

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE: GADOLINUM BASED
CONTRAST AGENTS PRODUCTS
LIABILITY LITIGATION

Case No. 1:08 GD 50000

MDLNo.1909

Judge Dan Aaron Polster

This Document Applies to All Cases:

Revised Order Setting Procedure to Disburse Common Benefit Expense Funds

The Court has been informed that there remains in the Common Benefit Expense (“CBE”) Fund the sum of \$627,173.03 and that there are no further applications by counsel seeking reimbursement from the CBE Fund.

The Court recognizes that these funds belong to plaintiffs whose cases were filed in the MDL and who were assessed 1% of their settlement for payment to the Fund or whose cases were filed outside the MDL but were charged with this assessment.

The Court hereby establishes the following protocol to insure that funds are returned to the plaintiffs on a pro-rata basis.

The Fund administrator, Gregory Dantio, CPA possesses data which can be organized by law firm reflecting the gross amount that the law firm’s clients have contributed to the CBE Fund by reason of the payment to said fund by the defendants pursuant to the settlement of the clients’ claims. In the case of group settlements, Mr. Dantio is not privy to how the payments to the CBE fund were allocated on a pro-rata basis to the law firm’s individual clients. Only each law firm is in possession of that information.

Mr. Dantio will create a document that reflects, by law firm, the total amount that each law firm's clients have contributed to the CBE fund. Mr. Dantio will then divide said amount by the total amount contributed to the fund from all settlements as of December 1, 2013.

The Court recognizes that the process to refund monies from the CBE Fund on a pro-rata basis requires that Mr. Dantio review literally thousands of documents including check stubs, Common Benefit expense forms, and disbursement forms. Mr. Dantio estimates that his fees for the transactions he usually performs on this account on a monthly basis together with work required for the CBE fund distribution through the 2014 will equal to and not exceed \$40,000.00. Further, PNC Bank's fees for issuing distribution checks will equal \$5,000.00.

The Court orders that the Dantio and PNC Bank expenses be subtracted from the CBE Fund, leaving \$582,173.03 in the fund. (If on December 1, 2013, the amount in the fund has changed, Mr. Dantio shall use the new figure).

Mr. Dantio will calculate the refund amount for each law firm's group of clients by multiplying \$582,173.03 (or the new figure as of December 1, 2013) times a fraction whose numerator equals the amount of each law firm's clients' contribution to the CBE Fund divided by the total amount deposited in the CBE Fund from all settlements.

Mr. Dantio will then instruct PNC Bank to issue a check to each law firm equal to said calculated amount.

Mr. Dantio will correspond with each law firm, enclosing said check along with the total amount the law firm's clients have contributed to the Fund and the percentage

of the contribution to the Fund as a whole. Mr. Dantio will provide the names of each plaintiff represented by said law firm who contributed to the Fund. The law firm will then calculate, using information provided by Mr. Dantio and the law firm's internal allocation records, the pro-rata share that each individual client should receive and will distribute said monies to each client within 30 days of receiving same from Mr. Dantio. Each law firm will certify in writing to Mr. Dantio that the appropriate refund has been issued and paid to each plaintiff. In the event that the law firm is unable after using reasonable efforts to locate any client in order to transmit said funds to the client, the law firm shall make a donation of said funds to the Global Fibrosis Foundation.

With respect to any settlements paid after December 1, 2013, said settlements are exempt from payment into the 1% CBE Fund.

IT IS SO ORDERED.

11/20/2013
Date

s/Dan A. Polster
The Honorable Dan Aaron Polster