UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS, ILLINOIS

IN RE YASMIN AND YAZ (DROSPIRENONE) MARKETING, SALES PRACTICES AND RELEVANT PRODUCTS LIABILITY LITIGATION	)))))	**MDL No. 2100** ALL CASES

SPECIAL MASTER'S REPORT AND RECOMMENDATION REGARDING THE ALLOCATION AND DISTRIBUTION OF COMMON BENEFIT FEES AND EXPENSES

On March 18, 2015 this Court appointed Daniel J. Stack, as Special Master, to provide a Report and Recommendation to this Court for the allocation and distribution of common benefit fees and expenses. *See* CMO 71 [Doc. 3675]. In this regard, the Special Master hereby reports as follows:

I. BACKGROUND

This multi-district litigation ("MDL") was centralized into this Court by the Transfer Order of the Judicial Panel for Multi-District Litigation ("JPML") entered on October 9, 2009. *See* CMO 1 [Doc. #83]. This Court appointed co-lead counsel, liaison counsel and a plaintiffs' steering committee ("PSC") to lead and prosecute this litigation on behalf of all plaintiffs. This Court made clear that the PSC appointments were individual in nature. (*See* CMOs 2 and 6 [Docs. # 180 and 188]). In addition, the PSC was authorized to create committees and to assign work to various firms who assisted in the litigation, which included attorneys from a number of state court consolidated proceedings.

After 26 months of complex, hard-fought, and at times contentious litigation, and on the eve of the first bellwether trial, Bayer announced that it would negotiate and resolve VTE cases individually. Since that time in January 2012 through October 16, 2015, Bayer has resolved approximately 10,000 VTE injury cases. In addition, on March 15, 2013 a global settlement was reached that resolved in excess of 7,000 gallbladder injury cases. *See* CMO 60 [Doc. # 2739].[1]

In order to provide a mechanism to compensate attorneys who performed work for the common benefit of all plaintiffs in this complex litigation and to reimburse those attorneys for common benefit expenses, this Court entered an order setting forth a "holdback" from each settlement to create a common benefit fund. *See* CMO 14 [Doc. # 1024] (at times herein referred to as the "Common Benefit Order"). This order further provided that no amounts will be distributed from the common benefit fund without further order of the Court. In addition, this Court set forth the procedures to be employed for reporting common benefit time and expenses.

Specifically, all time and expenses must be (a) for the common benefit, (b) appropriately authorized, as defined in footnote 2 in the Participation Agreement (Exhibit A to CMO 14), (c) timely submitted, and (d) verified. All firms with claims for common benefit time and/or expenses were ordered to submit to the

[1] In CMO 71, this Court directed the Fee Committee and the Special Master to allocate fees based upon the VTE and Gallbladder settlements, and provided an option to consider ATE common benefit fees. Because the ATE Settlement Program is uncompleted, neither the Fee Committee nor the Special Master considered any allocations for ATE common benefit work. I will make a Report and Recommendation on the ATE fee/expense allocation at a future time.

liaison counsel a detailed summary of all common benefit time and expenses on a monthly basis on the forms provided. Finally, the Common Benefit Order provided that this Court would appoint a Fee Committee to review all the common benefit work submitted and to make a recommendation to the court on an appropriate allocation.

On March 18, 2015 this Court appointed 8 members to serve as the Fee Committee, which was charged with the task of creating processes and making recommendations to the Court on appropriate allocations. *See* CMO 71[Doc. # 3675]. CMO 71 also appointed the undersigned as Special Master to assist the Fee Committee, to review those recommendations, and to review the time and expense submissions on his own and make an independent allocation of fees and expenses, and to serve as a mediator for appeals of any firms who disagreed with the recommendations of the Fee Committee. All of this work was to be performed focusing on the quality of the work performed. Specifically, this Court provided "that the Fee Committee recommendation shall focus on the quality of the work performed as well as the value conferred on all plaintiffs by the work generated and that simply multiplying a number of hours by an hourly rate is not the appropriate manner to assess the quality of the work and the value conferred". *Id.* at p. 6.

