

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

IN RE GENETICALLY MODIFIED) 4:06 MD 1811 CDP
RICE LITIGATION,)

This document relates to:

Gulf Pacific Rice Co., Inc., et al. v. Bayer CropScience LP, et al.
Case No. 4:08-CV-1545-CDP

**JOINT STIPULATION CONCERNING VARIOUS MOTIONS FOR SUMMARY
JUDGMENT AND TO EXCLUDE OR LIMIT EXPERT WITNESS TESTIMONY**

The Parties in the above-styled individual action, in an attempt to preserve judicial resources, file the following joint stipulation concerning various motions for summary judgment and to exclude or limit expert witness testimony. As the Court is aware, numerous motions for summary judgment and to exclude or limit expert witness testimony have been filed in related actions in this multidistrict litigation proceeding. Many of those motions raise legal and factual issues common to the issues raised in this action. The Parties have agreed to jointly stipulate that they are adopting and incorporating fully certain motions, responses, and replies on these common issues, and agreeing that the Court's prior rulings on those issues under the applicable choice(s) of law of Texas (as to Gulf Pacific Rice Co., Inc., and Gulf Rice Milling, Inc.) and Arkansas (as to Harvest Rice, Inc.) apply to this action, with each party preserving their appellate rights to the Court's rulings.¹

¹ The parties agree that Texas choice of law rules require the Court to apply Arkansas law to the claims of Harvest Rice Inc., and Texas law to the claims of Gulf Pacific Rice Co., Inc., and Gulf Rice Milling, Inc. The parties are discussing whether the claims of all Plaintiffs in this case can be tried under one jurisdiction's laws, but no agreement has been reached by the Court's deadline for dispositive motions and motions to exclude expert testimony under Case Management Order No. 30. If a resolution is reached, the prior-filed motions, responses and replies adopted and incorporated by the parties in this action, as well as the applicable Court rulings, might be affected. In the event an agreement is reached, the parties will alert the Court as to whether any incorporated motions, responses, replies, or Court rulings need to be amended to reflect the chosen law.

Attached to this paper as Exhibit "A" is a spreadsheet identifying the motions subject to this joint stipulation, the respective docket entry numbers under Case No. 4:06-MD-1811 relating to those motions, responses, and replies, and the Court's applicable rulings.

The Parties reserve their respective rights, under Case Management Order No. 30, to file any motions on issues previously briefed before the Court and on which the Parties could not reach a joint stipulation, as well as the right to file motions on issues that have not been previously raised by other parties.

DATED: June 14, 2011.

LOOPER REED & McGRAW, P.C.

By: s/ Andrew K. York

WILLIAM B. CHANEY
Texas State Bar No. 04108500
ANDREW K. YORK
Texas State Bar No. 24051554
JAMES W. RIBMAN
Texas State Bar No. 00797762

1601 Elm Street, Suite 4600
Dallas, Texas 75201
Telephone: 214.954.4135
Facsimile: 214.953.1332

ATTORNEYS-IN-CHARGE FOR PLAINTIFFS
GULF PACIFIC RICE CO., INC.
GULF RICE MILLING, INC., AND
HARVEST RICE, INC.

BARTLIT BECK HERMAN
PALENCHAR & SCOTT LLP

By: /s/ John M. Hughes (w/permission)
John M. Hughes

William F. Goodman, III
Joseph J. Stroble
Elizabeth M. Gates
WATKINS & EAGER
The Emporium Bldg.
400 East Capitol Street, Suite 300
Post Office Box 650
Jackson, Mississippi 39205-0650

Mark E. Ferguson
BARTLIT BECK HERMAN PALENCHAR
& SCOTT LLP
Courthouse Place
54 West Hubbard Street, Suite 300
Chicago, Illinois 60654

Terry Lueckenhoff, #43843
FOX GALVIN LLC
One South Memorial Drive, 12th Floor
St. Louis, Missouri 63102

Glen E. Summers
Lester C. Houtz
Eric R. Olson
John M. Hughes
BARTLIT BECK HERMAN PALENCHAR
& SCOTT LLP
1899 Wynkoop Street, 8th Floor
Denver, Colorado 80202

ATTORNEYS FOR BAYER DEFENDANTS

CERTIFICATE OF SERVICE

I certify that on June 14, 2011, I electronically filed an Entry of Appearance with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the parties of record.

