of demand between U.S. and Thai rice).

immediately before the USDA's announcement concerning the LibertyLink incident and thus was the best indicator of contemporaneous market conditions. (Fischel Dep. I 187:8-189:17.) Plaintiffs take issue with this, saying that he should have used some average price over some period of time before the announcement. Again, this is a matter of expert disagreement, not a basis for a Daubert exclusion. Professor Fischel believes that the actual price spread as of August 18, 2006 is the superior indicator, Plaintiffs' experts apparently will argue for some calculated average price spread, and the jury can draw its own conclusions.

Professor Fischel's approach, however, is the one in line with common practice. Event studies of price effects typically take as their baseline the prices in effect at the time of the event to be studied, not some calculated average price, because an average price would wash out the effect of recent events that have pushed the market to whatever position it was in on the date of the relevant event. (Fischel Dep. I 190:2-23.) Here, for example, rice prices were rising and various indicators were suggesting a strengthening market in the weeks leading up to August 18, 2006.<sup>14</sup> The prices that existed on August 18 reflected all this new information. An average price, calculated over some number of weeks or months, would not capture those market changes.

Indeed, Dr. Carter's own event study rests on the price of rough rice on one day, August 18, 2006, without reference to prior prices, and not on some average rice price calculated over the recent past. Dr. Carter begins with rough rice prices during the week of August 18, 2006, compares this to rough rice prices the following week, and concludes that the LibertyLink announcement caused a one-week price drop of \$.91 per hundredweight. There is much in Dr.

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<sup>14</sup> For example, the August 16, 2006 Creed Rice Market Report on page 3 stated: "The market continues to escalate driven by strong supply side economics. The futures market has been taking the lead but cash paddy values are up as well. There is a bullish undertone among the growers as new crop long grain production is projected to be down 16-17% compared to 2005."

Carter's analysis that is flawed, but he was not mistaken in starting with a specific market price on a specific day rather than some average historical price.

In just the same way, Professor Fischel had good reasons to rely on the price spread as of August 18, 2006 rather than some historical price spread.

#### **IV. Professor Fischel's Damage Period Is a Reasonable One.**

Plaintiffs criticize Professor Fischel's conclusion that the damage period extended until late 2007, claiming that this was an "arbitrary" decision based solely on his "discretion" (Pls.' Br. at 14-17.) To the contrary, this is the conclusion to which the data drove him.

First, Exhibits D through G to the Fischel Report plot out the price spread between mid-south long-grain rough rice prices and the four benchmark prices, and Exhibits H through K plot out the spread between CBOT rough rice futures prices and the same benchmarks. While there is variation across each of the graphs, the basic picture is the same across most of the benchmarks:

- there is a noticeable increase in the spread at the time of the August 2006 announcement;
- in some cases the spread returns to something near or in some cases even above the baseline spread by late 2006 and early 2007 and then widens again after that, which is consistent with a second effect in March 2007;
- but *for every benchmark* the spread recovers to the pre-incident levels by late 2007.

Professor Fischel found similar results if the spread is expressed as a percentage of the benchmark price rather than as a constant dollar amount. (Report ¶ 13.)

When sixteen different benchmark analyses point to the same conclusion—that price relationships returned to pre-event levels by late 2007—it can hardly be "arbitrary" to conclude the damage period ended at that time. While some of the price series may have returned to baseline levels even before then, Professor Fischel believed that "it is better to base a conclusion

on a lot of aggregate data about spreads as reflected in all eight of the comparisons as well as the academic literature as opposed to putting too much weight on the movements of a particular spread in a particular period.” (Fischel Dep. I 204:9-205:20.)

Other economic evidence pointed to the same conclusion. Futures prices at the time of the August 2006 announcement indicated that the market expected price impacts to substantially dissipate by the next market year, which is exactly what happened. (Report ¶ 16.) USDA forecasts from August 2006 through April 2007 indicated that market experts did not expect either LibertyLink announcement to have a significant impact on total U.S. long-grain exports. Sales lost in the EU could be made up elsewhere.<sup>15</sup> (*Id.* ¶ 14.) And economic theory would predict that price effects from disruption of the European market would dissipate relatively rapidly, given the small size of the European market and the ability of U.S. exporters to find alternative buyers to replace European buyers. (*Id.* ¶ 17.)

Together, all this evidence provides strong support for Professor Fischel’s conclusion that damages ended by late 2007.

