

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

In re
Genetically Modified Rice Litigation

Master Case No. 4:06MD1811CDP
MDL Docket No. 1811

WESTMILL FOODS, a division of
ABF GRAIN PRODUCTS, LTD.

PLAINTIFF

v. No. 4:09-cv-00938CDP¹
RIVIANA FOODS INC.,
PRODUCERS RICE MILL, INC.,
BAYER CORPORATION, BAYER CROPSCIENCE LP,
and BAYER CROPSCIENCE HOLDING, INC.

DEFENDANTS

BAYER AG, BAYER CROPSCIENCE AG, and
BAYER BIOSCIENCE, NV

THIRD-PARTY DEFENDANTS

ORDER OF DISMISSAL

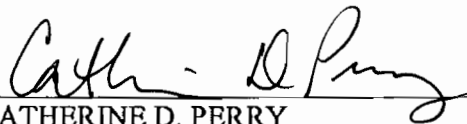
Before the Court is the parties' joint motion to dismiss this action. Having considered their motion, it is hereby ORDERED:

- a. The claims of Westmill Foods, a division of ABF Grain Products, Ltd. ("Westmill") asserted in this action against Riviana Foods Inc. ("Riviana"), Producers Rice Mill, Inc. ("PRM") and Bayer Corporation, Bayer Cropsience LP, Bayer Cropsience Holding, Inc., Bayer AG, Bayer Cropsience AG and Bayer Bioscience nv (collectively the "Bayer Defendants") are dismissed with prejudice.

¹ Transferred from the United States District Court for the Eastern District of Arkansas, No. 4:09-cv-0338JMM.

- b. The cross-claims and third party claims asserted by Riviana and PRM against the Bayer Defendants in this action, and only in this action, are dismissed as moot, in light of the dismissal of Westmill's claims against Riviana and PRM.
- c. The dismissals are the product of extra-judicial resolution and do not constitute adjudications on the merits, and the order has no precedential, *res judicata* or collateral estoppel effect in any other actions, federal or state, except insofar as any attempted re-litigation by Westmill of the claims contained in Westmill's amended complaint.
- d. The parties and this Court acknowledge that there are other actions pending in federal and state courts that generally involve the alleged contamination of United States rice with genetically modified rice. However, those actions turn on different transactions and occurrences than those that are the subject of this action, involve potentially different causes of action and governing law than those that are the subject of this action, and/or include parties that are not party to this action. Accordingly, the order of dismissal in this action is intended solely to effect the final disposition of this action and does not constitute either a first dismissal or a subsequent dismissal for purposes of Fed. R. Civ. P. 41(a)(1)(B) or any similar state rule or statute.
- e. Each party shall bear its own costs and attorneys' fees except to the extent that the Defendants are required to hold back and set aside 9% of any gross recovery obtained by Westmill for placement into Lead Counsel's common benefit trust fund pursuant to this Court's Order of February 24, 2010.

ENTERED this 29th day of October, 2010.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

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