

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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

**ORDER PROPOSING APPOINTMENT OF
SPECIAL MASTER FOR SETTLEMENT**

Lead counsel have previously reported that they have, as required by the Court, discussed potential ways this case might be settled, although they have not reported any significant progress toward a settlement. The next year will involve a great deal of work for all parties and for the Court as discovery is completed, motions are filed, and trials begin. It is important that the parties continue to explore settlement while preparing the cases for trial or remand to the transferor districts. Neither the undersigned nor any of the judicial officers of this Court can address settlement in as an effective and timely manner as is needed. I therefore believe that appointment of a Special Master to assist counsel with settlement discussions is appropriate, as allowed by Rule 53, Fed. R. Civ. P. Before appointing a Special Master, I must give the parties notice and an opportunity to be heard, and I must give the parties the opportunity to suggest candidates for appointment. Rule 53(b)(1). This Order is that notice and opportunity.

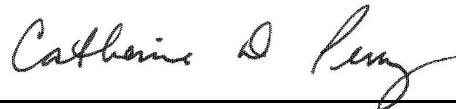
I have determined that Steven N. Limbaugh, Sr., who has recently retired

from the bench of this court, is available and willing to serve as a settlement special master for this case. He has informed me that he has no relationship that would require disqualification under 28 U.S.C. § 455, and is prepared to provide an affidavit to that effect if selected. Although he is related to a judge of this court within the degrees set out in 28 U.S.C. § 458, I believe that any statutory restriction on his appointment may be waived. If I appoint Mr. Limbaugh, the parties will be required to pay his hourly rate of \$400. I would anticipate appointing him to have the full range of authority allowed by Rule 53, Fed. R. Civ. P., to preside over settlement discussions. I do not propose to dictate the form of those discussions: at a minimum I would expect lead counsel to confer with Mr. Limbaugh on a monthly basis, and I would expect him to provide me with a confidential report every three months regarding the status of settlement. This is not necessarily a referral for mediation, although if the parties and the Special Master decided at some point to hold a mediation, that would, of course, be fine with me, and he is a qualified mediator.

I will give the parties until **November 20, 2008** to either consent or object to this proposal, and to suggest any other candidates for the Special Master position. If no party files objections by that date, any objections will be waived, and I will enter an order appointing him as Special Master.

Accordingly,

IT IS HEREBY ORDERED that lead counsel shall, no later than **November 20, 2008**, file statements either consenting or objecting to this proposal; other counsel may, but are not required to, also file responses to this proposal; any counsel may propose other candidates for the position.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 12th day of November, 2008.