

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

IN RE GENETICALLY MODIFIED RICE) 4:06 MD 1811 CDP
LITIGATION)
) **TRIAL COMMENCING**
) **JUNE 21, 2010**

**BAYER DEFENDANTS' RENEWED MOTION FOR JUDGMENT
AS A MATTER OF LAW
OR, IN THE ALTERNATIVE, A NEW TRIAL**

Pursuant to Federal Rules of Civil Procedure 50(b) and 59, the Bayer Defendants, against whom the jury returned a verdict, hereby renew their motions for judgment as a matter of law on the claims brought by the plaintiff.

The Bayer Defendants move for judgment as a matter of law on the following grounds:

- 1) That the evidence did not support plaintiff's negligence claims;
- 2) That the evidence did not support plaintiff's damage claim, including its market loss claim, future damages claim, and plaintiff's alternate crop and alternative variety damages;
- 3) That as a matter of Louisiana law, the plaintiff cannot recover for any damages of its landlord where plaintiff had a share-rent lease;
- 4) That as a matter of Louisiana law, plaintiff cannot collect damages allegedly sustained by what is referred to as "Patrick's Farm";
- 5) That plaintiff failed to present evidence sufficient to sustain a finding of damages under Louisiana law because plaintiff's claims are barred by the lack of legal cause;
- 6) That plaintiff failed to prove a master-servant relationship under Louisiana law between the Bayer Defendants and Louisiana State University or any other cooperator; and
- 7) That plaintiff's market loss claims are preempted under the Plant Protection Act.

In the alternative, the Bayer Defendants, move for a new trial on the grounds above.

The facts and arguments supporting this motion are set forth in a Brief in Support, filed herewith, which addresses each discrete issue.

Dated: August 23, 2010

Respectfully submitted,

/s/ Glen E. Summers

Glen E. Summers

William F. Goodman, III Joseph J. Stroble
Elizabeth M. Gates
WATKINS & EAGER
The Emporium Bldg.
400 East Capitol Street
Suite 300
Jackson, Mississippi 39205-0650

Terry Lueckenhoff, #43843
FOX GALVIN LLC
One South Memorial Drive, 12th Floor
St. Louis, Missouri 63102

Mark E. Ferguson
Stephen J. Cowen
**BARTLIT BECK HERMAN PALENCHAR
& SCOTT LLP**
Courthouse Place
54 West Hubbard Street, Suite 300
Chicago, Illinois 60654

Glen E. Summers
Lester C. Houtz
Eric R. Olson
John M. Hughes
**BARTLIT BECK HERMAN PALENCHAR
& SCOTT LLP**
1899 Wynkoop Street, 8th Floor
Denver, Colorado 80202

ATTORNEYS FOR THE BAYER DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2010, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Glen E. Summers _____

Glen E. Summers