

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

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IN RE GENETICALLY MODIFIED RICE)	4:06 MD 1811 CDP
LITIGATION)	
)	ALL CASES
)	

MODIFIED CASE MANAGEMENT ORDER NO. 3

Pursuant to the unopposed motion by Plaintiff Producers, Case Management Order No. 3 is modified, at Section VIII, as follows.

Currently, Section VIII provides:

VIII. LIMITATIONS ON EXPERT DISCLOSURES

Discovery of experts shall be in accordance with Rule 26, local rules and applicable case law except that the parties will not seek to discover, and may not discover, the following communications and materials:

1. Drafts of expert reports, affidavits, declarations, or written testimony;
2. Written or oral communications relating to the drafts or final reports, affidavits, declarations, written testimony, or other written materials; and
3. Notes of discussions regarding a draft or final expert report, affidavit, declaration, or written testimony.

All parties intend, and the Court orders, that these limitations on disclosure shall apply to every case in this Action and to all related cases remanded or transferred from this Court, whether to state or federal court.

Section VIII is hereby modified to delete the last paragraph, and replace it so that Section VIII now provides:

VIII. LIMITATIONS ON EXPERT DISCLOSURES

Discovery of experts shall be in accordance with Rule 26, local rules and applicable case law except that the parties will not seek to discover, and may not discover, the following communications and materials:

1. Drafts of expert reports, affidavits, declarations, or written testimony;
2. Written or oral communications relating to the drafts or final reports, affidavits, declarations, written testimony, or other written materials; and
3. Notes of discussions regarding a draft or final expert report, affidavit, declaration, or written testimony.

All parties intend, and the Court orders, that these limitations on disclosure shall apply to every case in this Action and to all related cases remanded or transferred from this Court, whether to state or federal court, and certain cases pending in state courts, listed on Exhibit A hereto, and as may be added from time to time, upon approval of the Court.

However, counsel for the Foreign Defendants may inquire to confirm that any expert witness who has been retained by counsel or parties who do not have access to foreign confidential material has not disclosed, summarized, described, or otherwise communicated or made available in whole or in part any foreign confidential material to any person who may not access foreign confidential material.

In addition, where expert witnesses have been retained by multiple parties with cases pending in this Action and/or related state court cases, nothing in this limitation shall restrict, to the extent otherwise properly discoverable, the disclosure of the identity of which party or parties has compensated or will compensate the expert and the amount and proportion of the total compensation paid or to be paid by each of the parties.

Use of Experts in multiple cases:

Nothing in these provisions or the Revised Protective Order restricts or limits an expert witness's ability to be retained in multiple cases, including cases listed on Exhibit A. The parties agree that counsel in the cases identified on Exhibit A and retained experts in those cases may have access to Confidential Discovery Material and Highly Confidential Discovery Material produced by Domestic Defendants in this Action, once they execute the required Undertaking and agree to be bound by the terms and conditions of the Revised Protective Order in this Action. The Revised Protective Order will continue to govern all material produced in this Action, even if there are differing terms in the protective orders in the cases listed on Exhibit A. Lead counsel for Producer Plaintiffs shall maintain copies of all Undertakings signed by counsel,

parties, experts, and consultants related to the cases identified on Exhibit A.

No party or counsel to any case listed on Exhibit A may have access to any Confidential Discovery Material or Highly Confidential Discovery Material produced in this Action by any Foreign Defendant, including Bayer BioScience NV, Bayer CropScience AG, Bayer AG, or Bayer CropScience Holding SA, unless all of the following conditions are met prior to any such access to Confidential Discovery Material or Highly Confidential Discovery Material from each Foreign Defendant: 1) the Foreign Defendant must be a named defendant in such case; 2) the Foreign Defendant must have been properly served with process and have answered in such case; and 3) discovery requests covering the documents at issue must have been timely served in such case. Nor may any counsel or party to this Action who does not meet the requirements of Paragraphs 3 and 5 of the Revised Protective Order have access to any Confidential Discovery Material or Highly Confidential Discovery Material produced in this Action by any Foreign Defendant, including Bayer BioScience NV, Bayer CropScience AG, Bayer AG, or Bayer CropScience Holding SA. "Have access to," means disclose, summarize, describe, or otherwise communicate or make available in whole or in part.

The parties intend, and this Court orders, that all experts and consultants who have signed the Undertaking be bound by these restrictions and, while experts and consultants may be retained in multiple cases, that any such experts or consultants may not disclose, summarize, describe, or otherwise communicate or make available in whole or in part any foreign confidential information to anyone not permitted to review such information under the Revised Protective Order.

Exhibit A, as referenced in the modification above, is hereby approved in the form attached.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated: 4/16/09

EXHIBIT A
TO MODIFIED CASE MANAGEMENT ORDER NO. 3.

Randy Schafer, et al. v. Riceland Foods, Inc., et al.
Circuit Court of Lonoke County, Arkansas
Case No. 4:06cv001407