

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: BAYCOL PRODUCTS LITIGATION

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

This Document Relates to All Actions

PTO 123

Eric Magnuson and Patrick D. Robben, Rider Bennett, LLP, for and on behalf of Kenneth B. Moll and Kenneth B. Moll & Associates, Ltd.

Peter W. Sipkins, Dorsey & Whitney LLP; Philip S. Beck, Adam L. Hoeflich, and Tarek Ismail, Barlit Beck Herman Palenchar & Scott; Susan A. Weber, Sidley Austin Brown & Wood; and Gene C. Schaerr, and Frank R. Volpe, Sidley Austin Brown & Wood, for and on behalf of Bayer Corporation.

Before the Court is Ken Moll's Motion for Stay of Enforcement of the Court's April 12, 2004 Order Pending Appeal (Doc. No. 3847). Oral argument was heard on this issue at the June 22, 2004 status conference.

On April 12, 2004, this Court issued an order ("the order") finding that Ken Moll had committed perjury; violated PTO 18; and violated Minn. R. Prof. Conduct 3.3(a), Minn. R. Prof. Conduct 3.4(c), and Minn. R. Prof. Conduct 8.4 in conjunction with his filing of the Guariniello declaration in support of a motion filed on June 12, 2003. The Court also found that Moll violated PTO 24 and Minn. R. Prof. Conduct 3.4 by disclosing Bayer's confidential documents to people attending meetings in Turan, Italy. Based on these findings, the Court sanctioned Moll in the following ways: (1) removing Moll and Kenneth B. Moll and Associates

from the PSC in this MDL, and (2) personally sanctioning Moll \$50,000. Moll has appealed the April 12 order to the Eighth Circuit Court of Appeals, and now requests a stay of enforcement of the order pending the Eighth Circuit's decision on his appeal.

Bayer does not oppose the stay, and does not ask the Court to require Moll to post a security deposit to secure an order staying enforcement of the order provided that Moll voluntarily withdraw from the PSC during the pendency of the appeal, with leave to be reinstated to the PSC should Moll prevail on appeal.

Therefore **IT IS HEREBY ORDERED:**

- (1) Ken Moll's Motion for Stay of Enforcement of the Court's April 12, 2004 Order Pending Appeal [Doc. No. 3847] is **GRANTED**;
- (2) Ken Moll must withdraw from the PSC during the pendency of the appeal, with leave to be reinstated to the PSC should he prevail on appeal; and
- (3) Ken Moll is not required to post a security deposit to secure this stay.

Dated: June 22, 2004

/s/ Michael J. Davis
Michael J. Davis
United States District Court