

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**IN RE: GADOLINIUM-BASED** ) **Case No. 1:08-gd-50000**  
**CONTRAST AGENTS PRODUCTS** ) **MDL No. 1909**  
**LIABILITY LITIGATION** )  
)  
) **Judge Dan Aaron Polster**  
)  
)  
) **ORDER**  
\_\_\_\_\_ )

**\* THIS DOCUMENT APPLIES TO ALL CASES\***

On February 5, 2009, Plaintiffs' Steering Committee ("PSC") filed a Motion and Memorandum of Law in Support of an Order Securing an Equitable Allocation of Counsel Fees and Costs for MDL Administration and Common Benefit Work ("Motion for Common Benefit Order") (**ECF No. 267**). Therein, the PSC asks the Court to order the creation of two escrow accounts. One account is for expenses incurred in performing work for the common benefit of the Plaintiffs in this MDL ("the GBCA Expense Fund"); the other account is for time and effort expended by Participating Counsel for the common benefit of the Plaintiffs in the MDL ("the GBCA Fee Fund"). The PSC asks the Court to require that a portion of the fees earned in all individual actions be withheld for distribution to counsel acting for the benefit of all plaintiffs ("the assessment"), and that the assessment be 6% of the "gross monetary recovery," as that term is defined in the proposed common benefit order. *See ECF No. 267-2* at 4.

Attached to the proposed order is a "Participation Agreement" that must be signed by those Plaintiffs' attorneys who wish to have access to the common benefit work product of the MDL and certain participating state court cases. *ECF No. 267-3*. While execution of the Participation Agreement by Plaintiffs' attorneys is voluntary, the proposed 6% assessment will be applied to all MDL cases where a settlement or judgment has been reached.

This is only the barest summary of the proposed Common Benefit Order and Participation Agreement. The Court hereby

**DIRECTS** all Plaintiffs' attorneys to review the motion, the proposed Order and Agreement and to file any objections thereto **no later than 12 noon on Friday February 20, 2009**.

**IT IS SO ORDERED.**

*/s/Dan Aaron Polster February 6, 2009*  
**Dan Aaron Polster**  
**United States District Judge**