



3. Veetee, Producers, Riviana and Bayer agree that mediation is appropriate at this juncture and that it may aid in the resolution of the claims raised in this lawsuit. These parties conferred over a period of weeks and agreed to mediate in St. Louis, Missouri, on September 7, 2010, with Judge Stephen Limbaugh acting as the mediator. Judge Limbaugh has consented to mediate this claim on September 7.

4. Counsel for Riceland has been included in all communications related to the scheduling of the mediation. Riceland has not raised any objection to the date, location or mediator, but Riceland has not agreed to participate in the mediation. Riceland has not stated that it will not attend the mediation, but Riceland has refused to commit, one way or the other, on whether it will attend the mediation.

5. Veetee is sending two corporate representatives from England to attend the mediation. Bayer, Producers and Riviana have agreed to have party representatives present. Each of these parties has agreed to participate in good faith.

6. Veetee has claims against Riceland, and Riceland has third-party claims against Bayer. Mediation will only be meaningful if all parties attend and participate in good faith. Riceland's nonparticipation will impact the other parties' attempt to resolve this dispute.

7. This Court has authority under Fed. R. Civ. P. 16 and Local Rules 6.01-6.05 to refer appropriate cases to mediation, either upon its own motion or on the motion of any party. Given the nature of the claims in this action, the state of discovery and the agreement of all parties except for Riceland that mediation will be beneficial, the Court should order Riceland to attend the mediation.

8. Further, in accordance with the local rules, Riceland should be ordered to send a corporate representative and to "participate in good faith". *See* Local Rule 6.02(B)(1). As this

Court has noted in a recent decision, the “[p]resence of the corporate representative is the cornerstone of good faith participation [in mediation].” *Metcalf v. Lowe’s Home Centers, Inc.*, 2010 WL 985293 (E.D. Mo. 2010) citing *Nick v. Morgan’s Foods, Inc.*, 99 F. Supp.2d 1056, 1062 (E.D. Mo. 2000). “The authority of a district court to require a duly-empowered corporate officer to attend a settlement conference is well-established.... Mediation is when all parties have the opportunity to argue their respective positions, and it is often the first time corporate representatives hear about the difficulties they may face at trial.” *Id.*

9. Riceland should further be required to pay its appropriate share of all mediation costs and to fully comply with Local Rules 6.01-6.05.

WHEREFORE, Veetee Rice Limited prays that this Court enter an order requiring all of the parties, including Riceland Foods, Inc., to mediate, in good faith and in accordance with this Court’s Local Rules, in St. Louis, Missouri, on September 7, 2010, with Judge Stephen Limbaugh acting as the mediator and for all other proper relief.

DATED: August 4, 2010.

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**CERTIFICATE OF SERVICE**

I certify that on August 4, 2010, I electronically filed Veetee Rice Limited's Motion and Memorandum to Order Mediation and to Compel Riceland Foods, Inc. to Participate, with the Clerk of the Court to be served by operation of the Court's electronic filing system upon the parties of record.

/s/ Debra K. Brown  
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