Moreover, the Special Master was directed to mediate any objections and any issues with the process with the goal of obtaining an agreed allocation of the common benefit fees and expenses on a global basis. In addition, the Special Master

is to issue a Report and Recommendation. *Id.* at p. 7-8. This work has been completed.

II. EXPERIENCE AND METHODOLOGY OF THIS REPORT

A. Personal Observation of work performed

It should be noted that as the Special Master for the depositions in this litigation, I was given the unique opportunity to observe most of the depositions taken by both sides. This allowed me to assess the quality of the work performed at the depositions. In addition to the actual conduct of the examination or defense of those depositions, I was in a position to observe much of the work required and performed by various attorneys and paralegals, especially during the overseas depositions (both during the deposition and the night before), as well as the depositions of expert witnesses in the United States. I had a “first row seat” to observe the complexity and skills required in each deposition, as well as the support that was invaluable to the examiners.

Also observed were the thousands of documents/exhibits that had to be prepared, marked and ready along with the preparation for the media displays, as well as all the logistics in taking depositions in a foreign country. I was also able to observe which attorneys attended the depositions but provided little to no help in conducting the depositions. Furthermore, the tasks I witnessed from liaison counsel in coordinating the questioning of both federal and state court examiners, arranging conference rooms, hotels, office equipment overseas and the constant need to attend to the needs of the others were Homeric. Another important aspect of the discovery

procedure was the scheduling of depositions (of which I was one of the problems), as well as the difficult tasks of the attorneys coordinating so many divergent interests and needs.

B. Methodology

I reviewed the fee declarations submitted by each of the 51 firms which submitted written fee declarations. I participated in the original hearings requested by 12 firms who opted to make an oral presentation to the Fee Committee on June 2, 2015. I was present for meetings and phone conferences of the Fee Committee and was an observer of the methods they utilized at arriving at their allocations for each of the firms. I reviewed the written requests for reconsideration of the 10 firms that were submitted to the Fee Committee. I am aware of the process used by the Fee Committee in consideration of the requests for reconsideration. And while I did not actually participate in the Fee Committee decision, the opportunity to listen and observe their extensive work was most informative and helpful. I found that the methodology utilized by the Fee Committee was fair and in accordance with the law and directions of this Court. The Fee Committee provided ample opportunities for the various firms to advocate for their allocations, including a written declaration, a hearing, a written request for reconsideration, and a decision on each request for reconsideration.

For those unsatisfied with the Fee Committee allocation and reconsideration process, I conducted in-person "appeal" hearings for 8 firms. The appeal process was

very helpful and informative, and it afforded me an opportunity to ask questions and evaluate additional materials and arguments advanced.

As directed by this Court and independent of the Fee Committee work, the undersigned reviewed the time and expenses submissions from 90 different firms. Over the course of several months, I reviewed in substantial detail these submissions; some I reviewed one entry at a time and others I reviewed in excel filtered sets of entries because the time submissions were impossibly voluminous as the total individual time entries across the 90 firms exceeded over 65,000 different entries. I could not possibly justify the thousands of hours that would have been required in order to review and audit each and every time entry; however, I did review detailed summaries of the time submitted for each firm.

My methodology allowed me to evaluate and make appropriate judgments as to the work performed by each firm. For example, I compared many of the categories of time; e.g., "Document Review", "Deposition Preparation", "Taking or Defending a Deposition", "Liaison or Administrative Work", "Co-lead Duties", "Committee" work (especially "Science and *Daubert*" Committee work) and "Trial Preparations". These comparisons by categories of work provided me with an understanding of the type, quantity, and value of the work performed by various firms, and how a firm's work contributed to the successful advancement of the litigation - including a comparison of the time submitted across the firms.

This exercise made clear that there were substantial issues of timekeeping records submitted by the various firms including, excessive time submissions, time

submissions with inadequate description of the task performed, duplicative time submissions, time that conferred little or no common benefit, time working on individual cases, and other inaccuracies not in compliance with CMO 14. Other firms clearly underreported some of their time. Moreover, irreconcilable differences in the quality of record keeping of the various firms were significant.

