

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. 19

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**Protocol for Production of Documents From Electronic Storage**

IT IS HEREBY ORDERED:

1. **Production of Documents in Electronic Format.** Defendants will produce documents retrieved from electronic storage on CD-ROM at no charge to plaintiffs for the CDs. Each production of CDs will be accompanied by a log reflecting the general content of each disk. Each Defendant will collect electronic documents from all computers under its control which are a repository of responsive documents, including individual desktop computers and laptop computers, and produce responsive documents in accordance with the procedures set forth in this Order. If, after other electronic document production is completed, plaintiffs seek production of material from defendants' backup tapes, the parties will meet and confer with respect to the avoidance of duplicative production, the scope of the requested production, and the allocation of costs related to any such production.

2. **Electronic Documents.** Documents retrieved from electronic storage will be produced pursuant to the following protocol:

(A) **General Production Requirements.** Unless otherwise provided, documents retrieved from electronic storage (including, but not limited to word processing files, e-mails, and spreadsheets), will be produced in multi-page TIFF format with numbering unique to each page and in a format consistent with their electronic

production of scanned hard-copy documents. If multiple drafts of documents were maintained as separate electronic files, each draft of the document will be produced as a separate document. Defendants are not required to produce exact duplicates of electronic documents stored in different electronic locations.

**(B) Databases.** Baycol-related data from electronic databases will be produced in a multi-page TIFF format or, if the defendants so determine, a database format (including data and schema) that will run with generally available software. When such production is not feasible, the parties will meet and confer to agree upon the appropriate form of production.

**(C) Foundation.** Defendants agree that all documents produced pursuant to this Order were stored on electronic file storage facilities controlled by defendants.

**3. Objective Coding.** Defendants will produce the following fields of objective coding data for documents that defendants have elected to code prior to production: Date; Type (e.g., email, word-processing, spreadsheet); Title; Author; Recipient(s); CC(s); Beginning and End document (Bates numbers); and Beginning and End Attachment (for Bayer Corporation and Bayer A.G. only). Defendants may review and, where necessary, revise or redact said coding if it contains privileged or work product information. Defendants are under no obligation to produce coding for documents that they are not coding for their own use. While defendants have made every effort to code documents accurately, they do not certify as to the reliability, accuracy or completeness of the coding as to any particular document. Defendants

will identify, by Bates number or other reasonable means, those documents which have been produced but which defendants have elected not to code.

(A) Objective coding, as described above, will be produced contemporaneously with documents produced after June 1, 2002.

(B) Objective coding for documents produced on or before June 1, 2002, will be provided to plaintiffs, with July 31, 2002 as the target date for completion of this production.

(C) Plaintiffs will pay a reasonable share of objective coding costs, to be agreed by parties or determined by future court order.

(D) Objective coding is not evidence and may not be used by plaintiffs for any purpose other than document management in this litigation.

**4. Metadata.** Defendants will produce documents retrieved from electronic storage without metadata. If, after review of documents, plaintiffs request metadata as to particular documents, the parties shall meet and confer with respect to production and cost sharing of metadata as to those particular documents.

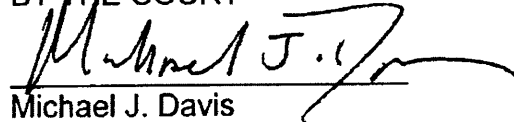
**5. Search Terms.**

(A) Prior to the first production of emails by each defendant, that defendant will provide to plaintiffs a list of the search terms that it will use to identify potentially responsive documents. Plaintiffs will provide defendants with a list of any additional search terms that they desire to include. The parties will meet and confer with respect to any dispute concerning the search terms and thereafter submit to the Court a Search Term List to be used by that defendant.

(B) Any further request to supplement the search term list must be based upon a showing of good cause and presented as soon as the information giving rise to the supplementation request is available to plaintiffs. The parties shall meet and confer with respect to any requested supplementation and the allocation of costs related to any such request.

Dated: May 9, 2002

BY THE COURT

A handwritten signature in black ink, appearing to read "Michael J. Davis", written over a horizontal line.

Michael J. Davis  
United States District Court