

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

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

**This document relates to:**

Second Group of Cases to be Remanded  
Case No. 4:09-cv-1550; Greg Kerksieck, et al.  
Case No. 4:09-cv-1526; Clinton McGraw, et al.  
Case No. 4:09-cv-1587; Darrell Brady, et al.  
Case No. 4:09-cv-1533; Kenneth Maier, et al.  
Case No. 4:09-cv-1558; Robert Dilday, et al.  
Case No. 4:09-cv-1542; Ronny E. Dean, et al.  
Case No. 4:09-cv-1569; Lane Oliver, et al.  
Case No. 4:09-cv-1552; Brooks Davis, et al.  
Case No. 4:09-cv-1580; Rick Siems, et al.  
Case No. 4:09-cv-1583; Stephen S. Hoskyn, et al.  
Case No. 4:09-cv-1527; Fred Wilkes, et al.  
Case No. 4:08-cv-1284; Cody Todd, et al.  
Case No. 4:08-cv-879; Boenisch, et al.  
Case No. 4:08-cv-1291; Raymond Dollins, et al.  
Case No. 4:08-cv-1280; Gayle Gertson, et al.  
Case No. 4:08-cv-1274; Carolyn Pope, et al.  
Case No. 4:08-cv-878; Mark Stasney, et al.  
Case No. 4:08-cv-1278; Bob Thornton, et al.  
Case No. 4:08-cv-1279; Rudy Till, et al.  
Case No. 4:09-cv-01527; Fred Gary Wilkes, et al.

**PLAINTIFFS' UNOPPOSED MOTION TO EXTEND DEADLINES FOR SECOND  
REMAND GROUP IN CMO No. 26**

TO THE HONORABLE CATHERINE D. PERRY:

Plaintiffs in the above cases ask this Court to extend Plaintiffs' deadline to disclose expert witnesses related to issues of liability and general damages and the remaining deadlines by 90 days. The Bayer Defendants do not oppose this request and all other Plaintiffs' counsel who have cases in the Second Remand Group either do not oppose or agree.

Plaintiffs request this additional time to give the parties time to complete discovery. First, Plaintiffs' counsel have presented approximately 20 farmers for deposition with the final farmers' depositions scheduled for the week of January 17, 2011. Plaintiffs would prefer to produce their expert reports after all farmers have been deposed. Second, Plaintiffs' Counsel is still working to obtain copies of every farmers' settlement sheets which are used to identify each farmer's particular market loss based on their farm production totals. Third, Plaintiffs' counsel is also involved in the next state court trial on February 14<sup>th</sup>, 2011 that includes Riceland's affirmative claims against Bayer. Because of this case, Plaintiffs' counsel has been in depositions or hearings if not every day then every week for the last several months. In fact, Plaintiffs' counsel travelled to Singapore for two weeks before Thanksgiving and then just spent the last week in England for depositions of Bayer employees. Fourth, Plaintiffs' experts need additional time to complete their expert reports. The same experts Plaintiffs will use in the Second Remand Cases have also been working relentlessly on the next state court trial. Bayer has deposed these same experts (some several times) and, thereby, there would be no surprise to Bayer as to the methodology or claims made by these experts in their reports in the Second Remand Cases. Finally, Plaintiffs' counsel only requests this extension so that justice may be done and not for any undue delay.

The new deadlines would be as follows:

1. Plaintiffs shall disclose expert witnesses related to issues of liability and general damages and provide the reports required by Rule 26(a)(2), Fed.R.Civ.P., no later than **April 11, 2011**, and shall make these expert witnesses available for deposition, and have depositions completed, no later than **April 25, 2011**.
2. Defendants shall disclose expert witnesses related to issues of liability and general damages and provide the reports required by Rule 26(a)(2), Fed.R.Civ.P.,

no later than **May 9, 2011**, and shall make these expert witnesses available for deposition, and have depositions completed, no later than **May 23, 2011**.

3. All discovery shall be completed no later than **May 23, 2011**.

4. Any motions for summary judgment or motions to exclude or limit expert testimony under *Daubert* or for any other reason must be filed no later than **June 6, 2011**. Briefs in opposition must be filed by **July 6, 2011** and any reply brief shall be filed no later than **July 20, 2011**.

FOR THESE REASONS, Plaintiffs respectfully request this Court extend the remaining deadlines for the Second Remand Group under CMO 26 for 90 days.

Respectfully submitted,

**GOLDMAN, PENNEBAKER & PHIPPS, P.C.**

One International Centre  
100 N.E. Loop 410, Ste 1500  
San Antonio, Texas 78216  
Telephone: (210) 340-9800  
Telecopier: (210) 340-9888  
Email: [mphipps@gpplaw.com](mailto:mphipps@gpplaw.com)

BY: /s/ Martin J. Phipps  
MARTIN J. PHIPPS  
State Bar No. 00791444

**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that I have this 10<sup>th</sup> day of January, 2011, electronically filed a copy of the foregoing with the Clerk of the Court to be served by operation of the court's electronic filing system upon the parties of record.

/s/ Martin J. Phipps  
MARTIN J. PHIPPS