Trying to make precise calculations based on the set of data submitted would be so inaccurate that it reminds me of a defense witness who criticized certain plaintiffs' expert opinions as "junk in – junk out". A lodestar method would only provide illusory mathematical precision unsupported by the realities of the time keeping practices—including manipulation of the process— and disconnected to the value that the work provided to the litigation. Therefore, I did not (and could not) simply use the lodestar method to create a recommended allocation of common benefit fees, because such an approach would be completely arbitrary. Moreover, I was directed by the Court not to simply multiply a rate times hours, but I was to consider the "value" and "quality" for the work performed to determine allocations.

Several firms argued on appeal to me and were somewhat insistent that I approach the fee allocation either solely or substantially on a lodestar analysis. Of the firms that made a lodestar argument, a number of them were the most abusive of the time reporting requirements provided in CMO 14- such as reporting excessive time, time entries without an adequate description of the work performed, time that provided no common benefit, double billing by several members of the same firm for the same task, and other time reporting not in compliance with CMO 14.

Some of the hourly rates suggested by the firms arguing for a lodestar analysis were staggering, and there was a wide variation of reported rates across all firms. None of the submitted or advocated rates (or the fact that such rates had been approved by some other court in a class action context) were meaningful to my analysis. I am absolutely convinced that not a single firm involved - even assuming accurate time reporting (which I cannot) and applying a consistent and market rate for similar work - will be receiving an allocation that approaches their respective lodestar calculation. For all these reasons, a lodestar analysis cannot be a meaningful factor in a proper and fair fee allocation in this case, although I did consider time submitted as a part of my analysis.

The Seventh Circuit Court of Appeals favors a percentage method as opposed to a lodestar when determining a fair fee in common found cases. *See Gaskill v. Gordon*, 160 F.3d 361, 363 (7th Cir. 1998). While some cases indicate that a lodestar cross-check can be useful, a lodestar cross-check is no longer recommended in the Seventh Circuit. *See In re Synthroid Marketing Litig.*, 325 F.3d 974, 979–80 (7th Cir. 2003); *Beesley v. Int'l Paper Co.*, 2014 U.S. Dist. LEXIS 12037, at *10 (S.D. Ill. Jan. 31, 2014) ("The use of a lodestar cross-check has fallen into disfavor."); *See also In re Dairy Farmers of Am., Inc., Cheese Antitrust Litig.*, MDL No. 2031, 80 F. Supp. 3d 838, 844 (N.D. Ill. Feb. 20, 2015) (reiterating that the percentage of recovery method "has emerged as the favored method for calculating fees in common fund cases in this district . . . ."); *Will v. Gen. Dynamics Corp.*, 2010 U.S. Dist. LEXIS 123349, at *10 (S.D. Ill. Nov. 22, 2010) ("The use of a lodestar cross-

check in a common fund is unnecessary, arbitrary, and potentially counterproductive," *citing In re Comdisco Sec. Litig.*, 150 F. Supp. 2d 943, 948–49 (N.D. Ill. June 25, 2001)). Nor was the lodestar method ever required. *See Williams v. Rohm & Haas Pension Plan*, 658 F.3d 629, 636 (7th Cir. 2011) ("[C]onsideration of a lodestar check is not an issue of required methodology," *citing Cook v. Niedert*, 142 F.3d 1004, 1013 (7th Cir. 1998) ("[W]e have never ordered the district judge to ensure that the lodestar result mimics that of the percentage approach.")).[2]

I am satisfied that the methods employed by the Fee Committee, as well as my methodology in making allocations, is consistent with Seventh Circuit precedent, as well as the specific directives given to me in CMO 71. While I considered the hours submitted by the various firms as part of my analysis, the hours submitted was simply one of many factors.

