

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

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IN RE GENETICALLY MODIFIED  
RICE LITIGATION

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) 4:06 MD 1811 CDP  
)  
) Trials Commencing  
) May and July, 2011  
)

**PLAINTIFFS’ OPPOSITION TO BAYER’S MOTION TO EXCLUDE  
EXPERT TESTIMONY UNDER RULE 702 AND INCORPORATED BRIEF**

The Bayer Defendants (“Bayer”) moves to exclude the testimony of Dr. Babcock, to limit the testimony of Dr. Van Acker, Dr. Halsey and Mr. Stein in certain respects, and to limit and exclude testimony from Dr. Carter from his April 2010 Report. See Bayer’s Motion to Exclude Expert Testimony Under Rule 702 And Incorporated Brief (D.I. 3910). As sole support for its motion in regard to Dr. Babcock, Dr. Van Acker, Dr. Halsey and Mr. Stein, Bayer incorporates its previous motion and brief in support of motion to exclude expert testimony filed on August 17, 2009. *Id.* (incorporating D.I. 1437). In response, Plaintiffs hereby incorporate 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) and all evidence and exhibits referenced therein (“Prior Filings”) filed in response to Bayer’s original motion. Bayer’s motion 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).

Plaintiffs respond to Bayer's motion regarding Dr. Carter by separate opposition filed contemporaneously herewith.

Dated: February 18, 2011

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that I have this 18th 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/ Don M. Downing