

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

**IN RE GENETICALLY MODIFIED RICE
LITIGATION**

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This filing relates to the following case:

Beaumont Rice Mills, Inc.
v. Bayer CropScience LP

Case No. 4:07-cv-0524-CDP

THE BAYER DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, the Bayer Defendants hereby move for summary judgment on the claims brought by plaintiff Beaumont Rice Mills, Inc. (“Beaumont”).

The Bayer Defendants move for summary judgment on the following grounds:

1. That Beaumont’s claims are barred by the economic loss doctrine;
2. That Beaumont’s claims fail as a matter of law for lack of proximate cause;
3. That Beaumont’s claims are preempted by the Plant Protection Act, 7 U.S.C.

§7756(1); and

4. That there is no genuine issue of material fact sufficient to allow submission of a claim for punitive damages.

If either the motion based on the economic loss rule or the motion based on express federal preemption is granted, that will end Beaumont’s case against the Bayer Defendants in its entirety. The remaining grounds will limit claims and types of damages, but will not dispose of the entire case.

Specifically, the Bayer Defendants seek the following relief:

First, summary judgment entered in favor of all the Bayer Defendants on all claims on the ground that such claims are barred in their entirety by the economic loss doctrine.

Second, summary judgment entered in favor of the Bayer Defendants on Beaumont's margin-squeeze and lost-production claims for failure to establish proximate cause.

Third, summary judgment in favor of all the Bayer Defendants on all claims on the ground that such claims are preempted by federal law.

Fourth, summary judgment in favor of the Bayer Defendants on Beaumont's claims for punitive damages.

The facts and arguments supporting this motion are set forth in a brief, filed herewith, addressing each of the issues set forth above. In addition, one statement of undisputed facts and the Affidavit of John M. Hughes containing all referenced exhibits is filed herewith.

Dated: June 14, 2011

Respectfully submitted,

/s/ John M. Hughes

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 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/ John M. Hughes

John M. Hughes