Additional factors included my review of the work performed by each firm in order to determine its quality and the value it generated towards the overall litigation and ultimate settlement, evaluating the substantive contribution of each attorney or law firm as compared to contributions of other attorneys or firms seeking common benefit fees. In doing so, I took into account: (1) the results obtained for a particular task, (2) the difficulty of the task performed, (3) the skill required to perform the legal work, (4) the time and labor expended by counsel, (5) the contribution of a task in advancing the litigation, and (6) the contributions to the overall settlements that have been achieved. This process allowed me to assess

[2] While these cases are class action matters, not pharmaceutical MDLs, the common fund doctrine set forth in these cases necessarily holds true for MDLs, as the common fee fund concept in MDLs was originally derived from class action cases.

the nature of the work performed by counsel, its relative importance, and its overall value to the ultimate prosecution and resolution of the case.

For example, those attorneys who spent their time passively involved in meetings, reviewing emails, telephone conferences, or attending hearings or depositions to merely observe were viewed as not having contributed to the common benefit on a level as high as those attorneys and firms who undertook critical aspects of the litigation, such as (1) preparing for and taking generic liability depositions, (2) meeting and working with experts, (3) preparing experts for and defending their depositions, (4) presenting written and oral arguments before the Court, (5) preparing for the bellwether trials, and (6) leading settlement negotiations. In fact, a number of firms submitted time that conferred no common benefit whatsoever. I also looked at the length of each firm's involvement in the litigation, its overall time commitment to the case, whether attorneys in the firm assumed a leadership role, and the experience of the attorneys performing work.

I also evaluated each attorney who applied for a PSC position to determine if they performed common benefit work. In some instances, certain PSC members did limited work, and in some instances, no substantive work at all even though this Court made clear that PSC appointments were individual in nature. I did consider that PSC firms contributed substantial capital to fund the litigation. Where appropriate, I considered information that was harmful to the advancement of the litigation. Actions by certain attorneys caused the PSC to incur significant additional costs and were disruptive to the advancement of this litigation. These

types of negative consequences to the litigation as a whole are referred to as "common detriment," and a number of MDL courts have applied this factor to reduce fee requests. *See e.g. In re Oral Sodium Phosphate Solution-Based Prods. Liab. Action*, MDL 2066, 2010 Lexis 128371, at *21-22 (N.D. Ohio, Judge Polster). Common detriment was one of the factors I was directed to consider pursuant to CMO 71.

C. Guidance from this Court

Throughout this process I communicated with the Court concerning my process and received and employed the wisdom provided. I confirmed that my methodologies were appropriate and consistent with CMO 71 as well as the law to be applied to this allocation process.

III. DISCOVERY RELATED TO THE ALLOCATION PROCESS

A few firms requested information related to the Fee Committee work, the Special Master's work, such as a reviewing the various time and expense submission of all other firms and wished to compare their recommended allocations with those of other firms. Given my prior experiences in performing similar work, as well as reviewing the case law and orders from other MDL cases, and specifically this Court's order in the *Pradaxa* MDL, I directed that all allocation work must be done without discovery of the Fee Committee process, my process, and the sharing of information on the relative allocations between firms.

Without such confidentiality, it would turn the fee allocation process into a quagmire of unproductive activity and virtually assure that global consensus would

not be obtained. As this Court stated in the *Pradaxa* MDL in denying discovery of the fee allocation process and materials: “the Court sees no reason to depart from the principle that discovery in connection with fee motions should rarely be permitted. In so holding, the Court finds the Eighth Circuit’s opinion in *In re Genetically Modified Rice Litigation*, 764 F.3d 864 (8th Cir. 2014) instructive. Here, the Appellate Court concluded that the procedure employed by the district court, which did not include discovery, was not an abuse of discretion”. *See* CMO 89, *Pradaxa* MDL, which can be accessed on the Court’s Pradaxa MDL webpage at http://www.ilsd.uscourts.gov/mdl/mdl2385.aspx.

I employed the same confidentially requirement in the *NuvaRing* MDL and such an approach was approved by Judge Sippel, sitting in the Eastern District of Missouri, Case: 4:08-md-01964-RWS [Doc. # 1749]. I would also note that Judge Fallon has recently adopted such an approach in *Chinese Drywall*, MDL 2047, PTO 28, which was followed by his colleague Judge Barbier in *In re Oil Spill by the Oil Rig “Deepwater Horizon”*, MDL 2179, PTO 59. *See* the MDL webpages for the Eastern District of Louisiana at http://www.laed.uscourts.gov/case-information/mdl-mass-class-action.

