

	Multiple Documents
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

IN RE: NUVARING PRODUCTS LIABILITY)	4:08 MDL 1964 RWS
LITIGATION)	
)	ALL CASES
)	

**SPECIAL MASTER'S SUPPLEMENTAL REPORT AND
RECOMMENDATION**

On December 18, 2014, I submitted a Report and Recommendation for the allocation and distribution of common benefit fees and expenses (Doc. #1761). This Court approved my Report and Recommendation on December 18, 2014 (Doc. #1762) and distributions from the common benefit fund were made to those firms. In that Report and Recommendation I noted that there would be substantial work performed by certain attorneys to implement, monitor and conclude the global settlement program, and that I would make a recommendation related to an additional disbursement from the common benefit fund at an appropriate time. (See Doc #1761 at p. 15.) The claims review work is completed and claimants are receiving distributions upon compliance with the requirements pursuant to the Master Settlement Agreement. It is therefore an appropriate time to recommend compensation for those firms who performed common benefit work related to the claims administration process.

INITIAL CLAIMS REVIEW COMMITTEE WORK

Five law firms provided individuals who assisted in the initial review of the medical records for the approximate 3500 claims that were submitted. Those firms included: Napoli Bern Ripka Shkolnik, Motley Rice, LLC, McEwen & Kestner, PLLC, Tate Law Group, LLC, and Schlichter, Bogard & Denton, LLP. This review was done at my direction and oversight with the assistance of Liaison Counsel. Claim submissions and medical records were reviewed in every case for the purpose of making determinations as to whether cases met the qualifications for compensation, which entailed evidence establishing proof of use and a qualifying injury, as well as assessing the records in order to determine the number of enhancement points substantiated by the records. This extensive review process was both important and necessary in order to implement and administer the settlement program objectively and fairly for all claimants. I recommend that these law firms be compensated for the work performed. I have reviewed the time and expense records submitted from these firms and find that the time and expenses submitted are reasonable and necessary. I recommend a distribution from the common benefit expense fund for these firms as follows:

Napoli Bern Ripka Shkolnik – \$28,145.54

Motley Rice, LLC – \$30,268.27

McEwen & Kestner, PLLC – \$28,958.58

Tate Law Group, LLC - \$27,515.34

These firms have consented to these awards and there are no objections for the

Court to Consider.

With respect to Schlichter, Bogard & Denton, LLP, I worked extensively with Kristine Kraft, Liaison Counsel, on creating a uniform set of guidelines and training materials for the claim reviewers to follow when reviewing medical records of claimants. Ms. Kraft spent a significant amount of time in advance of the initial claims review in drafting and compiling the information necessary to include in the training protocol for the claims reviewers. Among other things, Ms. Kraft reviewed a large number of individual cases in order to determine the contents of the guidelines so that a fair, objective and consistent review process was implemented. This necessarily encountered making determinations on a number of claims in order to identify the potential scenarios and/or factors which the reviewers would encounter. Ms. Kraft and I met and reviewed the contents of this protocol, which I ultimately approved for use by the reviewers. Ms. Kraft worked extensively with Brown Greer to ensure that the proper forms, formats and guidelines were in place to conduct the review process. Prior to drafting and overseeing the claims review process, as well as conducting reviews of claims for qualification and enhancements, Ms. Kraft was the primary counsel responsible for communicating with all counsel and the Claims Administrator on the many issues that have arisen during the settlement process and therefore, has spent many hours of her time in this regard.

In addition to Ms. Kraft's involvement, Roger Denton also worked on various aspects of the claims review process, including the training protocol, training, and communications with the Claims Administrator to implement the process.

Ms. Kraft also trained the claims reviewers with my oversight and was also responsible for providing supervision of the reviewers' work to endure that claims were properly being reviewed. Ms. Kraft was in communication with me throughout this process.

Schlichter, Bogard & Denton also had a staff of three paralegals that worked throughout the claims review process. Stephanie Givens, Senior Litigation Paralegal, worked directly with myself in assuring that the appeals and/or requests for reconsiderations were tracked, the decisions I made were recorded and preserved and she also was integral in monitoring the claims reviewers time and monitoring the reviewers workload. Ms. Givens also maintained the necessary spreadsheets for tracking the initial appeals and/or requests for reconsiderations and the subsequent appeals as well.

