

**In re: Baycol Products Litigation
MDL No. 1431**

**Special Master PTO 78
Assessment Decision No. 43
Thompson Decision**

A Request pursuant to Pretrial Order No.78 was submitted by Plaintiff Dorothea Thompson challenging the MDL holdback. Steven Ouellette represents the Plaintiff. Doug Beck submitted a response on behalf of Bayer; and Ron Goldser submitted a response on behalf of the Plaintiffs' Steering Committee

Case Summary

This case is a finally transferred and docketed MDL case, No. 03-5080. Plaintiff asserts that this case was settled directly with Bayer and that no one from the MDL provided any direct assistance.

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 whether the MDL was a benefit or that the PSC provided special assistance.

As this action was an MDL case at the time of settlement, the Request by Plaintiff is presently denied. Plaintiff may seek a refund of the holdback or any portion of it at a later time when this Court determines the distribution of the holdback contributions.

December 22, 2004

/s/ Roger S. Haydock
Special Master