Here, all firms have been given ample due process to advocate for their respective allocations, first with the Fee Committee, then with the undersigned, and finally through mediation. The Fee Committee provided written communications to all common benefit attorneys explaining in detail its processes, including written declarations, an oral presentation, a reconsideration process, and

an appeal process to the undersigned. I have verbally explained my methodology to all attorneys who appealed and to all of those in which I mediated a resolution. I can assure all interested firms that my process was thorough, applied consistent evaluations across all firms, and was fair and consistent with the directions of this Court. The same can be said of the Fee Committee work. Moreover, each firm is provided with my methodology and final allocations in this Report. In short, at the end of the process everyone will know the respective allocations of all common benefit attorneys and the process and methodology employed.

IV. COMMON BENEFIT FEE DOCTRINE

The common benefit doctrine has been approved and implemented in dozens, if not hundreds, of multidistrict litigations, including, among others, *Phipps Group v. Downing (In re Genetically Modified Rice Litig.),* 764 F.3d 864 (8th Cir. 2014); *In re Sulzer Hip Prosthesis & Knee Prosthesis Liab. Litig.*, MDL 1401, 290 F. Supp. 2d 840, 845 (N.D. Ohio, Oct. 31, 2003), *enforced*, 398 F.3d 778 (6th Cir. 2005); *In re Oral Sodium Phosphate Solution-Based Products Liability Action*, 2010 U.S. Dist. LEXIS 128371 (N.D. Ohio 2010); *In re Vioxx Products Liability Litigation*, 760 F. Supp. 2d 640 (E.D. La. 2010); *In re Medtronic Inc.*, No. 05-1726, 2008 U.S. Dist. LEXIS 110259 (D. Minn. Oct. 20, 2008), *adopted by*, 2008 U.S. Dist. LEXIS 110214 (D. Minn., Nov. 10, 2008); *In re NuvaRing*, MDL 1624; *In re Pradaxa*, MDL 2385.

In its Common Benefit Order, this Court established the Common Benefit Fund, stating:

> The governing principles are derived from the United States Supreme Court's common benefit doctrine, as established in *Trustees v.*

> *Greenough*, 105 U.S. 527 (1881); refined in, *inter alia, Central Railroad & Banking Co. v. Pettus*, 113 U.S. 116 (1884); *Sprague v. Ticonic National Bank*, 307 U.S. 161 (1939); *Mills v. Electric Auto-Lite Co.*, 396 U.S. 375 (1970); *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980); and approved and implemented in the MDL context, in *inter alia, In re MGM Grand Hotel Fire Litigation*, 660 F. Supp. 522, 525-29 (D. Nev. 1987); and *In re Air Crash Disaster at Florida Everglades on December 29, 1972*, 549 F.2d 1006, 1019-21 (5th Cir. 1977).

Common Benefit Order at p. 1.

In its Common Benefit Order, this Court provided for a 4% holdback for common benefit attorneys' fees and 2% as expenses. Taking into account the work performed by the common benefit attorneys and the result obtained, 4% of the total settlement fund is not only reasonable, but undercompensates the common benefit attorneys' fees, and the 2% for the necessary expenses is reasonable. These percentages are well within the percentages that courts have routinely awarded in similar cases.[3]

When this litigation began, there was an enormous amount of uncertainty as to whether plaintiffs would be able to obtain any financial recovery. Bayer strongly defended themselves throughout this litigation with highly regarded, aggressive, and tenacious legal counsel. Certain attorneys invested enormous amounts of time and money into litigating this case without any certainty of recovery. As a result, they took on a substantial risk that they would receive nothing if the litigation was unsuccessful. The VTE and Gallbladder settlements in this case removed the risk of continued litigation and what was certain to be years of additional litigation, and

[3] See *In re Oral Sodium Phosphate Solution-Based Products Liability Action*, 2010 U.S. Dist. LEXIS 128371 at n. 10 (N.D. Ohio 2010) (observing that a survey of common benefit fee awards entered in state and federal court in 1,120 common fund cases found percentages of the total recovery for common benefit awards (both fees and expenses) average 18.4% across all 1,120 cases).

provided compensation for the thousands of women who asserted injuries while using Yaz or Yasmin and their other iterations by other names. The result obtained from the fruits of the common benefit attorneys' labor is extraordinary given the circumstances of this litigation.

