

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

IN RE GENETICALLY MODIFIED RICE LITIGATION))))))	4:06 MD 1811 CDP ALL CASES
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**JOINT REPORT OF LEAD COUNSEL
ISSUES TO BE RAISED AT JANUARY 29, 2009 STATUS CONFERENCE**

Pursuant to CMO 11, Lead Counsel for Plaintiffs and Defendants report as follows:

A. Discovery Progress.

Discovery is proceeding at a fast pace and the parties still are on track to complete fact discovery in a timely fashion. As expected, many discovery issues have arisen, but the parties generally have been able to resolve them without court intervention.

B. Issues To Be Raised At January 29, 2009 Status Conference.

1. Certain plaintiffs desire to join LSU as a party defendant in their respective lawsuits now pending in this MDL proceeding. However, CMO 3 (paragraph III D) prohibits amendment of pleadings in any individual producer case. These plaintiffs seek a lifting of this provision for the sole purpose of joining LSU as a defendant. If this is not permitted, these plaintiffs will institute a separate lawsuit against LSU in Louisiana state court.
2. Procedures for resolving discovery disputes, including any discovery disputes that are ripe at the time of the telephone conference.
3. Proposals for completion of the outstanding expert discovery, required

motion practice and trials of Initial Trial Pools from Louisiana, Mississippi and Texas as required by CMO 13.

PLAINTIFFS' PROPOSAL

Plaintiffs propose that the third bellwether trial be in January, 2010, and include two producers from one of the remaining states - - Louisiana, Mississippi or Texas. Assuming the trial is scheduled to begin on January 11, 2010, plaintiffs propose the following deadlines for this bellwether trial:

1. July 20, 2009 – Selection of the two producers from the Initial Trial Pool for the third bellwether trial.
2. August 20, 2009 – Submission of Plaintiffs' individual damage expert reports for the two producers selected for trial.
3. August 31, 2009 – Plaintiffs' individual damage expert deposition completed.
4. September 14, 2009 – Submission of Defendants' individual damage expert report.
5. September 25, 2009 – Defendants' individual damage expert deposition completed.
6. October 15, 2009 – Submission of summary judgment and *Daubert* motions.
7. November 13, 2009 – Submission of briefs in opposition to summary judgment and *Daubert* motions.
8. November 30, 2009 – Submission of reply briefs in support of summary judgment and *Daubert* motions.

Recognizing that the *Riviana* trial would then be the fourth bellwether trial, Plaintiffs propose that the fifth and sixth bellwether trials be of claims by producers in the Initial Trial Pool

from the two remaining states and that the pertinent deadlines be set after trial dates are scheduled and be consistent with the timeframes indicated in the deadlines set forth above.

DEFENDANTS' PROPOSAL

Defendants propose that the third individual bellwether trial follow the *Riviana* non-producer bellwether trial and commence approximately May 15, 2010. The plaintiffs will be two producers selected by lead counsel from the initial trial pool of Missouri and Arkansas residents. Lead counsel shall select the plaintiffs no later than December 1, 2009.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on January 22, 2009, 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/ Don M. Downing