

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAYCOL PRODUCTS LITIGATION

**MDL No. 1431
(MJD/JGL)**

This Document Relates to All Actions

**PRETRIAL
ORDER NO. 58**

IT IS HEREBY ORDERED:

1. The PSC and individually retained plaintiff attorneys with cases subject to Pretrial Order 53 have moved for an amendment to said Order. This is a Stipulated Order resulting from negotiations amongst the PSC and individually retained plaintiff attorneys.

2. As to those cases that are subject to withholding and assessment pursuant to Pretrial Order 53, once an individual law firm has paid common benefit assessments in the amount of \$1,950,000.00 (One Million Nine Hundred Fifty Thousand Dollars) on their individually retained cases, that law firm shall not be liable for any further MDL 1431 holdbacks or common benefit assessments.

3. Only one law firm will receive a credit against their maximum holdback and/or assessment for each case subject to Pretrial Order 53. That law firm must be the primary provider of all legal services in the case.

4. In order to ensure that no law firm seeks to avoid holdback and/or assessment by referring its cases to or consolidating its cases with other law firms, any law firm seeking application of the maximum holdback and/or assessment must apply to the Court for approval. The Court may refer the application to the Special Master. The Court may require evidence demonstrating that the applying law firm was the primary provider of all legal services in the cases. If the applying law firm was referred cases

from another law firm, the Court may require evidence that the referral was in good faith and not made to avoid the holdback and/or assessment and that the applying law firm is counsel of record. Any law firm that seeks application of the maximum holdback and/or assessment in cases where the Court finds the law firm was not the primary provider of legal services and/or where the referral of cases to that law firm was not in good faith and was made to avoid the holdback and/or assessment may be held in contempt of this Order by the Court.

5. To the extent that a law firm, other than a PSC firm or PSC Committee firm, reaches the maximum holdback and/or assessment of \$1,950,000 (One Million Nine Hundred Fifty Thousand Dollars), that firm may apply for common benefit fees for common benefit work as otherwise permitted by prior Orders of this Court, but will be limited as set forth in this Order.

6. Any law firm described by paragraph 5 of this Order is subject to a maximum common benefit fee award of \$1,950,000 (One Million Nine Hundred Fifty Thousand Dollars).

7. Any common benefit fee, for which such law firm described in paragraph 5 of this Order petitions the Court, shall be reduced dollar for dollar by all attorney fees that the firm would otherwise have contributed to the common benefit fund, but for the maximum holdback and/or assessment set forth in this Order; however, no such law firm's common benefit fee will be reduced below \$500,000 (Five Hundred Thousand Dollars).

SO ORDERED this 2nd day of January, 2003.

Honorable Michael J. Davis
United States District Court