/s/ Andrew K. York
ANDREW K. YORK

EXHIBIT A TO JOINT STIPULATION				
<u>Title of Motion</u>	<u>Docket Entry Numbers for Motion and Supporting Memoranda</u>	<u>Docket Entry Numbers for Memoranda in Opposition and Supporting Documents</u>	<u>Docket Entry Numbers for Reply Briefs and Supporting Documents</u>	<u>Court's Governing Ruling</u>
1. Plaintiffs' Motion for Partial Summary Judgment on Affirmative Defenses 11 and 13	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3216, 3217; Harvest Rice Inc.: 1447, 1448	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3302; Harvest Rice Inc.: 1505	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3359; Harvest Rice Inc.: 1565	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3495; Harvest Rice Inc: 2075
2. Plaintiffs' Motion for Partial Summary Judgment on Successor, General Partner, and Agency Status	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.:3230, 3231, 3232; Harvest Rice Inc.: 1445, 1446, 1449	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3305; Harvest Rice Inc.: 1507	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3365; Harvest Rice Inc.: 1582	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3495; Harvest Rice Inc: 2075
3. Plaintiffs' Motion to Exclude Expert Designation, Reports and Testimony of Ronnie Helms	All Plaintiffs: 3213, 3214	All Plaintiffs: 3300	All Plaintiffs: 3356	All Plaintiffs: 3495
4. Plaintiffs' Motion to Exclude Expert Designation, Reports and Testimony of Alan McHughen	All Plaintiffs: 3215	All Plaintiffs: 3301	All Plaintiffs: 3361	All Plaintiffs: 3495
5. Bayer Defendants' Motion for Summary Judgment as to Plaintiffs' Negligence Per Se claim	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.:3219, 3226; Harvest Rice Inc.: 1434, 1435	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3317; Harvest Rice Inc.: 1530	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3352; Harvest Rice Inc.: 1577	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3495; Harvest Rice Inc: 2075
6. Bayer Defendants' Motion for Summary Judgment as to Plaintiffs' Public Nuisance claim	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.:3219, 3223; Harvest Rice Inc.: 1434, 1435	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3319; Harvest Rice Inc.: 1530	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3353; Harvest Rice Inc.: 1577	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3495; Harvest Rice Inc: 2075
7. Bayer Defendants' Motion for Summary Judgment as to Plaintiffs' claim for punitive damages	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.:3219, 3224; Harvest Rice Inc.: 1434, 1435	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3315; Harvest Rice Inc.: 1531	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3351; Harvest Rice Inc.: 1575	Gulf Pacific Rice Co. Inc. and Gulf Rice Milling, Inc.: 3495; Harvest Rice Inc: 2075
8. Bayer Defendants' Motion for Summary Judgment as to Plaintiffs' Constructive Fraud claim	All Plaintiffs: 2142, 2146	All Plaintiffs: 2387	All Plaintiffs: 2549	All Plaintiffs: 2656
9. Bayer Defendants' Motion for Summary Judgment re Express Federal Preemption	All Plaintiffs: 1053, 2142, 2147	All Plaintiffs: 1144, 2385	All Plaintiffs: 1165, 2550	All Plaintiffs: 1208, 2656
10. Bayer Defendants' Motion to Exclude Expert Testimony of Rene Van Acker and Jeffrey Stein	All Plaintiffs: 3229	All Plaintiffs: 3313	N/A	All Plaintiffs: 3495