

**In re: Baycol Products Litigation
MDL No. 143**

**Special Master PTO 78
Assessment Decision No. 11
Sherman Decision**

A Request pursuant to Pretrial Order No.78 was submitted by Plaintiff Estate of Freddie Sherman challenging the MDL 6% holdback. Dawn Barrios represents the Plaintiff. Leanne DeShong submitted a response on behalf of Bayer; and Ron Goldser submitted a response on behalf of the Plaintiffs' Steering Committee. The parties through their lawyers unsuccessfully attempted to reach a stipulation regarding the holdback, and this case is now ready for a resolution.

Case Summary

This action was originally filed in state court in the Circuit Court of Pinellas County, Florida. Defendant Bayer removed this case to the United States District Court for the Middle District of Florida. This case was transferred to, docketed, and filed with this Court, MDL Case No. 03-CV-2711. A motion to remand was pending while the settlement was reached.

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." As this case was transferred to this Court, the Request by Plaintiff is presently denied. Plaintiff may seek a refund of the entire holdback or a portion of it at a later time when this Court determines the distribution of the holdback contributions.

August 26, 2003

/s/ Roger S. Haydock
Special Master