Although unnecessary, I confirmed that the holdback of 4% in fees was appropriate by performing a rough lodestar cross-check of the respective submissions of time filtered for the following entries: (1) number of total hours; (2) number of non-document review hours, as well as the number of document review hours; (3) number of hours for deposition preparation; (4) number of hours for taking or defending depositions; (5) number of hours for work on the Science Committee, Discovery Committee and Law and Briefing Committee; (6) the number of hours appearing before this Court; (7) the number of hours preparing for trial; (8) the number of hours for administrative and liaison duties; and, (9) the number of hours for co-lead duties. This cross-check confirmed the obvious – that the holdback of 4% was woefully inadequate to compensate all attorneys anywhere close to a market rate.

Given the circumstances of this litigation, it is my recommendation that this Court's 4% holdback should be distributed to the common benefit attorneys, as the amount is more than reasonable for the efforts expended and the results obtained. In my recommended fee allocations, I assume that this Court will approve distribution of the entire 4% holdback for common benefit attorneys.[4]

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[4] I further note that all common benefit attorneys consented to this amount by executing a Participation Agreement. *See* Common Benefit Order, Exhibit A.

V. REIMBURSMENT OF COMMON BENEFIT EXPENSES

The common fund doctrine also authorizes reimbursement of the reasonable amounts paid out-of-pocket to achieve a common benefit recovery or to advance the common goals of all plaintiffs in MDL litigation. *See Pradaxa* MDL 2385 (approving a 2% expense fund) and *NuvaRing* MDL 1624 (approving a 4.5% expense fund); *Case: 3:12-md-02385-DRH-SCW [Doc. # 61] and Case: 4:08-md-01964-RWS [Doc. # 1129].* This Court previously ordered that 2% of the settlement funds be held back and set aside for common benefit expenses incurred by attorneys performing common benefit work in its Common Benefit Order. The common benefit attorneys have incurred a substantial amount in common benefit "held" expenses and the PSC funded substantial "shared" expenses to advance the litigation.[5] These expenses include, but are not limited to: housing all of the discovery produced by the parties to this litigation and making it searchable and accessible to all common benefit attorneys; travel costs for attending depositions around the Country and in Europe; expert fees and expenses; deposition transcript and video costs; hearing transcript costs; mediator fees and related costs; PSC group administration matters, such as meetings and conference calls; and other litigation expenses. All the submitted expenses were audited and inappropriate or excessive expenses were disallowed or reduced.

The undersigned reviewed the expenses submitted by each common benefit

[5] The capital contributions still held in the PSC account for "shared" expenses are included in my expense recommendations. This Court had previously ordered a partial reimbursement of capital contributions in a sealed order dated May 3, 2013. [Doc. # 2805].

attorney, ensuring that each request complied with this Court's direction as set forth in the Common Benefit Order, such that expenses were: (1) incurred for the common benefit of all plaintiffs; (2) related to work authorized as set forth in footnote 2 of the Participation Agreement; (3) properly reported and supported by appropriate documentation; and, (4) properly verified. In addition, reimbursable expenses were adjusted, when necessary, to comply with this Court's limitations on travel and non-travel expenses for reasonableness and unsupported expenses were disallowed.

Thereafter, as necessary I reached out to firms requesting that they provide appropriate explanations, as well as documentation for all submitted expenses, so that the expenses could be evaluated within the guidelines of the Common Benefit Order. All the expenses that I recommend for reimbursement were incurred in the ordinary course of litigation, for the common benefit of all plaintiffs, and are reasonable.

I also note that additional common benefit expenses will be incurred for the further administration of the litigation, and therefore, any excess expense funds should be maintained in the common benefit fund until the litigation is concluded. At an appropriate time, I can make a recommendation to this Court that such additional expenses should be reimbursed.

