

A Joint Request pursuant to Pretrial Order No.78 was submitted by Plaintiff Lawrence Loncrini along with Plaintiffs Florence Giuppone, Hester Theide, Elizabeth Walton, Anna Makker, Betty McCann, and Richard Pellito challenging the MDL 6% holdback. Martin G. Rubenstein represents the Plaintiffs. Leanne DeShong submitted a response on behalf of Bayer; and Ron Goldser submitted a response on behalf of the Plaintiffs' Steering Committee.

Case Summary

The action of Plaintiff Loncrini and the actions of the other Plaintiffs were originally filed in state court in the Superior Court of Burlington County, New Jersey. Defendant Bayer removed the actions to federal court. All the actions were transferred to, docketed, and filed with this Court, including that of Plaintiff Loncrini, MDL Case No. 03-5373. Plaintiff Loncrini subsequently settled his action with defendants.

Decision

Holdbacks are to be reserved if this Court has jurisdiction and one of the factors set forth in Pretrial Order No. 53 exists. Paragraph 2 of PTO 53 states that a holdback applies to: "a) all cases transferred to this MDL, except those remanded by order of the Court to state court for lack of jurisdiction." Actions that are settled while the case is a filed MDL case are subject to a holdback. It is not necessary for parties to establish or disprove the receipt of any benefit from the MDL. Special Master Assessment Decision No. 21 denied the Joint Request of the other Plaintiffs who filed actions along with Plaintiff Loncrini.

As this action was transferred to this Court, the Request by Plaintiff Loncrini is presently denied. Plaintiff may seek a refund of his holdback or any portion of it at a later time when this Court determines the distribution of the holdback contributions.

January 26, 2004

/s/ Roger S. Haydock
Special Master