

**In re: Baycol Products Litigation
MDL No. 1431**

**Special Master PTO 78
Assessment Decision No. 28
Courtney and Hayden Decisions**

A joint Request pursuant to Pretrial Order No.78 was submitted by Plaintiffs Joyce Courtney and William Hayden challenging the MDL 6% holdback. The law firm of Beasley, Allen, Crow, Methvin, Portis, & Miles represents the Plaintiffs. Leanne DeShong submitted a response on behalf of Bayer; and Ron Goldser submitted a response on behalf of the Plaintiffs' Steering Committee.

Case Summary

On February 2, 2003, these actions were transferred to, docketed, and filed with this Court, MDL Case No. 03-1175. Both plaintiffs settled their claims on or about July 23, 2003.

Decision

Holdbacks are to be reserved if this Court has jurisdiction and one of the factors set forth in Pretrial Order No. 53 exists. Paragraph 2 of PTO 53 states that a holdback applies to: "a) all cases transferred to this MDL, except those remanded by order of the Court to state court for lack of jurisdiction." Actions that are settled while the case is a filed MDL case are subject to a holdback. It is not necessary for parties to establish or disprove the receipt of any benefit from the MDL.

As these actions were transferred to this Court, the Request by each Plaintiff is presently denied. Either or both Plaintiffs may seek a refund of their respective holdback or any portion of it at a later time when this Court determines the distribution of the holdback contributions.

January 26, 2004

/s/ Roger S. Haydock
Special Master