



## EXHIBIT 1

### MDL SETTLEMENT/MEDIATION PROGRAM PROCEDURES

1. Plaintiff or Claimant who seeks to use this Settlement/Mediation Program to negotiate with Bayer or to mediate with Bayer, or both, shall e-mail the Settlement/Mediation Program Request Form (copy attached as Exhibit #1) to: (1) Special Master Lewis A. Remele, Jr., c/o Grace Bose at the Forum – [gbose@arb-forum.com](mailto:gbose@arb-forum.com); (2) Ronald Goldser – [RSG@zimmreed.com](mailto:RSG@zimmreed.com); (3) Leanne Deshong – [ldeshong@shb.com](mailto:ldeshong@shb.com). If the case is mediated the mediation will be scheduled by Special Arbitration Master Remele with assistance from the Forum. Information regarding either Special Master Remele or the Arbitration Forum can be found at <http://www.mnd.uscourts.gov/baycolmdl/index.htm>.
2. Within 14 days after receipt of this Document, Bayer shall respond to the Plaintiff/ Claimant by either: (1) agreeing to negotiate, (2) agreeing to mediate, (3) declining to negotiate or mediate or (4) requesting clarifying information from the Plaintiff/ Claimant to determine its response.
  - A. If Bayer seeks additional information, the Plaintiff/Claimant should make reasonable efforts to provide this information within 14 days from the request.
  - B. Bayer shall then immediately respond by one of the first three options listed in Paragraph 2.
  - C. If special circumstances exist, the parties may contact Special Master Remele to request a change in the deadlines contained in Paragraph 2.
3. If the parties agree to negotiate, they shall schedule a settlement conference to take place no later than 30 days after Bayer's response, unless extenuating circumstances require additional time. During the settlement conference, a party or parties may seek the services of a mediator by advising the Forum of this request. After the settlement efforts, the parties shall advise the Forum of a settlement, or a request for mediation, or with a statement that any mediated efforts at this time would be unsuccessful.
4. If the parties agree to mediate, they may e-mail the "Mediation Request Document" to the Forum c/o Grace Bose (Exhibit I), who shall immediately forward the request to the Special Master who shall promptly appoint a mediator.
5. The Forum shall schedule a mediation no later than 30 days after the appointment, unless extenuating circumstances require additional time. All scheduling and re-scheduling of mediations are to be done by the Forum. Parties are not to contact a mediator to change scheduling. Mediators are not to change a scheduled mediation on their own.

6. Each party shall provide by e-mail to the Forum and the appointed mediator: (1) the Plaintiff/Claimant Request Form, (2) a confidential summary statement explaining the settlement position of the party, and (3) any additional confidential or other information or documents deemed helpful to the mediator. Documents that are not transferable electronically may be sent by mail or private delivery service to Grace Bose at 1700 West Highway 36, Suite 500, Roseville, MN 55113.
7. A mediator on their own initiative may have **ex parte contacts with a party or lawyer**. A party or lawyer who wants to communicate ex parte with a mediator must first send an e-mail to the mediator, with a copy to all other counsel, requesting an ex parte contact. The mediator will decide whether to make the ex parte contact.
8. The mediator shall conduct the mediation in accord with MDL mediation procedures. The mediation may begin with the mediator meeting privately with each side, or may begin with a joint session, as determined by the mediator or jointly agreed to by the parties. The session shall proceed as determined by the mediator, and the parties and lawyers may offer suggestions. The mediation shall continue until a final settlement is reached or until the mediator declares an impasse.
9. After completion of the mediation conferences(s), the mediator shall advise the Forum of a settlement agreement or declare an impasse. If there is an impasse declared by the mediator and a party objects, that party may submit a request to the Forum and the Special Master shall determine whether to continue the mediation.
10. If Bayer initially declines to negotiate or mediate, Bayer shall e-mail this decision to the Plaintiff/Claimant and the Forum. The Special Master shall promptly determine or appoint a mediator to determine whether or not a mediation conference would be useful. This determination shall be made no later than 15 days after receipt of the decision by the Special Master or mediator. Lawyers for Bayer and the plaintiff(s) may be contacted. If it is determined that mediation would be useful, the case shall proceed in accord with the provisions of the above procedures.
11. If there is a mediated settlement, the parties and their lawyers shall execute a written settlement agreement before the mediation ends. Bayer shall e-mail to the Forum a settlement agreement signed by the parties immediately after it is signed. The Plaintiff/Claimant shall e-mail the Special Master immediately after receiving the settlement proceeds.
12. The Special Master may vary these procedures to assist the parties in reaching a negotiated or mediated settlement. A party shall not hire an MDL listed mediator to mediate a Baycol case without the consent of SM Remele. A party shall not hire an MDL listed mediator for any non-Baycol case.
13. All mediations are conducted pursuant to the provisions of Baycol MDL Pretrial Orders 51, 59, and 60 and subsequent applicable pretrial orders. All participants should read those orders and comply with the applicable provisions.

