

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

**Special Master PTO 78  
Assessment Decision No. 44  
Rodning Decision**

A Request pursuant to Pretrial Order No.78 was submitted by the Plaintiffs Gerald and Elna Rodning challenging the MDL holdback. Daniel Bresnahan represents the Plaintiffs. 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 action is a transferred and docketed case with this Court, MDL Case No. 03-5750, and, at the time of settlement, was an MDL case.

#### 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. Plaintiffs contend that they did not receive any benefit from nor participate in this MDL, which they improperly referred to as a "class action," and that a holdback is inequitable and improper. It is not necessary for parties to establish or disprove whether this MDL was a benefit to them regarding an assessment, and PTO 53 requires a holdback in this case.

As this action is an MDL case and was at the time of settlement, the Request by Plaintiffs is presently denied. Plaintiffs 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.

February 8, 2005

/s/ Roger S. Haydock  
Special Master