**V. Professor Fischel Properly Relies on the Li/Wailes Paper.**

Plaintiffs next complain that Professor Fischel relies on a published, peer-reviewed study to confirm his analysis in this case. (Pls.’ Br. at 18-20.) This paper, titled *LL601 Contamination and Its Impact on U.S. Rice Prices* was published in February 2010 in the Journal of Agricultural and Applied Economics by three University of Arkansas Professors of Agricultural Economics and a graduate student. It addresses the very questions posed by this case and is the only published, peer-reviewed article to address the price impact of LibertyLink rice. Plaintiffs’ disappointment with its conclusion—that any price impact from the initial announcement lasted

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<sup>15</sup> The Smyth, Kerr, and Davey paper cited in the Report makes exactly this point, that economic theory and real-world experience suggests that sellers will shift sales to alternative markets.

a matter of weeks, not for 10 years as they claim—does not serve as the basis to strike an expert who relies on this analysis. The article used well-established methodology and found a “significantly adverse but short duration effect on the U.S. rice market” due to LibertyLink rice: “This article investigated the impact of LL601 event on the U.S. and Thai rice market. Results indicate a large and adverse U.S. price reaction that was very short lived.”<sup>16</sup> *LL601 Contamination*, 42 J. of Agric. & Applied Econs. 31, 36.

Plaintiffs’ reliance on an affidavit from Dr. Wailes changes nothing. The affidavit was obtained after the author was retained by other plaintiffs’ counsel and was carefully crafted for litigation purposes to try to minimize the damage to plaintiffs’ cases. It does not unring the bell about what four authors published in a peer-reviewed journal on the exact topic at issue in this case. Notably, plaintiffs do not designate the author as an expert or offer any statement, let alone a statement subject to cross-examination, that Professor Fischel has somehow misinterpreted the conclusions of the article.<sup>17</sup>

Plaintiffs’ attempt to undermine the Li/Wailes paper through the testimony of Dr. Schulman also fails. Plaintiffs misrepresent Dr. Schulman’s testimony. Plaintiffs say that because Dr. Schulman was not able to exactly replicate the results of the Li/Wailes paper, the paper cannot be relied upon.

Dr. Schulman testified that his analysis did not get the exact same numbers as Li/Wailes, but that his analysis “was very close and consistent.” He thought that the reason for the

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<sup>16</sup> This is the point that Professor Fischel takes from the Li/Wailes paper. (Report ¶ 15.) He performed a damage calculation using numbers from the Li/Wailes report, but the damage calculation he relies on is the one deriving from his benchmark analysis. (*Id.* ¶¶ 29-30.)

<sup>17</sup> Plaintiffs’ brief quotes Dr. Babcock denigrating the significance of peer review, but Plaintiffs’ other expert Dr. Carter has expressed a different view: “So that’s a very long process, but the bottom line is if it gets reviewed, and you get the response, and you revise it, and eventually it gets published and gets the stamp of approval because it’s been reviewed by your peers, and they say yeah, this is a good piece of work.” (Carter Test., Trial Tr. vol. 7A 87:2-87:6, Jan. 20, 2010.)

difference between his results and the Li/Wailes results was something “pretty subtle or insignificant.” (Schulman Dep. I 204:5-17, 207:10-208:18, Dec. 7, 2010.) He knew one way in which his analysis differed from theirs that may account for the differing results: he had a complete data set from USDA while Li/Wailes had to rely on several estimated values. (*Id.* at 202:22-203:17.) In addition, there were two other areas where he suspected that Li/Wailes proceeded differently from him that might explain the different results: they may have used slightly different input data, and they may have used a different statistical package for some of their technical statistical tests.<sup>18</sup> (*Id.* at 129:6-131:4, 205:21-206:19, 307:22-309:4.)

He contacted Professor Wailes to try to discuss these issues, but Professor Wailes refused to speak to him. (*Id.* at 127:8-129:5.) Thus, Dr. Schulman was never able to definitively explain why his results did not exactly match the Li/Wailes results. But he believed that the explanation for why he could not perfectly replicate the Li/Wailes result was “something that could be easily cleared up if I'd had an opportunity to talk with Professor Wailes.” (*Id.* at 206:20-207:3.)

This is the testimony that Plaintiffs would have the Court believe invalidates the Li/Wailes article.

### CONCLUSION

Plaintiffs’ Daubert attack on Professor Fischel fails. He is fully qualified to offer the opinions he advances in this case. Plaintiffs’ criticisms of those opinions are matters for competing expert testimony and cross-examination, not bases for a Daubert exclusion. Plaintiffs’ motion should be denied.

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<sup>18</sup> Contrary to Plaintiffs’ brief, Dr. Schulman did not suggest that the Li/Wailes data were “fudged.” In fact:

“Q. But the possibility is out there that Li may have fudged her data?

A. I'm not saying that that's a possibility.”

(Schulman Dep. 213:8-213:11)

Dated: February 18, 2011

Respectfully submitted,

/s/ Lester C. Houtz

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**CERTIFICATE OF SERVICE**

I hereby certify that on February 18, 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/ Lester C. Houtz  
Lester C. Houtz