

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

IN RE GENETICALLY MODIFIED RICE
LITIGATION

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) 4:06 MD 1811 CDP
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) TRIAL COMMENCING
) May and July, 2011
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**PLAINTIFFS’ REPLY IN FURTHER SUPPORT OF PLAINTIFFS’
MOTION FOR PARTIAL SUMMARY JUDGMENT
ON DEFENDANTS’ AFFIRMATIVE DEFENSE NOS. 11 AND 13**

In opposition to Plaintiffs’ motion for partial summary judgment on Defendants’ Affirmative Defense Nos. 11 and 13, the Bayer Defendants (“Bayer”) incorporate Bayer’s prior arguments made in response to previous filings on this subject. *See* The Bayer Defendants’ Response To Plaintiffs’ Motion for Partial Summary Judgment on Defendants’ Affirmative Defense Nos. 11 and 13 (“Resp.”) at 2. Plaintiffs hereby incorporate and reassert replies filed in the first and second bellwether cases (D.I. 1565, 2004). Bayer acknowledges that “the issues raised by the pending motion do not differ from those already decided by the Court.” *Id.* *See* Memorandum & Order dated Dec. 9, 2009 (D.I. 2075). It asks this Court to reconsider its prior ruling without providing any basis to do so. That ruling was correct and should be entered in this case as well. For this and all the other reasons set forth in the incorporated briefing in regard to Defendants’ Affirmative Defense Nos. 11 and 13, as well as the facts presented in support thereof, Plaintiffs request that their motion be granted.

Dated: February 7, 2011

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that I have this 7th 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