VI. ALLOCATION OF COMMON BENEFIT FEES AND EXPENSES

Based upon all of this work, I made my determination for each firm independently of the Fee Committee. While I am convinced that the Fee Committee

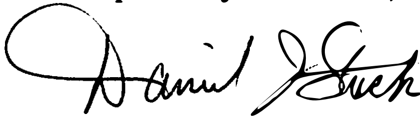
process was thorough and fair, I did reach different conclusions as to a number of firms – including adjusting allocations for firms on the Fee Committee. For those firms which did not accept the Fee Committee recommendation or my recommendation, I engaged in discussions with those firms in an attempt to reach a global consensus. These extensive mediation efforts have resolved all objections to the fee allocations. The allocations of fees and expenses are attached as Exhibit 1, and for the detailed reasons set-forth herein, I make the recommendation that this Court approve these allocations. Further, it is anticipated that additional monies will be added to the common benefit fee fund as additional VTE cases are settled, although the precise amount is incapable of determination at this time. I recommend that future distributions from the fee fund should take into account any additional work to be performed by those attorneys continuing to work for the common benefit, including lead and liaison work duties, and thereafter a *pro rata* distribution to those firms that made substantial contributions to this litigation. Any future distributions should be at an appropriate time and method as directed by this Court.

VII. CONCLUSION

For the reasons set forth above, the Special Master respectfully requests that this Court adopt his Report and Recommendation, including the following recommended order:

1. To approve as fair and reasonable the aggregate amount of the 4% holdback for work performed, and yet to be performed, by the common benefit attorneys;
2. To approve as fair and reasonable the aggregate amount of 2% holdback for reasonable and necessary common benefit expenses;
3. To approve the allocation of common benefit fees as set forth in Exhibit 1, and order that those funds be distributed from the Common Benefit Fund Account to those firms promptly;
4. To approve the reimbursement of common benefit expenses as set forth in Exhibit 1, and order that those amounts be distributed from the Common Benefit Fund promptly; and
5. To maintain the residual balances in the Common Benefit Fee and Expense funds until such time as the Special Master recommends to this Court an appropriate future distribution.

Respectfully submitted,



Daniel J. Stack
Special Master

IN RE: YAZ PRODUCTS LIABILITY LITIGATION

COMMON BENEFIT FEES AND EXPENSES

Firm	Fees	Expenses
Allen Law Firm	$5,000.00	$0.00
Anapol, Schwartz, Weiss	$175,000.00	$23,404.76
Aylstock Witkin	$10,000.00	$0.00
Bahn, Cook, Cantley	$5,000.00	$0.00
Beasley Allen	$300,000.00	$16,727.88
Bechnel	$125,000.00	$3,580.76
Behnke, Martin, Schulte	$5,000.00	$1,483.26
Bernstein, Liebhard	$0.00	$0.00
Blanco, Ordonez & Wallace, P.C.	$0.00	$0.00
Branch Law Firm	$10,000.00	$0.00
Bubalo, Hiestand, Rotman	$7,500.00	$5,236.87
Burg, Simpson	$14,000,000.00	$381,260.55
Burke, Harvey	$200,000.00	$27,293.30
Capretz & Associates	$0.00	$0.00
Carey, Danis & Lowe	$600,000.00	$50,733.85
Chaffin, Luhana	$500,000.00	$55,564.99
Ciano & Goldwasser	$5,000.00	$2,691.89
Cochran, Cherry, Smith	$300,000.00	$18,912.22
Colley & Colley, LLP	$0.00	$0.00
Danko Law Firm	$80,000.00	$23,848.57
Davis & Crump	$10,000.00	$0.00
Douglas & London	$15,825,000.00	$765,030.40
Dudley Law Firm	$350,000.00	$9,842.36
Engstrom, Lipscomb & Lack	$0.00	$0.00
Environmental Litigation Group, P.C.	$0.00	$0.00
Feldman & Pinto	$15,000.00	$0.00
Gabriel F. Zambrano, PA	$25,000.00	$971.09
Gacovino, Lake & Associates	$25,000.00	$0.00
Gancedo & Nieves	$10,000.00	$0.00
Garrett Law Office	$1,000.00	$0.00
Gary D. McCallister & Associates	$0.00	$0.00
Gauthier, Houghtaling & Williams	$0.00	$1,180.89
Gillin, Jacobson, Ellis	$15,000.00	$0.00
Girard, Gibbs	$700,000.00	$98,222.47
Girardi, Keese	$0.00	$179,427.79
Goldenberg & Johnson	$14,000.00	$5,821.44
Goldsmith, Ctorides & Rodriguez	$10,000.00	$0.00
Gooch Law Firm	$0.00	$0.00
Hanly, Conroy	$750,000.00	$24,104.85
Harke, Clasby & Bushman	$1,000.00	$0.00
Harp Law	$0.00	$0.00
Holland, Groves, Schneller	$25,000.00	$1,771.26
Johnson, Becker	$25,000.00	$15,921.81
Johnson, Heidepriem & Abdallah, LLP	$0.00	$0.00
Johnson, Leiter & Belsky	$0.00	$0.00
Jones Ward	$35,000.00	$0.00

