

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

IN RE: FRESENIUS GRANUFLO/NATURALYTE DIALYSATE PRODUCTS LIABILITY LITIGATION
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Civil Action No.: 1:13-md-2428

THIS DOCUMENT RELATES TO:

All Actions

**PEC’S UNOPPOSED MOTION FOR EXTENSION OF SETTLEMENT
PROGRAM’S OPT-IN DEADLINE**

The Plaintiffs Executive Committee (with the knowledge and assent of the Massachusetts state court plaintiffs’ leadership) moves this Honorable Court for an extension of the deadline by which participating plaintiffs must elect to “opt-in” to the GranuFlo and NaturaLyte settlement program, from September 15, 2016 up to and including October 31, 2016.

Fresenius is prepared to agree to amend the parties’ Master Settlement Agreement to allow for this extension as well as related extensions, and does not oppose this motion.

On February 17, 2016, the Plaintiffs Negotiating Committee reached an agreement in principle with the Fresenius Defendants (“Fresenius”) to settle on a global basis litigation involving claims related to the dialysis products GranuFlo and NaturaLyte. Under the present terms of the agreement, every individual plaintiff in the MDL and related state litigations will have opted in or out of the settlement by September 15, 2016. If the settlement is not voided based on inadequate participation under the terms of the agreement, Fresenius will fund the settlement by October 15, 2016.

The parties’ good faith efforts to finalize the Master Settlement Agreement (“MSA”) took longer than originally anticipated, due to several factors, such that the MSA was not signed until

August 2-3, 2016. The MSA also contains the agreed upon Opt-In form, Release form and other settlement-related documents. Counsel for claimants were therefore unable to start reviewing these important settlement documents, and otherwise communicating the details of the settlement, until just recently.

Claimant counsel also continue to secure medical records from dialysis clinics, a process that also has taken longer than anticipated. These records are necessary to make an informed decision concerning participation in to the settlement program (plaintiffs need certain medical records which, among other things, support identification of the product at issue, the injury at issue, the temporality between last dialysis and injury, and other information necessary to determine eligibility and compensation).

It is in the interests of justice, and to maximize the likelihood of success for implementation of the parties' settlement program, that the PEC requests this 45-day extension, to ensure that plaintiff counsel have the time necessary to secure informed consent from claimants to participate.

Respectfully submitted,
/s/ Anthony Tarricone
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Dated: August 24, 2016

MEET AND CONFER VERIFICATION

The undersigned verifies that the PEC met and conferred with counsel for the Fresenius Defendants prior to filing.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been duly served upon the following individuals via electronic mail on the 24th day of August 2016.

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