

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

IN RE GENETICALLY MODIFIED RICE LITIGATION))))))))	4:06 MD 1811 CDP LOUISIANA 1ST REMAND CASES
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**LOUISIANA REMAND PLAINTIFFS’ OPPOSITION TO THE BAYER
DEFENDANTS MOTION TO EXCLUDE EXPERT TESTIMONY
UNDER RULE 702 AND INCORPORATED BRIEF**

Plaintiffs Black River Rice Co., Verona M. Courville, Mitchell W. Deville, Gloria B. Fontenot, Jessie C. Fontenot, Jody David Fontenot, Aswell Farms Inc., Darrel Wayne Attales, Robert Allen Benoit, Troy Fruge, Keith Hensgens, Roger Leblanc, Lonesome Dove Plantation, LLC, Glenden Marceaux, Miller Brothers Farm, Brodney Mouton, Sr, Tomas A. Sarver, Cynthia L. Simon, Mark J. Simon, Mitchell Ray Soileau, Randy Stutes, Cynthia Faye Lormand Vidrine, and Leland Dale Vidrine, Sr (collectively, the “Louisiana 1st Remand Plaintiffs”) hereby file this memorandum in opposition to the Bayer Defendants’ (“Bayer”) motion to exclude the testimony of Plaintiffs’ economic expert Bruce Babcock on market damages, and to limit the testimony of three of the Plaintiffs’ four liability experts, Rene Van Acker, Mark Halsey and Jeffrey Stein as well as to exclude testimony from Dr. Colin Carter from his April 2010 Report.

In support of its motion relating to Dr. Babcock and Plaintiffs’ Liability Experts , Bayer relies exclusively on documents it previously filed. *See* D.I. 3919 referencing D.I. 1437 and D.I. 1439. In response, the Louisiana 1st Remand Plaintiffs rely upon the arguments set forth in the following documents previously filed by the Missouri and Arkansas Bellwether Plaintiffs: Plaintiffs’ Memorandum in Opposition to Motion to Exclude Testimony Under

Rule 702 of Plaintiffs' Liability Experts (D.I. 1519); and Plaintiffs' Memorandum in Opposition to Motion to Exclude Testimony Under Rule 702 of Dr. Bruce Babcock (D.I. 1521).¹ Bayer's motion relating to these experts should be denied for the reasons set forth in the Prior Filings as ruled by this Court on October 9, 2009. *In re Genetically Modified Rice Litigation*, 666 F. Supp.2d 1004 (E.D. Mo. 2009).

In support of its motion relating to Dr. Carter's April 2010 Report, Defendants incorporated their Brief in Support of Their Motion to Limit Dr. Colin Carter's Testimony Under Rule 702 (D.I. 3916) filed in relation to the remaining Arkansas initial trial pool plaintiffs. Defendants' motion to limit the testimony of Dr. Colin Carter should be summarily denied. In response, the Louisiana 1st Remand Plaintiffs rely upon the arguments set forth in the document filed relating to the May and July 2011 Initial Trial Pool Plaintiffs: Plaintiffs' Response to the Bayer Defendants Motion to Limit Colin Carter's Testimony Under Rule 702 (D.I. 4071).

For the reasons set forth in the above referenced documents and outlined above, Bayer's motion to exclude the testimony of Bruce Babcock in its entirety, to limit and exclude testimony from Dr. Carter from his April 2010 Report, and to limit the testimony of Plaintiffs' liability experts should be denied in its entirety.

¹ Daubert oppositions incorporating these initial oppositions were filed on behalf of the Mississippi, Louisiana and Texas bellwether plaintiffs, respectively, D.I. 1939, D.I. 2830 and D.I. 3313.

Dated: February 17, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this 17th day of February, 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/ Richard J. Arsenault