

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAYCOL PRODUCTS LITIGATION)	MDL No. 1431 (MJD)
This Document Relates To:)	
All Actions)	
)	

BAYER AND GSK'S BAYCOL LITIGATION UPDATE

December 16, 2005

I. Pending Cases

A. As of December 16, 2005, defendants have been served with 5,807 cases that remain active, down from 14,792 cases filed since this litigation commenced. 10.45 percent of the cases filed in state court remain active (that is, 597 of 5,717 filings); 57.4 percent of the cases filed in federal court remain active (5,210 of 9,077 filings).

B. As of the last status conference in April, 2005, defendants had been served with 5,776 cases that were active. Of that total, 5,123 active cases were pending in federal court and 653 active cases were pending in state court. Filed but unserved cases not known to Bayer are not included in these totals.

C. An updated list of plaintiffs' counsel in pending cases has been provided to the PSC.

II. Settlement

A. Defendants have settled 3,023 cases with a total value of \$1,143,748,591. Of this total, 915 cases have been determined to be subject to the MDL assessment, with a total value of

\$345,359,662.

B. As of the last status conference, Defendants had settled 2,968 cases with a total value of \$1,130,668,591. Of this total, 875 cases had been determined to be subject to the MDL assessment, with a total settlement value of \$328,513,412.

C. Approximately 143 cases have been submitted to the MDL mediation process.

III. Trial Settings

A. There are no trial settings for cases in the MDL.

B. One Baycol case was tried to a jury since the last status conference, *Beard v. Bayer AG*, No. 04-CV-0113 (Cir. Ct. Amite County, Miss., Nov. 21, 2005). The jury returned a defense verdict.

C. The Court entered summary judgment in favor of defendants in the statewide medical monitoring class action, *Lewis v. Bayer AG*, August Term 2001 No. 2353 (C.P. Phila., Sept. 19, 2005).

D. A list of state court trial settings has been provided to the Court and the PSC.

IV. Narrowing and Categorization

A. Defendants received 3,745 submissions pursuant to PTO 114. Of these submissions, the claims of 2,959 plaintiffs remain active. Of the plaintiffs with active claims, 1,579 submitted reports; 1,380 submitted only letters.

B. Defendants received 945 submissions pursuant to PTO 131 (including PTO 114 submissions deemed PTO 131-compliant by agreement of the parties or by ruling of the special master). Of these submissions, the claims of 877 plaintiffs remain active. However, defendants

believe that 385 plaintiffs submitted non-compliant PTO 131 reports; the defendants and the PSC have not met and conferred regarding these reports.

C. When duplicates are eliminated, the total number of active plaintiffs who have submitted reports under PTO 114 or PTO 131 is 2,190. (This includes the 385 reports deemed non-compliant by defendants.)

D. The attached chart shows the status of categorization of PTO 114 submissions. The chart includes only active cases for which PTO 114 submissions were received on or before September 27, 2004. Categorization was suspended once PTO 131 negotiations commenced.

Respectfully submitted,

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Baycol MDL-1431

Summary of Categorized PTO-114 Submissions

Plaintiffs Active as of 12/14/2005 only (n = 1748)

PSC\Defs	A	B1	B2	C1	C2	D	E	F	G	H	None
A	6	6	2	4	0	6	1	0	1	9	0
B1	0	83	3	12	3	8	5	2	15	29	0
B2	0	1	20	2	1	0	2	0	1	2	0
C1	0	2	0	515	16	17	39	0	2	140	0
C2	0	0	0	1	37	7	3	0	0	6	0
D	0	0	0	0	0	121	6	0	2	17	0
E	0	0	0	0	1	2	338	1	0	98	0
F	0	0	0	0	0	0	0	9	0	0	0
G	0	0	0	0	0	0	0	0	25	2	0
H	0	0	0	1	0	0	0	0	0	100	0
None	0	2	1	3	0	1	1	0	1	7	0

Notes

- ✓ Categories at left are as assigned by the PSC; categories at top are as assigned by defendants.
- ✓ Boldface figures in diagonal boxes indicate agreed categorizations.
- ✓ Numbers not in boldface indicate numbers of plaintiffs assigned to different categories by the parties. For example, 12 plaintiffs assigned to Category B1 by the PSC were assigned to Category C1 by defendants.