IN RE: YAZ PRODUCTS LIABILITY LITIGATION

COMMON BENEFIT FEES AND EXPENSES

Kabateck, Brown, Kellner	$1,000.00	$0.00
Kelley & Ferraro	$2,000.00	$0.00
Khrorrami, Pollard & Abir	$1,000.00	$0.00
Kiesel, Boucher & Larson	$250,000.00	$45,977.67
Langdon & Emison	$0.00	$0.00
Lanier Law Firm	$250,000.00	$35,535.31
Levensten Law Firm	$25,000.00	$0.00
Levin, Fishbein, Sedran	$2,900,000.00	$122,957.50
Levin, Papantonio	$8,500,000.00	$434,038.21
Lieff, Cabraser	$1,350,000.00	$483,899.12
Lopez McHugh	$150,000.00	$2,914.22
Maher Law Firm	$175,000.00	$61,974.35
Meyerson & O'Neill	$25,000.00	$1,004.02
Milavetz, Gallop & Milavetz	$25,000.00	$0.00
Milberg	$60,000.00	$1,603.24
Morgan & Morgan	$25,000.00	$1,062.74
Morris, Bart	$25,000.00	$4,051.98
Motley, Rice	$10,000.00	$0.00
Nast Law	$400,000.00	$97,151.42
Nations Law Firm	$10,000.00	$0.00
Niemeyer, Grebel & Kruse	$0.00	$1,963.10
Onder, Shelton, O'Leary	$2,950,000.00	$120,880.17
Parker Waichman	$1,100,000.00	$244,426.65
Petroff & Associates	$10,000.00	$2,031.80
Phillips National Law Group	$0.00	$0.00
Price, Waicukauski & Riley	$18,000.00	$3,100.39
Restaino Law Firm	$15,000.00	$0.00
Roberts Law Firm	$7,500.00	$2,528.18
Robinson, Calcagnie, Robinson	$3,050,000.00	$460,488.66
Schlichter, Bogard & Denton	$15,425,000.00	$1,502,018.80
Schlueter, Mandel & Mandel	$6,000.00	$0.00
Searcy, Denney, Scarola	$10,000.00	$0.00
Seeger, Weiss	$2,000,000.00	$92,180.57
Shezad Malik Law Firm	$0.00	$349.70
Silverman & Fodera	$15,000.00	$3,198.73
Simmons Firm	$250,000.00	$73,573.13
Skikos, Crawford	$2,000,000.00	$33,293.49
Spangenberg, Shibley & Liber	$20,000.00	$586.26
Specter, Specter, Evans & Manogue	$0.00	$0.00
TorHoerman Law	$100,000.00	$6,844.82
Wagstaff & Cartmell	$30,000.00	$8,711.38
Weitz & Luxenberg	$2,000,000.00	$82,828.07
Whatley, Drake & Kallas	$5,000.00	$2,141.74
Zoll, Kranz & Borgess	$250,000.00	$68,110.86
TOTAL	**$77,609,000.00**	**$5,714,459.54**