

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

IN RE YASMIN AND YAZ (DROSPIRENONE) MARKETING, SALES PRACTICES AND RELEVANT PRODUCTS LIABILITY LITIGATION	: 3:09-md-02100-DRH-CJP : MDL No. 2100 : The Honorable David R. Herndon
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*This document relates to:*

All Actions

**PLAINTIFFS’ STEERING COMMITTEE MOTION FOR THE REIMBURSEMENT  
OF A PORTION OF THEIR CAPITAL CONTRIBUTIONS FROM THE COMMON  
BENEFIT EXPENSE FUND**

Pursuant to Case Management Order 14 § IV.D.2, the Plaintiffs’ Steering Committee (PSC) hereby submits this Motion to reimburse the PSC for a portion of their “capital contributions” that were used to pay “shared costs”. In support of its motion, the PSC states as follows:

1. In November 2009, this Court appointed Roger Denton, as Liaison Counsel and Michael Burg, Michael London, and Mark Niemeyer, as Co-Lead Counsel. *See* CMO 2, (Doc. 180). This Court also appointed the following PSC members: Andres Alonso, Daniel Becnel, A.J. DeBartolomeo, Thomas Girardi, Arnold Levin, Jeff Lowe, Roopal Luhana, Steven Maher, Trent Miracle, Mark Robinson, Timothy O’Brien, Christopher Seeger, and Paul Pennock. *Id.* and CMO 6, (Doc. 188-2).

2. On March 25, 2010, this Court entered CMO 14 establishing Common Benefit Fee and Expense Funds, to be funded by assessments on settled cases. (Doc. 1042). CMO #14 requires a Court Order approving the distribution of any amount from the Yasmin/Yaz Expense Funds. *Id.*

3. Pursuant to its obligations outlined in Case Management Order #2, the members of the

PSC created a PSC Operating Account and agreed to advance money in order to pay for “Shared Expenses” as defined in CMO 14. (Doc. 1042 at 8).

4. In January 2012, this Court ordered the parties to engage in mediation sessions and to negotiate in good faith to attempt to settle cases. *See* CMO 53, (Doc. 2225). Beginning in or around the Spring of 2012 Bayer began to resolve cases involving venous thromboembolic injuries.

5. CMO 14 directed defendants to withhold money from each settled case for all cases where the attorney had executed the Participation Agreement and all other cases which benefited from the common benefit work performed by the PSC. (Doc 1042). Bayer has been regularly making contributions to the Common Benefit Fee and Expense funds as cases settle.

6. The Common Benefit Fee and Expense Funds are held by Frist Clover Leaf Bank pursuant to CMO 55.

7. The members of the PSC made substantial contributions (as detailed in the Brief filed *in camera*) to fund the litigation and the Common Benefit Expense Fund now has sufficient funds in it to reimburse a portion of the capital contributions made by members of the PSC and still have sufficient funds to ensure that other common benefit costs can be reimbursed at a future date.

8. The PSC respectfully requests that this Court enter an Order approving the reimbursement of a portion of the PSC’s capital contributions, which paid “Shared Costs” for the Common Benefit Expense Fund. No request is currently being made for “Held Costs” or common benefit fees. The PSC believes this request is reasonable under the circumstances and falls within this Court’s guidelines for allocation of Common Benefit expenses pursuant to CMO 14. (Doc. 1042).

9. In support of this Motion, the PSC has submitted documents *in camera* for this Court’s review.

Dated: April 23, 2013

Respectfully submitted,

PLAINTIFFS' STEERING COMMITTEE

By: /s/ Roger C. Denton

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing was electronically filed on April 23, 2013 with the Clerk of Court using the CM/ECF system, and emailed to all Plaintiffs' counsel.

/s/ Roger C. Denton