

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

In re: BAYCOL PRODUCTS LITIGATION

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MDL No. 1431 (MJD/JGL)

**SPECIAL MASTER
REPORT No. 1**

This Document Relates To: All Actions

Special Master Roger Haydock submits this Report to the Court summarizing the enforcement of Pretrial Order No. 11 relating to the creation and development of the “Wall” and summarizing the current status of the “Wall.”

1. Special Master Recommendation and Order No.1 was issued on May 11, 2002 to implement Pretrial Order No.11 and the “Wall,”
2. Special Master Haydock hired Marie Harkins and Jennifer Camden, both experienced paralegals: (1) to monitor a list and to review spontaneous consumer report files maintained by Bayer, (2) to seal medical records contained in those files and to maintain a log of sealed files, (3) to keep a log of Bayer Drug Safety Assurance personnel who have access to the sealed medical records, (4) to periodically review new files and seal medical records, and (5) to report to Special Master Haydock on their work.
3. All current spontaneous consumer files maintained by Bayer were reviewed by the end of June 2002. Medical records were appropriately sealed, and logs

maintained and reviewed. The Bayer Drug Safety Assurance Department produced over 11,000 incident files involving Baycol during this period of time and medical records were sealed in approximately 400 of these files. All but six of the files on the Bayer list were reviewed. Four of the six non-reviewed files are foreign files and are not located in America, and the remaining two files do not exist as files numbers were mistakenly assigned.

4. Beginning on July 8, 2002, Baycol files are and will be periodically reviewed every two weeks. The Bayer Drug Safety Assurance Department maintains an updated file of all new Baycol files and medical records that are subsequently reviewed by Marie Harkins, who seals medical records and maintains a current log.
5. Throughout this entire time period, Bayer Drug Safety Assurance personnel who needed access to the sealed medical records signed a log sheet indicating that they have broken the seal. Marie Harkins reviews these files to verify that only authorized personnel access the medical records and to ensure that the medical records have been resealed.
6. Throughout this period of time, it has been represented by Bayer counsel to Special Master Haydock that no Bayer counsel, including in-house, outside, or specially retained counsel, and firm members, partners, associates, employees, contractors, or experts, have accessed medical records collected by Bayer in investigating spontaneous consumer reports of adverse effects associated with Baycol.

7. Throughout this period of time, Bayer counsel, including in-house, outside, or specially retained counsel, and firm members, partners, associates, employees, contractors, or experts, have not accessed medical records that have been sealed by the paralegals.
8. Throughout this period of time, Special Master Haydock and Rob Shelquist, for the Plaintiffs, and Susan Weber, for the Defendants, have had numerous and continuing conferences and communications regarding the maintenance of the “Wall.” Mr. Shelquist and Ms. Weber have also had their own continuing discussions regarding the status of the “Wall.” Special Master Haydock has also had numerous conversations and communications with Marie Harkins and Jennifer Camden regarding their work and the “Wall.”
9. The parties and their counsel are complying with pretrial Order No. 11 and Special Master Recommendation and Order No. 1.

July 23, 2002,

Submitted

/S/ Roger Haydock
Roger Haydock
Special Master