

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA,  
ATLANTA DIVISION

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IN RE CONAGRA PEANUT BUTTER	:	Civil Action No.
PRODUCTS LIABILITY LITIGATION	:	1:07-md-1845 TWT
	:	ALL CASES

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**CONSENT ORDER AUTHORIZING DISBURSEMENT #5 FROM  
COMMON BENEFIT FUND ACCOUNT**

Pursuant to this Court's Order of April 7, 2009 [Document 703,] a Common Benefit Fund for recovery of costs has been established. The balance of the Common Benefit Fund as of January 31, 2013, is \$54,678.53. To date, the court has permitted four (4) distributions from the Common Benefit Fund, by Order of January 25, 2010 [Document 1315,] by Order of October 15, 2010 [Document 2032,] by Order of November 18, 2010 [Document 2101,] and by Order of October 7, 2011 [Document 2488.]

As previously noted, Lead and Liaison Counsel and other members of the Plaintiffs' Executive Committee have expended far more in out-of-pocket costs for the common benefit of Plaintiffs in this MDL than the balance in the Common Benefit Fund, and more than was ever deposited into the Common Benefit Fund. There are currently a small number of outstanding pending actions subject to the Common Benefit Fund Order.

Plaintiffs' Counsel requests a further distribution from the Common Benefit Fund to refund some of the remaining outstanding expenses, and ConAgra has agreed that such distribution would be appropriate. Specifically, Plaintiffs' Counsel have requested a partial reimbursement to McCamy, Phillips, Tuggle & Fordham, LLP, of \$50,000.00 from the Common Benefit Fund.

This cost reimbursement does not fully reimburse the out-of-pocket expenses incurred for the common benefit of the plaintiffs, and does not compensate Plaintiffs' Counsel any amount for the hundreds of hours spent litigating this case for the common benefit of the Plaintiffs.

Based upon this Court's review of the records of Plaintiffs' Counsel, its knowledge of the contributions of Plaintiffs' Counsel in this case, and based upon the record in this matter, it is therefore hereby ORDERED that the Common Benefit Funds will be distributed as requested. Plaintiffs' Liaison Counsel shall additionally be authorized by this Order, to pay over any reasonable and customary bank charges, if any, associated with such payment, without further Order of this Court.

Entered this 25<sup>th</sup> day of February, 2013.

Thomas W. Thrash  
JUDGE THOMAS W. THRASH, JR.

Submitted by:

/s/ Robert H. Smalley, III

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