

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

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

**ORDER APPOINTING  
SPECIALMASTER FOR SETTLEMENT**

I previously notified the parties of my proposal to appoint Stephen N. Limbaugh, Sr. as Special Master for Settlement in this case. I gave the parties notice and an opportunity to be heard on the suggestion, and all who have filed responses have consented. Because I believe his service as Special Master is in the interests of justice and will greatly assist the parties with a matter than cannot be effectively and timely addressed by an available judicial officer of this district, I will appoint Mr. Limbaugh as a Special Master for Settlement, as allowed by Rule 53, Fed. R. Civ. P. Special Master Limbaugh has provided me with an affidavit indicating that there is nothing that would require disqualification under 28 U.S.C. § 455.

Special Master Limbaugh will meet and confer with lead counsel to discuss the status of settlement negotiations and to assist in those negotiations in any way he believes is appropriate. At a minimum, he will confer with lead counsel on a monthly basis, and he will provide me with a confidential report on the status of

those discussions at least every three months. This is not necessarily a referral for mediation, although if the parties and the Special Master decided at some point that mediation would be appropriate, that would, of course, be fine with me, and he is a qualified mediator.

Accordingly,

**IT IS HEREBY ORDERED** that Stephen N. Limbaugh, Sr. is appointed as Special Master for settlement in this matter.

1. Mr. Limbaugh shall proceed with all reasonable diligence in his position as Special Master. In the execution of this reference the Special Master shall possess and may exercise, to the extent permitted by law, Federal Rule of Civil Procedure 53, and the United States Constitution, all powers to make such orders as may be necessary and appropriate to fulfill the duties assigned to the Special Master under this Memorandum and Order, subject to review by the Court.

2. The Special Master shall supervise settlement discussions and shall use his expertise to assist the parties in any way he deems appropriate to try to resolve this case, either globally or on some individual basis, and he has the authority to issue any orders to aid that supervision that he may deem necessary.

3. The parties and their counsel shall provide the Special Master with their full cooperation, including making available to the Special Master any

facilities, files, databases, or documents that the Special Master requires to fulfill his function.

4. The Special Master may communicate *ex parte* with the Court on any matter. He may communicate *ex parte* with counsel to address any procedural or scheduling issues. With the consent of lead counsel, he may communicate *ex parte* with any counsel on the merits of the disputes or regarding settlement.

5. The Special Master shall provide confidential reports to the Court on the status of settlement discussions every 90 days. These reports will not be filed or disclosed, except as recommended by the Special Master after consulting with the parties.

6. The Special Master shall abide by the Stipulated Confidentiality Agreement and Protective Order entered in this case on June 5, 2007 [#290].

7. Any party may object to any order issued by the Special Master by filing a written objection with the Court within 7 calendar days of the issuance of such order. Any response to such objection must be in writing and filed within 7 calendar days of the filing of the objection. Failure to file a timely objection may waive the right to object.

8. This referral to the Special Master is limited to the duties specified herein unless the Court shall expand the duties. Any actions which the Special

Master believes will aid in settlement are authorized by this order; if the Special Master, after consulting with the parties, believes a formal mediation is appropriate, he may order the same, and may serve as the mediator.

9. If the Special Master requests, Court facilities will be made available for any meetings with counsel or other settlement-related activities.

10. The Special Master shall receive compensation for his services herein at the hourly rate of \$400, with plaintiffs collectively and defendants collectively to each pay one half. The Special Master has the authority to recommend to me a different allocation of his fees and expenses, as he may deem appropriate.

Because the interests of the non-producer plaintiffs and the non-Bayer defendants may not always be aligned with the interests of the other plaintiffs and defendants, respectively, counsel shall attempt to reach an agreed allocation of the costs. If they are unable to agree they should seek assistance from the Special Master.

11. The Special Master shall maintain his billing records of time spent on this matter, documents received from the parties, and copies of any orders and reports.

12. This Memorandum and Order is subject to amendment by the Court *sua sponte*, upon application of the parties, or upon application of the Special Master. Jurisdiction of this action is retained by the Court.

13. The Special Master's contact information is: Stephen N. Limbaugh, Senior Counsel, Armstrong Teasdale LLP, One Metropolitan Square, Suite 2600, St. Louis, MO 63102-2740, phone 314-621-5070.

  
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CATHERINE D. PERRY  
UNITED STATES DISTRICT JUDGE

Dated this 24th day of November, 2008.