

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

**Special Master PTO 78  
Assessment Decision No. 38  
Dixon Decision**

A Request pursuant to Pretrial Order No.78 was submitted by Plaintiffs Bessie Dixon and Arvel Dixon challenging the MDL holdback. The Motley Rice Law Firm 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 case was originally filed in South Carolina Circuit Court. This case was then removed to federal court and transferred to this Court, MDL Case No. 03-5379, on October 9, 2003. The Plaintiffs had been engaged in settlement and mediation discussions prior to the MDL transfer and subsequently settled the case on July 20, 2004.

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 hindrance or a benefit. Further, Fed.R.Civ.P. 53 does not provide me with any authority or discretion beyond that afforded me under PTO 53.

As this action was properly transferred to this Court and remained within the jurisdiction of this Court 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.

September 2, 2004

/s/ Roger S. Haydock  
Special Master