

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS**

**CHANNEL BIO, LLC and MONSANTO)
COMPANY,)
Plaintiffs,)**

v.)

Case No. 10-3221

**ILLINOIS FAMILY FARMS,)
PLEASANT VIEW FARMS, INC.,)
RICK ROSENTERETER, AMY)
ROSENTERETER, FRANCES)
ROSENTERETER, DOUG)
ROSENTERETER, BRENT)
ROSENTERETER, and MATT WEYEN)
Defendants.)**

ORDER

On December 15, 2010, a Report & Recommendation was filed by Magistrate Judge Byron G. Cudmore in the above captioned case. More than fourteen (14) working days have elapsed since the filing of the Report & Recommendation, and no objections have been made. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); *Lockert v. Faulkner*, 843 F.2d 1015 (7th Cir. 1988); and *Video Views, Inc. v. Studio 21, Ltd.*, 797 F.2d 538, 539 (7th Cir. 1986). As the parties failed to present timely objections, any such objections have been waived. *Id.*

The relevant procedural history is sufficiently set forth in the comprehensive Report & Recommendation of the Magistrate Judge. To summarize, Plaintiffs have brought this litigation alleging one count of breach of contract and two counts of unjust enrichment following the purchase of hybrid corn seed. Defendants filed their Motion to Dismiss alleging that Plaintiffs have failed to establish the necessary elements of their breach of contract claim, as well as their unjust

enrichment claims.

The Court agrees with the recommendation regarding the Declaration of Rick E. Rosentreter, and therefore excludes the Declaration in ruling on Defendants' Motion to Dismiss. The Court concurs with the recommendation that Defendants' request for dismissal under Rule 12(b)(6) should be denied, given the well-supported conclusions that Plaintiffs state a claim in Count I and have included sufficient allegations to state claims for unjust enrichment in Counts II and III. The Court further concurs with the recommendation that Defendants' request to dismiss pursuant to Rule 12(b)(7) be denied.

Accordingly, the Court now adopts the Report & Recommendation [#18] of the Magistrate Judge in its entirety. Defendant's Motion to Dismiss [#16] is DENIED. This matter is referred to the Magistrate Judge for further proceedings.

ENTERED this 11th day of January, 2011.

s/ Michael M. Mihm
Michael M. Mihm
United States District Judge