# BAYCOL MDL 1431

## SETTLEMENT PACKAGE PROTOCOL

Bayer has indicated a willingness to discuss settlement of Baycol cases with documented rhabdomyolysis and supporting medical records. Cases are being negotiated individually. Cases submitted for settlement through the MDL will be governed by Pretrial Orders 25, 51, 53 and 59. (The Pretrial Orders can be accessed through the Court's website, [www.mnd.uscourts.gov/Baycol\\_Mdl](http://www.mnd.uscourts.gov/Baycol_Mdl)) Unless there is a separate agreement in writing, there are no referral fees to the MDL, the PSC or its members for submission of a case for settlement negotiation. The only contributions to the common fund are those established in Pre-Trial Orders 25 and 53.

In order to properly evaluate your case, the following materials are required in addition to the Settlement/Mediation Demand form:

1. Plaintiff Fact Sheet
2. Pharmacy records demonstrating proof of Baycol prescription (If the patient took samples, contemporaneous doctor's notes demonstrating proof of use is adequate)
3. Pharmacy records showing all prescriptions commencing 6 months prior to first Baycol usage continuing throughout Baycol usage
4. If hospitalized, records during the hospitalization, including, at a minimum:
  - a. admission face sheet
  - b. discharge summary
  - c. history and physical examination
  - d. all dictated narratives
  - e. all diagnostic tests, including all lab tests (CPK, BUN, Creatine, ALT, AST), x-rays, echo cardiograms, etc.
5. All records after hospitalization demonstrating recovery and current condition
6. All **itemized** medical bills during hospitalization and for claimed subsequent Baycol-related treatment
7. Proof of any wage loss
8. Completed settlement cover sheet, in the form attached.

Please send this package, completed, to:

Ronald S. Goldser  
Zimmerman Reed, PLLP  
651 Nicollet Avenue, Suite 501  
Minneapolis, MN 55401  
and

Leanne DeShong  
Shook, Hardy & Bacon LLP  
One Kansas City Place  
1200 Main Street  
Kansas City, Missouri 64105

**MDL NO. 1431**  
**In Re: BAYCOL PRODUCTS LITIGATION**

**SETTLEMENT/MEDIATION PROGRAM**  
**MEDIATION REQUEST FORM**

**You must complete this form in its entirety.**  
**Please type or print legibly in ink.**

TO: Special Master Remele c/o Grace Bose at The Arbitration Forum: 1700 West Highway 36, Suite 500, Roseville, MN 55113; e-mail address: [gbose@arb-forum.com](mailto:gbose@arb-forum.com)  
Leanne Deshong (Defendants) at Shook, Hardy & Bacon, LLP, One Kansas City Place, 1200 Main Street, Kansas City, MO 64105-2118; e-mail address: [ldeshong@shb.com](mailto:ldeshong@shb.com)  
Ronald S. Goldser (Plaintiffs) at Zimmerman Reed, PLLP, 651 Nicollet Avenue Suite 501, Minneapolis, MN 55402; e-mail address: [rsg@zimmreed.com](mailto:rsg@zimmreed.com)

<b>Identification of Baycol Claimant</b>		
<i>Mr./Mrs./etc. First Name Middle Initial</i>	<i>Last Name</i>	<i>Social Security Number</i>

If individual claiming Baycol injury is deceased, please separately identify decedent and individual(s) claimant(s).

Plaintiff requests the Special Master to appoint a Mediator. Plaintiff herewith provides the necessary materials for evaluation of Plaintiff's claim.

The Plaintiff identified above hereby wishes to participate in mediation through the MDL No. 1431, *In re: Baycol Products Litigation Settlement/Mediation Program*. Plaintiff understands that submission of this request will subject Plaintiff to all Pre-Trial Orders entered in MDL 1431, unless a) settlement is unsuccessful and b) the claim is not otherwise subject to such Orders.

\_\_\_\_\_  
*Signature (Plaintiff or Attorney)*

\_\_\_\_\_  
*Date*

Bayer responds by:

- Agreeing to negotiate
- Agreeing to mediate
- Requesting further information (see attached)
- Declining to negotiate and mediate

\_\_\_\_\_  
*Signature Bayer representative*

\_\_\_\_\_  
*Date*

Special Master Order:

- This case shall be mediated by \_\_\_\_\_.
- This case shall not be mediated

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***Special Master***

**Law Firm:**

**Address:** \_\_\_\_\_

**Telephone:** \_\_\_\_\_

**Lead** \_\_\_\_\_ **Contact**

**Attorney:** \_\_\_\_\_

**E-Mail** \_\_\_\_\_ **Address** \_\_\_\_\_ **for** \_\_\_\_\_ **Lead** \_\_\_\_\_ **Contact**

**Attorney:** \_\_\_\_\_

<b><u>Claimant:</u></b>	
City:	
State:	
Age:	
Lawsuit on file:	
Venue:	
Baycol Dose:	
Dosage Dates:	
Co-Administration:	
Rhabdomyolysis (Yes/No)	
Highest CPK:	
Length of Hospitalization:	
Dialysis (Yes/No) (No. of Treatments)	
Renal Failure (Yes/No)	
Hospital Bills(\$):	
Hospital Bills Complete (yes or no):	
Current Condition (Permanency):	