

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

**In re BAYCOL PRODUCTS
LITIGATION**

MDL No. 1431 (MJD/JGL)

O R D E R

This document relates to case nos:

02-0748
02-0922
02-1511
02-1636
02-1500
02-1461
02-1527
02-1517
02-1481
02-1454
02-1489
02-1542
02-1501
02-0033
02-0072
02-0749
02-0747
02-1035
02-1046
02-1031
02-1047
02-1548

JONATHAN LEBEDOFF, Chief United States Magistrate Judge

The above-entitled matter is before the undersigned Chief Magistrate Judge of District Court on Defendants' Substituted Joint Motion to Compel Discovery in "Second Wave" cases (No Doc. No.) The case has been referred to the undersigned for resolution of pretrial discovery matters

pursuant to 28 U.S.C. § 636, D. Minn. LR 72.1, and Pretrial Order 52.

Defendants Bayer Corporation and SmithKline Beecham Corporation d/b/a GlaxoSmithKline (“Defendants”) ask this Court to compel “Second Wave” Plaintiffs to produce discovery within ten days. The Pretrial Orders in this case require all Plaintiffs to submit to Defendants Plaintiff Fact Sheets (“PFS”), signed authorizations, and designated documents within specified time periods. PTO Nos. 4, 10 & 12. When approximately 200 “Second Wave” Plaintiffs failed to provide the required discovery, Defendants filed a Motion Seeking Enforcement of Second Wave Plaintiffs’ Court-Ordered Discovery Obligations on October 22, 2002. The Court then required Defendants’ and Plaintiffs’ counsel to confer in an attempt to obtain the discovery without court action. Because this effort had some success in obtaining discovery, Defendants withdrew their initial motion on January 24, 2003, and filed a new Motion to Compel Discovery in “Second Wave” Cases. Because additional Plaintiffs have since complied with the discovery orders, Defendants withdrew that motion and now submit the present Substituted Motion to Compel Discovery in “Second Wave” cases. According to Defendants, thirty-two “Second Wave” Plaintiffs still have not provided the required discovery, which is now delinquent by more than six months. No Plaintiffs have responded to or submitted any opposition to Defendants’ motion.

This Court finds that the “Second Wave” Plaintiffs have been given ample time and opportunity to comply with the discovery orders of this case. As such, Defendants are entitled to an Order compelling Plaintiffs to provide

the required information, and the motion is granted.

Based on the foregoing, and on the files, records, and proceedings therein, **IT IS HEREBY ORDERED:**

Defendants' Joint Motion to Compel Discovery in "Second-Wave" Cases (No Doc. No.) is **GRANTED**. Within ten days of entry of this Order: Plaintiffs listed on Exhibit A to this Order must produce to Defendants a completed Plaintiff's Fact Sheet ("PFS"), correctly executed authorizations, and either documents responsive to the requests in the PFS or a letter advising Defendants that no responsive documents are in the possession of Plaintiff or Plaintiff's counsel; Plaintiffs listed on Exhibit B to this Order must produce to Defendants documents responsive to the requests in the PFS or a letter advising Defendants that no responsive documents are in the possession of Plaintiff or Plaintiff's counsel.

Dated: _____, 2003

JONATHAN LEBEDOFF
Chief United States Magistrate Judge