

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

|   |   |                               |
|---|---|-------------------------------|
| <b>In re: BAYCOL PRODUCTS</b>               | ) | <b>MDL No. 1431</b>           |
| <b>LIABILITY LITIGATION</b>                 | ) | <b>(MJD/SRN)</b>              |
|   | ) |                               |
| <b>This document relates to all actions</b> | ) | <b>Pretrial Order No. 163</b> |

**SUPPLEMENT TO CASE-SPECIFIC DISCOVERY ORDERS  
TO ESTABLISH DEADLINES FOR LATER ACTIONS**

In order to promote the fair and efficient administration of this litigation and to comply with its continuing obligations as an MDL court, the Court enters the following Order establishing the case-specific discovery deadlines for cases recently filed in this District or transferred to this Court that are not otherwise covered by the Court’s prior orders. Except as specifically stated herein, this Order shall not modify or limit the procedures, principles, and provisions announced in Pretrial Orders (“PTO”) 114, 131, 149, and 156, which shall remain in full force and effect as to the cases governed by this Order and all other pending cases in this MDL litigation.

Based upon these proceedings, the cases filed in or transferred to this Court since December 31, 2007, and any tag-along actions which may be filed in or transferred to this Court hereafter (a “Later Action”) shall be governed by the following deadlines. As used below, the “Date of Transfer” shall mean the date when a final order of the Judicial Panel on Multidistrict Litigation transferring a case to this Court is entered on the MDL-1431 docket or the date of filing for cases filed directly in this Court.

**A. Case-Specific Expert Report.**

1. Each Later Action plaintiff shall identify at least one medical expert attesting that Baycol caused plaintiff to suffer injuries or damages and serve upon defendants a report using the Stipulated Report Form appended to PTO 131 within 120 days of the Date of Transfer.

2. The case-specific expert report shall be served on defendants' counsel:

Susan A. Weber, Esq.  
Sidley Austin LLP  
One South Dearborn Street  
Chicago, IL 60603

and

Fred T. Magaziner, Esq.  
Dechert LLP  
2929 Arch Street  
Philadelphia, PA 19104.

Each plaintiff shall also serve a copy of the report upon Plaintiffs' Liaison Counsel:

Troy F. Tatting, Esq.  
Larson King LLP  
2800 Wells Fargo Place  
30 East Seventh Street  
Saint Paul, MN 55101.

4. The parties shall follow the procedures set forth in PTO 114, Sections IV, V, and VI to enforce compliance with this requirement.

**B. Case-Specific Depositions and Related Fact Discovery.**

1. Each Later Action plaintiff shall have 120 days from the date of entry of this Pretrial Order to supplement his or her Plaintiff Fact Sheet to identify any fact witnesses not previously disclosed to defendants.

2. Defendants may take depositions of plaintiffs and other fact witnesses in each Later Action beginning 30 days after the service of the case-specific expert report.

3. Within 14 days of completion of a plaintiff's deposition, defendants shall serve detailing information for the physician who prescribed Baycol to the plaintiff. This detailing information shall include the names of the sales representatives who called on the prescriber, dates of detailing, and sampling information, if any.

4. Service of deposition notices shall be in accordance with the procedure set forth in PTO 149 Section I. Plaintiffs' Liaison Counsel to be addressed, however, is Troy F. Tatting, Esq.

5. Within 150 days after the service of the case-specific expert report, case-specific discovery shall be completed, including all case-specific fact depositions.

**C. Case-Specific Expert Discovery.**

1. Within 30 days of the fact discovery deadline set by ¶ B.4., each plaintiff shall serve any supplementation to expert reports, identify all additional case-specific experts expected to testify at trial, and serve Rule 26(a)(2) disclosures for such experts.

2. Within 60 days of the fact discovery deadline set by ¶ B.4., depositions of plaintiff's case-specific experts shall be completed.
3. Within 30 days of the deadline set by ¶ C.2., defendants shall identify case-specific experts expected to testify at trial and produce Rule 26(a)(2) disclosures for such experts.
4. Within 30 days of the service of defendants' case-specific expert disclosures, depositions of defendants' experts shall be completed.

Dated: November 12, 2008

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