I recommend a distribution to Schlichter, Bogard & Denton, LLP in the amount of \$278,000.00 for this portion of the common benefit work.

**AUDIT OF CLAIMS COMMITTEE WORK, CLAIMS DETERMINATIONS,
AND CLAIMANT APPEALS**

After the initial review of the claims submissions and medical records, I directed Liaison Counsel to audit the work of the claims reviewers. Liaison Counsel, with my oversight, audited hundreds of claims, which involved conducting detailed work that necessitated significant time. Thereafter, I reviewed all of the audits as well as the initial reviews and made my decisions as to each claim. After I made final decisions on each claim related to qualification and enhancement points, Liaison Counsel then provided my determinations to the Claims Administrator, who

then notified all claimants and their counsel of the awards.

Prior to the audit of claims being completed, Ms. Kraft and Mr. Denton worked with me and Brown Greer on ensuring the appeals process was in place for the smooth transition for the next step of the settlement process, including drafting the notifications and other documents used on the Brown Greer site for filing of said appeals.

Because this portion of the claims review has been completed, I recommend that Schlichter, Bogard & Denton, LLP be compensated for the work performed. I have reviewed the time and expense records associated with this work and find that the time and expenses submitted are reasonable and necessary. I recommend a distribution from the common benefit expense fund of \$245,000.00 to Schlichter, Bogard & Denton, LLP for this portion of the common benefit work.

CLAIMS APPEALS

There were 758 claimants who requested an appeal of the initial award determinations and 114 requested reconsideration from their original determination of non-qualified case. At my direction, Ms. Kraft coordinated obtaining the information needed for my review from the Claims Administrator that had been submitted with each appeal and/or request for reconsideration and provided that information to me. This involved a significant amount of time, including collecting and organizing the supporting documents for all appeals and/or requests for reconsideration; assisting me in my review by providing summary data in addition to the complete records, assisting in communicating with firms

submitting appeals and/or requests for reconsideration, and drafting the language used on the Nuvaring Settlement website to notify all counsel of the details associated with the appeal process. I then individually reviewed each appeal and made a final determination.

Both Kristine Kraft and Roger Denton conducted in person meetings with the Claims Administrator, defense counsel and myself on the payout of claims once the appeals process was finalized.

Because this portion of the claims review process has been completed, I recommend that Schlichter, Bogard & Denton, LLP be compensated for the work performed. I have reviewed the time and expense records submitted and find that the time and expenses submitted are reasonable and necessary. I recommend a distribution from the common benefit expense fund of \$255,500.00 to Schlichter, Bogard & Denton, LLP for this portion of the common benefit work.

FUTURE WORK

I also note that there will be substantial work performed until all claimants who are due compensation are paid and this MDL is concluded. This includes meeting and telephone conferences with the Claims Administrator and the Special Master as well as communications with various counsel related to the settlement program. In addition, Lead and Liaison Counsel will need to appear before this Court at periodic status conferences, confer with defense counsel as well as providing information to the various attorneys representing claimants, and all other duties necessary to complete this MDL. This future work is important and

necessary and should be compensated from the common benefit fund. Accordingly, I will make a future recommendation for distribution from the common benefit fee and expense funds at an appropriate time.

CONCLUSION

All of the above described work was appropriate and necessary for the common benefit of all claimants in this MDL. All of this additional work was properly documented and time and expenses were submitted as required by Amended CMO 3. I recommend to this Court that the distribution attached as Exhibit A be approved and distributed to each firm. Moreover, I recommend that this Court maintain the residual balances in the Common Benefit Fund until such time as the Special Master recommends to this Court an appropriate future distribution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Daniel J. Stack". The signature is fluid and cursive, with a large initial "D" and "S".

Daniel J. Stack
Special Master

EXHIBIT A

FIRM	DISTRIBUTION
MCEWEN LAW FIRM LTD	\$28,958.58
MOTLEY RICE LAW FIRM	\$30,268.27
NAPOLI BERN RIPKA SHKOLNIK, LLP	\$28,145.54
SCHLICHTER, BOGARD & DENTON LLP	\$778,500.00
TATE LAW FIRM	\$27,515.34
TOTAL	\$893,387.73