

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:08-MD-01928-MIDDLEBROOKS/JOHNSON

IN RE TRASYLOL PRODUCTS LIABILITY
LITIGATION – MDL-1928

This Document Relates to All Actions

PLAINTIFFS' MOTION TO ESTABLISH COMMON BENEFIT FUND

Plaintiffs hereby move this Court for entry of an Order establishing a common benefit fund to compensate and reimburse attorneys for services performed and expenses incurred for MDL administration and otherwise for plaintiffs' general benefit. Plaintiffs seek this Order to provide for the fair and equitable sharing among plaintiffs of the cost of services performed and expenses incurred by attorneys acting for MDL administration and common benefit of all plaintiffs in this complex litigation.

This Court's authority to enter such an Order derives from the Supreme Court's common benefit doctrine, as established in *Trustees v. Greenough*, 105 U.S. 527 (1881); refined in, *inter alia*, *Central Railroad & Banking Co. v. Pettus*, 113 U.S. 116 (1884); *Sprague v. Ticonic National Bank*, 307 U.S. 161 (1939); *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375 (1970); *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980); and approved and implemented in the MDL context in, *inter alia*, *In re MGM Grand Hotel Fire Litigation*, 660 F. Supp. 522, 525-29 (D. Nev. 1987); *In re Air Crash Disaster at Florida Everglades on December 29, 1972*, 549 F.2d 1006, 1019-21 (5th Cir. 1977).

WHEREFORE, plaintiffs respectfully request entry of the proposed Order attached hereto as Exhibit A.

This the 17th day of July, 2008.

/s/ Theodore Babbitt
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Personal Injury Plaintiffs' Executive Committee

CERTIFICATE OF SERVICE

I hereby certify that the foregoing **PLAINTIFFS' MOTION TO ESTABLISH COMMON BENEFIT FUND** has been served upon the parties to this action by sending a copy thereof via electronic mail addressed to:

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This 17th day of July, 2008.

/s/ Theodore Babbitt

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