

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

RUSS DEAN, d/b/a R.M. DEAN FARMS

PLAINTIFF

v.

No. 2:11CV00105 JLH

HELENA CHEMICAL COMPANY

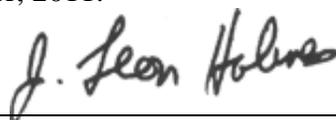
DEFENDANT

ORDER

The plaintiff in this case alleges that Helena Chemical Company sold a batch of worthless rice, which was planted on 240 acres of the plaintiff's property. The action was commenced in the name of Russ Dean, d/b/a R.M. Dean Farms. Helena Chemical Company filed a motion to dismiss the action because it was not prosecuted in the name of the real party in interest, which is R.M. Farms, a General Partnership, with two partners, Russ Dean and his wife, Pam Dean. The plaintiff has filed a motion for leave to amend the complaint to name R.M. Dean Farms, a General Partnership, as the plaintiff. Helena Chemical Company opposes the motion for leave to amend.

Rule 17(a)(1) of the Federal Rules of Civil Procedure provides that an action must be prosecuted in the name of the real party in interest. Rule 17(a)(3) provides that a court may not dismiss an action for failure to prosecute in the name of the real party in interest until the party in interest has had a reasonable opportunity to join in or be substituted into the action. The proposed amendment, here, essentially would substitute R.M. Dean Farms, a General Partnership, for Russ Dean, d/b/a R.M. Dean Farms, as Rule 17(a)(3) contemplates. Accordingly, the motion to dismiss is DENIED, and the motion for leave to amend is GRANTED. Documents #8 and #11. Plaintiff's amended complaint must be filed within seven days from the entry of this Order.

IT IS SO ORDERED this 1st day of November, 2011.



J. LEON HOLMES
UNITED STATES DISTRICT JUDGE