

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re: Baycol Products Litigation

MDL No. 1431

This Document Relates to All Actions

Pretrial Order No. 67

This matter is before the Court upon the motion of Plaintiffs to amend PTO 65 and to dismiss the Newville and Darsie cases pursuant to Rule 41(a)(1).

Rule 41(a)(1) provides that “an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs” In both the Newville and Darsie cases, answers have not yet been served. Thus, these plaintiffs do not need leave of court to dismiss their claims. Accordingly, the claims will be dismissed as requested.

With the dismissal of these cases, it is necessary to amend PTO 65. Plaintiffs suggest that the Olander case should be substituted for trial in lieu of the Darsie case, and ask the Court for additional time to submit a lesser injury case for trial. Defendants suggest that the Long case should be substituted as the lesser injury case for trial.

IT IS HEREBY ORDERED that:

1. Newville v. Bayer et al., Civ. No. 03-1004 is DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P. 41(a)(1);

2. Darsie v. Bayer et al., Civ. No. 03-1155 is DISMISSED WITHOUT PREJUDICE pursuant to Fed. R. Civ. P. 41(a)(1);

3. Pretrial Order No. 65 is hereby amended by substituting in the following cases for consecutive trials, the first of which will commence June 6, 2003: Olander v. Bayer et al., Civ. No. 03-1086 and Long v. Bayer et al., 02-1009.

Date: March 17, 2003

Michael J. Davis
United States District Court