

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

**IN RE: TYLENOL (ACETAMINOPHEN)  
MARKETING, SALES PRACTICES AND  
PRODUCTS LIABILITY LITIGATION**

---

***THIS DOCUMENT RELATES TO ALL  
CASES***

---

§  
§  
§  
§  
§  
§  
§

**MDL NO. 2436**

**2:13-md-02436**

**HON. LAWRENCE F. STENGEL**

**CASE MANGEMENT ORDER NO. 4**  
**(APPOINTING PLAINTIFFS' STEERING COMMITTEE, LEAD AND LIASION COUNSEL  
AND PLAINTIFFS NEW JERSEY STATE-FEDERAL LIASION)**

**AND NOW**, this 21<sup>st</sup> day of May 2013, the Court having carefully reviewed the Applications for Appointment to the Plaintiffs' Steering Committee ("PSC"), it is hereby **ORDERED** as follows:

**I. APPOINTMENT OF THE PLAINTIFFS' STEERING COMMITTEE AND LEADERSHIP POSITIONS**

The following attorneys are hereby appointed to the PSC to perform the duties set forth in *Section II* herein. Specific leadership roles, if any are set forth after the respective counsel's name:

- 1) Laurence S. Berman, Esquire  
LEVIN FISHBEIN SEDRAN & BERMAN  
510 Walnut St., Suite 500  
Philadelphia, PA 19106  
215-592-1500  
215-592-4663 (facsimile)  
[LBerman@lfsblaw.com](mailto:LBerman@lfsblaw.com)

Mr. Berman is appointed Plaintiff Co-Lead and Plaintiff Liaison Counsel)

- 2) R. Clay Milling, Esquire  
HENRY SPIEGEL MILLING LLP  
Atlanta Plaza, Suite 2450  
950 East Paces Ferry Road, N.E.

Atlanta, GA 30326  
(404) 832-8000  
(404) 832-8050 (facsimile)  
[RCM@HSM-LAW.COM](mailto:RCM@HSM-LAW.COM)

Mr. Milling is appointed Plaintiff Co-Lead Counsel.

- 3) Chris Seeger, Esquire  
SEEGER WEISS, LLP  
77 Water Street  
New York, NY 10005  
(212) 584-0700  
(212) 584-0799 (facsimile)  
[CSeeger@seegerweiss.com](mailto:CSeeger@seegerweiss.com)
- 4) James F. Green, Esquire  
ASHCRAFT & GEREL, LLP  
SUITE 400  
2000 "L" St., N.W.  
Washington, D.C.20036  
(202) 783-6400  
(202) 416-6392 (facsimile)  
[Jgreen@ashcraftlaw.com](mailto:Jgreen@ashcraftlaw.com)
- 5) Leonard Davis, Esquire  
HERMAN, HERMAN, KATZ & COTLAR LLP  
820 O'Keefe Avenue  
New Orleans, Louisiana 70113  
(504) 581-4892  
(504) 561-6024 (facsimile)  
[LDavis@HHKC.com](mailto:LDavis@HHKC.com)
- 6) Gil Gainer, Esquire  
TOLIVER & GAINER  
942 Green St SW  
Conyers, GA 30012  
(770) 929-3100  
(770) 785-7879 (facsimile)  
[Gainer@tiloverandgainer.com](mailto:Gainer@tiloverandgainer.com)
- 7) Dianne Nast, Esquire  
NASTLAW  
1101 Market Street  
Suite 2801  
Philadelphia, Pennsylvania19107

(215) 923-9300  
(215) 923-9302 (facsimile)  
[DNast@nastlaw.com](mailto:DNast@nastlaw.com)

Additionally, the Court hereby appoints as New Jersey Federal-State Liaison:

David Buchanan, Esquire  
SEEGER WEISS, LLP  
77 Water Street  
New York, NY 10005  
(212) 584-0700  
(212) 584-0799 (facsimile)  
[DBuchanan@seegerweiss.com](mailto:DBuchanan@seegerweiss.com)

## **II. DUTIES AND RESPONSIBILITIES**

### **A. PLAINTIFFS' LIAISON COUNSEL**

Plaintiffs' Liaison counsel is hereby charged with essentially administrative functions including the responsibility to:

1. serve as the recipient for all Court orders on behalf of all of the Plaintiffs;
2. coordinate service and filings for all Plaintiffs whether presently included or subsequently added;
3. maintain and distribute to co-counsel and to Defendants' Counsel an up-to-date service list;
4. receive and distribute pleadings, orders, and motions by overnight courier service and/or telecopier within two days after receipt, unless such service has been waived, in writing, by a receiving counsel (until some program for electronic service can be arranged and agreed upon);
5. coordinate and maintain the establishment of a document depository, real or virtual, to be available to all participating Plaintiffs' counsel;

6. maintain and make available to all participating Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository);

7. prepare agendas for court conferences and periodically report regarding the status of the case; and,

8. carry out such other duties as the Court may order.

