

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

**Special Master PTO 78
Assessment Decision No. 29
Edwards Decision**

A Request pursuant to Pretrial Order No.78 was submitted by Betty L. Edwards challenging the MDL 6% holdback. Stuart W. Emmons of Oklahoma City, Oklahoma represents the Plaintiff. Leanne DeShong submitted a response on behalf of Bayer; and Ron Goldser submitted a response on behalf of the Plaintiffs' Steering Committee.

Case Summary

This action was originally filed in the Superior Court of the State of California. The law firm of Leif Cabraser, a member firm of the PSC, was local counsel in this case. This case was settled in December, 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: "e) in all cases of Plaintiffs lawyers and their law firms who are a member of the PSC or a member of the committee of the PSC." Actions that are settled while some of the plaintiff's lawyers are members of the PSC are subject to this holdback. It is not required for the case to be filed with the MDL. It is also not necessary for a party to establish or disprove the receipt of any benefit from the MDL. The lack of knowledge about the application of PTO 53 does not negate its effect in this case. Nor, does the assertion that a member of the Leif Cabraser law firm believes the holdback should not apply. Further, the delay of the PSC in replying does not alter the underlying facts of this assessment.

Accordingly, the Request by Plaintiff is presently denied. Plaintiff Edwards may seek a refund of the holdback or any portion of it at a later time when this Court determines the distribution of the holdback contributions.

January 29, 2004

/s/ Roger S. Haydock
Special Master

