

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

In Re: Baycol Products Litigation

MDL No. 1431  
(MJD) (JGL)

This Document related to:

All Actions

**STIPULATION AND  
[PROPOSED] ORDER  
GOVERNING PRODUCTION  
AND USE OF POSSIBLE  
ACCOUNTANT-CLIENT  
PRIVILEGED INFORMATION**

**STIPULATION AND [PROPOSED] ORDER  
GOVERNING PRODUCTION AND USE OF POSSIBLE  
ACCOUNTANT-CLIENT PRIVILEGED INFORMATION**

The undersigned and their respective parties hereby agree and stipulate as follows:

WHEREAS, plaintiffs herein (hereinafter "plaintiffs") have served a subpoena duces tecum (hereinafter "subpoena") on PricewaterhouseCooper, LLP ("PWC") in the above-captioned proceeding ("Proceeding"); and

WHEREAS, the subpoena calls for production of certain documents in PWC's possession related to the drug Baycol that contain information of Bayer Corporation (hereinafter "Bayer") and Glaxo Smith Kline (hereinafter "GSK"); and

WHEREAS, Bayer and GSK assert that certain of the Bayer and GSK Information in the possession of PWC (herein "PWC/Bayer/GSK Information") is subject to a claim of accountant-client privilege; and

WHEREAS, Bayer and GSK intend to assert and preserve such claims of accountant-client privilege as to the PWC/Bayer/GSK Information; and

WHEREAS, plaintiffs do not concede the propriety of the accountant-client privilege to any of the PWC/Bayer/GSK Information and intend to preserve their ability to oppose any claims that the privilege applies;

THEREFORE, based on the foregoing, to avoid possibly unnecessary litigation, promote the goals of consolidated discovery, and assure that any production by PWC and subsequent use by plaintiffs of PWC/Bayer/GSK Information does not waive or otherwise compromise any possible claim of accountant-client privilege as to the PWC/Bayer/GSK Information or any other communications;

IT IS AGREED AND STIPULATED by the undersigned that Bayer and GSK will give their permission to PWC to produce documents responsive to the subpoena as previously agreed to by the parties, that contain PWC/Bayer/GSK Information, subject to the following terms and conditions:

1. Plaintiffs agree that Bayer and GSK, in permitting the production of documents pursuant to this stipulation, are not waiving any applicable privileges regarding the PWC/Bayer/GSK Information or any other documents or information.
2. Bayer and GSK agree that plaintiffs are not waiving their right to contest the propriety of any applicable privileges to the PWC/Bayer/GSK Information or any other documents or information.

3. Any PWC/Bayer/GSK Information produced in discovery or disclosed to the plaintiffs and/or their attorneys in the Proceeding shall only be used in the Proceeding.
4. Documents containing PWC/Bayer/GSK Information shall be produced and marked by PWC in accordance with MDL Pretrial Order No. 24, the Amended Protective Order Regarding Confidential Information, entered by the United States District Court, District of Minnesota (the "Protective Order") and will be deemed to be confidential discovery material to be protected in accordance with the Protective Order.
5. Any person or entity receiving PWC/Bayer/GSK Information in connection with the Proceeding shall agree to abide by the terms of this Stipulation and Order and the Protective Order.
6. All documents containing PWC/Bayer/GSK Information shall be marked by PWC "PWC/Bayer/GSK CONFIDENTIAL, SUBJECT TO SPECIAL PROTECTIVE ORDER dated \_\_\_\_\_."
7. If any party desires to use any PWC/Bayer/GSK Information at a deposition, the PWC/Bayer/GSK Information shall not be shown to a witness or have its contents described on the record without prior notice at the deposition to counsel for Bayer or GSK; to permit them a reasonable opportunity to renew a claim of accountant-client privilege as to that PWC/Bayer/GSK Information.



reasonable opportunity to renew a claim of accountant-client privilege  
as to that PWC/Bayer/GSK Information.

By affixing their signatures below, the undersigned indicate their agreement  
and consent to the above-stated terms of this Stipulation and Order Governing  
Production and Use of Possible Accountant Client Privileged Information.

For the Plaintiffs Steering Committee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joel B. Strauss  
Kaplan Fox & Kilsheimer, LLP  
805 Third Avenue, 22<sup>nd</sup> Floor  
New York, NY 10022

\_\_\_\_\_  
Date

2/14/03

For Bayer Corporation

\_\_\_\_\_  
Geoffrey R. W. Smith  
1350 L Street, N.W., Suite 900  
Washington, DC 20005

For Glaxo Smith Kline

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard Rizzo  
Dechert, LLP  
4000 Bell Atlantic Tower  
1717 Arch Street  
Philadelphia, PA 19103

For PricewaterhouseCooper, LLP

\_\_\_\_\_  
Date

\_\_\_\_\_  
Aaron Krauss  
Cozen, O'Conner  
1900 Market Street  
Philadelphia, PA 19103

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For the Plaintiffs Steering Committee

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Joel B. Strauss  
Kaplan Fox & Kilsheimer, LLP  
805 Third Avenue, 22<sup>nd</sup> Floor  
New York, NY 10022

For Bayer Corporation

\_\_\_\_\_  
Date

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Geoffrey R. W. Smith  
1350 I Street, N.W., Suite 900  
Washington, DC 20005

For Glaxo Smith Kline :

\_\_\_\_\_  
Date

2/14/03

\_\_\_\_\_  
*Richard C. Rizzo*  
Richard Rizzo  
Dechert, LLP  
4000 Bell Atlantic Tower  
1717 Arch Street  
Philadelphia, PA 19103

For PricewaterhouseCooper, LLP

\_\_\_\_\_  
Date

\_\_\_\_\_  
Aaron Krauss  
Cozen, O'Conner  
1900 Market Street  
Philadelphia, PA 19103

IT IS SO ORDERED

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hon. Jonathan G. Lebedoff  
Magistrate Judge  
United States District Court

By affixing their signatures below, the undersigned indicate their agreement and consent to the above-stated terms of this Stipulation and Order Governing Production and Use of Possible Accountant Client Privileged Information.

For the Plaintiffs Steering Committee

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joel B. Strauss  
Kaplan Fox & Kilsheimer, LLP  
805 Third Avenue, 22<sup>nd</sup> Floor  
New York, NY 10022

For Bayer Corporation

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Date

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Geoffrey R. W. Smith  
1350 I Street, N.W., Suite 900  
Washington, DC 20005

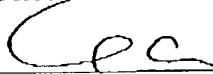
For Glaxo Smith Kline

\_\_\_\_\_  
Date

\_\_\_\_\_  
Richard Rizzo  
Dechert, LLP  
4000 Bell Atlantic Tower  
1717 Arch Street  
Philadelphia, PA 19103

For PricewaterhouseCooper, LLP

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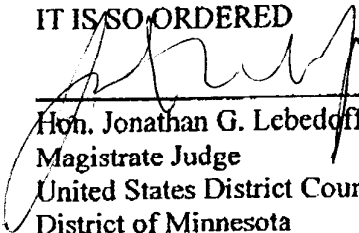
IT IS SO ORDERED

\_\_\_\_\_  
Date

\_\_\_\_\_  
Hon. Jonathan G. Lebedoff  
Magistrate Judge  
United States District Court

Feb 24 2007  
Date

IT IS SO ORDERED

  
Hon. Jonathan G. Lebedoff  
Magistrate Judge  
United States District Court  
District of Minnesota