Liaison Counsel shall be entitled to seek reimbursement for costs expended at the time and in a manner approved by the Court.

Further, the PSC and Liaison Counsel shall coordinate the responsibilities of the PSC, schedule PSC meetings, keep minutes or transcripts of these meetings, appear at periodic Court noticed status conferences, perform other necessary administrative or logistic functions of the PSC, and carry out any duty as ordered by the Court.

**B. PLAINTIFFS' STEERING COMMITTEE AND CO-LEAD COUNSEL**

The Plaintiffs' Steering Committee ("PSC") and Co-Lead Counsel shall, at a minimum, have the following responsibilities:

**1) DISCOVERY.** The PSC and Co-Lead Counsel shall:

- a. Initiate, coordinate, and conduct all pretrial discovery on behalf of Plaintiffs in all actions which are consolidated with the instant Multidistrict Litigation;
- b. Develop and propose to the Court schedules for the commencement, execution, and completion of all discovery on behalf of all Plaintiffs;
- c. Cause to be issued in the name of all plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly; and,
- d. Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all plaintiffs, in a fashion in keeping

with practice guidelines to be established in subsequent discovery plans or orders of this Court.

2) **HEARINGS AND MEETINGS.** The PSC and Co-Lead Counsel shall:

- a. Call meetings of Plaintiffs' counsel for any appropriate purpose, including coordinating responses to questions of other parties or of the Court;
- b. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings;
- c. Examine witnesses and introduce evidence at hearings on behalf of Plaintiffs;
- d. Communicate on behalf of all Plaintiffs at pretrial proceedings and in response to any inquiries by the Court, subject to the right of any Plaintiff's counsel to present non-repetitive individual or different positions.

3) **MISCELLANEOUS.** In addition, the PSC and Co-lead Counsel shall:

- a. Submit and argue any oral or written motions presented to the Court on behalf of the PSC and oppose when necessary any motions submitted by the Defendants or other parties which involve matters within the sphere of the PSC;
- b. Negotiate and enter into stipulations with Defendants' Steering Counsel regarding this litigation. All such stipulations must be submitted to the Court for approval, except for purely administrative details. Any attorney not in agreement with a non-administrative stipulation shall file with the Court a written objection within 5 days after he/she knows or should have reasonably become aware of the stipulation. Failure to object within the term allowed shall be deemed a waiver and the stipulation will automatically be binding on that party.
- c. Explore, develop and pursue all settlement options pertaining to a claim or portion thereof of any case filed in this litigation;
- d. Perform any task necessary and proper for the PSC to accomplish its responsibilities as defined or authorized by the Court's orders; and,
- e. Maintain adequate files of all pretrial matters, including establishing and maintaining a document or exhibit depository, in either real or virtual format, and having those documents available,

under reasonable terms and conditions for examinations by all MDL plaintiffs or their attorneys;

- f. Perform any task necessary and proper for the PSC to accomplish its responsibilities as defined by the Court's Orders, including organizing subcommittees comprised of plaintiffs' lawyers not on the PSC and assigning tasks consistent with the duties of the PSC. Membership on the subcommittees shall be subject to the approval of the Court, and,
- g. Perform other such functions that may be expressly authorized by further Court Orders

Compensation for work performed and the approved costs incurred by the PSC, Co-Lead, Liaison Counsel, any subcommittee approved by the PSC, Co-Lead and Liaison Counsel or any attorney appointed by this Court *ie.* New Jersey Federal-State Liaison, will be paid by the common benefit funds which and shall be covered in a separate Case Management Order.

**C. NEW JERSEY FEDERAL-STATE LIAISON**

The New Jersey Federal-State Liaison is to provide reports to the Court at status conferences on state and federal court coordination efforts, to facilitate the coordination of discovery efforts in cooperation with Defendants, and to perform such other duties as the Court may order. Any communications with Judges, litigants, and attorneys must make clear that the New Jersey Federal-State Liaison is an attorney representing plaintiffs in the MDL, not a Court representative or neutral spokesperson.

**SO ORDERED** this 21<sup>st</sup> day of May, 2013

/s/LAWRENCE F. STENGEL  
**LAWRENCE F. STENGEL, J.**