

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

IN RE GENETICALLY MODIFIED RICE § NO. 4:06 MD 1811 CDP  
LITIGATION §

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**This document relates to:**

**First Group of Cases to be Remanded – Texas**

Case No. 4:08-CV-01254 CDP; *Benny Wlecyck, et al v. Bayer CropScience, LP et al*  
Case No. 4:08-CV-01257 CDP; *Tim Anderson, et al. v. Bayer CropScience, LP et al*  
Case No. 4:08-CV-01262 CDP; *Brad Engstrom, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01263 CDP; *David Guthman, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01265 CDP; *Henry J. Hlavinka, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01267 CDP; *Darby Hoffman, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01268 CDP; *John Kramr, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01269 CDP; *Edward Korenek, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01272 CDP; *Leon Pavlock, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01273 CDP; *Rodney Pederson, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01276 CDP; *Thomas A. Smaistrla, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01281 CDP; *Rudy Polak, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01283 CDP; *David R. Polak, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01541 CDP; *Terrance Hlavinka Cattle Co., et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-877 CDP; *Wiese, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-887 CDP; *Wied, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-889 CDP; *Dutcher, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01543 CDP; *Woodsland Farms, et al v. Bayer CropScience, LP, et al*  
Case No. 4:08-CV-01544 CDP; *Raymond Franz, et al v. Bayer CropScience, LP, et al*

**PLAINTIFFS’ CONSOLIDATED MOTIONS TO EXCLUDE OR, ALTERNATIVELY,  
LIMIT THE TESTIMONY OF BAYER’S PROPOSED EXPERTS**

Plaintiffs in the above referenced cases file their Consolidated Motions to Exclude or, Alternatively, Limit the Testimony of the following Proposed Experts: David Mordecai, Craig Schulman, Cheryl Shuffield, Ronnie Helms, and Alan McHughen pursuant to the applicable Federal Rules. Plaintiffs contemporaneously file their Memorandum in Support of this Motion and respectfully request the Court grant their Motions to Exclude or, alternatively limit the testimony of these proposed experts offered by BAYER CROPSCIENCE LP, BAYER CROPSCIENCE HOLDING, INC., AND BAYER CORPORATION (collectively “Bayer”).

**I. BAYER'S EXPERT TESTIMONY OF DAVID MORDECAI**

1. Bayer has designated Dr. Mordecai as an expert in the economic price effects and duration of any price impact, or consequences, resulting from the discovery of LLRice in U.S. rice supplies.

2. For the reasons cited in Plaintiffs' Memorandum in Support of this Motion, Plaintiffs contend that Dr. Mordecai is unqualified to offer any economic opinions in this case, that Dr. Mordecai's opinions are based on unreliable methodology and that Dr. Mordecai's opinions and testimony are irrelevant. For these reasons, Plaintiffs argue that Dr. Mordecai's testimony should be excluded, or in the alternative limited to the portions that comply with Federal Rule of Evidence 702.

**II. BAYER'S EXPERT TESTIMONY OF CRAIG SCHULMAN**

3. Bayer has designated Dr. Schulman as an expert in the economic price effects and duration of any price impact, or consequences, resulting from the discovery of LLRice in U.S. rice supplies.

4. For the reasons cited in Plaintiffs' Memorandum in Support of this Motion, Plaintiffs contend that Dr. Schulman is unqualified to offer any economic opinions in this case, that Dr. Schulman's opinions are based on unreliable methodology and that Dr. Schulman's opinions and testimony are irrelevant. For these reasons, Plaintiffs argue that Dr. Schulman's testimony should be excluded, or in the alternative limited to the portions that comply with Federal Rule of Evidence 702.

**III. BAYER'S EXPERT TESTIMONY OF CHERYL SHUFFIELD**

5. Bayer has designated Cheryl Shuffield as an expert in these cases. Ms. Shuffield, who is a CPA in the State of Arkansas is qualified to discuss accounting principles in this case.

However, Plaintiffs anticipate that Ms. Shuffield will attempt to offer opinions well beyond the scope of her accounting expertise and even relies upon Bayer's liability, non-economist, non-accountant, expert, Ronnie Helms, to arrive at some of her opinions and conclusions.

6. For the reasons cited in Plaintiffs' Memorandum in Support of this Motion, Plaintiffs contend that Ms. Shuffield is unqualified to offer any opinions in this case beyond those related to accounting and that any such testimony should be excluded, or in or in the alternative limited to the portions that comply with Federal Rule of Evidence 702.

**IV. BAYER'S EXPERT TESTIMONY OF RONNIE HELMS**

7. Bayer has designated Ronnie Helms as an expert in these cases. Dr. Helms is a self-purported expert in *rice production*, not rice breeding. Plaintiffs anticipate that Dr. Helms will attempt to offer opinions well beyond the scope of rice production including but not limited to rice breeding and economic testimony and opinions.

8. For the reasons cited in Plaintiffs' Memorandum in Support of this Motion, Plaintiffs contend that Dr. Helms is unqualified to offer any opinions in this case beyond those related to rice production, including but not limited to rice breeding or economic matters, and that any such testimony should be excluded, or in or in the alternative limited to the portions that comply with Federal Rule of Evidence 702.

**V. BAYER'S EXPERT TESTIMONY OF ALAN MCHUGHEN**

9. Bayer has designated Alan McHughen as an expert in these cases. McHughen intends to offer opinions and testimony that Bayer's work with LLRice (a type of rice) met or exceeded the applicable standard of care as well as the cause(s) of the LLRice contamination.

10. For the reasons cited in Plaintiffs' Memorandum in Support of this Motion, Plaintiffs contend that McHughen is unqualified to offer any opinions in this case as he has

absolutely no education, training, experience, skill, or knowledge relating to rice. Plaintiffs argue that the only testimony or opinions that McHughen may be qualified to give would relate to flax seed, canola, potatoes, wheat and lentils. Plaintiffs argue that such irrelevant testimony should be excluded under Rule 702 and also 401, 402, and 403 on the basis that it is irrelevant, it is of no help to the jury, it causes confusion of the issues, and is misleading to the jury. Plaintiffs further argue that because McHughen has no qualifications in the area of rice, that any testimony about rice should provided by McHughen should be excluded, or in the alternative limited to the portions that comply with Federal Rule of Evidence 702.

**VI. REQUEST FOR RELIEF**

WHEREFORE, PREMISES CONSIDERED, Plaintiffs respectfully move this Court to Grant Plaintiffs' Motions to Exclude or, Alternatively, Limit the Testimony of Bayer's proposed experts, and for any such further relief, at law or in equity, the Court deems just and proper.

Respectfully submitted,

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