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WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE, LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
LAFAYETTE DIVISION

IN RE: ACTOS® (PIOGLITAZONE)  
PRODUCTS LIABILITY LITIGATION

MDL No. 6:11-md-2299

JUDGE DOHERTY

This Document Applies To:  
*All Cases*

MAGISTRATE JUDGE HANNA

**CASE MANAGEMENT ORDER:**  
**COMMON BENEFIT FEES AND COSTS**

By Order dated September 1, 2015, this Court issued its Case Management Order: Holdback Order ["Holdback Order"].<sup>1</sup> In the Holdback Order, this Court:

- conducted a preliminary analysis of the jurisprudence that authorizes courts overseeing complex litigation in which a large group of plaintiffs receive significant benefits as a result of the efforts of counsel who do not represent them individually, and authorizes such courts to provide remuneration to those attorneys whose efforts have resulted in such common benefits;
- evaluated the aggregate common fees and costs information that had, by that point, been collected by Special Master DeJean pursuant to this Court's program of instructions related to common benefit fees and costs,<sup>2</sup> estimated the amount of funds that would be required to reimburse common benefit work done in the MDL through the administration of the Master Settlement Agreement, and
- established two holdback orders:

<sup>1</sup> Rec. Doc. 5850.

<sup>2</sup> See "Order Appointing Special Masters" [Rec. Doc. 532], "Case Management Order: PSC's Management of Timekeeping, Cost Reimbursement and Related Common Benefit Issues" [Rec. Doc. 1357], "Case Management Order: Claims for Common Benefit Fees and Expenses" [Rec. Doc. 2356], and "Order Regarding Special Masters" [Rec. Doc. 4264].

- a holdback of 8.6% from any payments made to any party pursuant to the terms of the Master Settlement Agreement for the purpose of establishing a fund from which to compensate counsel (i) whose efforts resulted in common benefits to the claimants participating in the Settlement Process and (ii) who have complied with this Court's orders for making a claim for such remuneration, and
- a holdback of \$25,000,000 from those payments subject to an MDL expense and/or cost assessment for the purpose of establishing a fund from which to reimburse expenses and/or costs incurred by counsel (i) whose efforts resulted in common benefits to the claimants participating in the Settlement Process and (ii) who have complied with this Court's orders for making a claim for such reimbursement.

At this Court's request, Special Master DeJean has recently provided updated aggregate information about fee claims and expenses/cost claims he has evaluated to date. It appears to this Court that the amounts established in the Holdback Order – 8.6% for payment of fee claims and \$25,000,000 to pay expense/cost claims – will establish sufficient funds to provide the reimbursement and compensation goals discussed in the Holdback Order.

Having reviewed additional relevant facts and jurisprudence, this Court intends to issue a final order allocating 8.6% of all payments made pursuant to the Master Settlement Agreement for use to compensate attorneys whose efforts have yielded common benefits to the larger group of plaintiffs and who have complied with this Court's orders for making a claim for such remuneration. Moreover, this Court intends to issue a final order allocating \$25,000,000 of the settlement funds paid by the Defendants pursuant to the Master Settlement Agreement for use in reimbursing costs and/or expenses incurred by counsel for the common benefit of the larger

group of plaintiffs if, but only if, counsel have complied with this Court's instructions for submitting such reimbursement claims.

Considering the foregoing,

IT IS HEREBY ORDERED that any Counsel or Plaintiff who has a *meaningful objection* to the entry of such a Common Benefit Order in this matter shall be permitted to brief such objection. Any such brief is limited to 10 pages in length and must be filed *no later than ten (10) days after the date this Order is entered*. Counsel are advised that no extensions of this deadline will be granted absent good cause shown. For purposes of such extensions, the failure to read and calendar the deadline in this Order will not be deemed "good cause." No responsive brief or reply brief will be permitted; should the Court find a response is necessary, an opportunity to respond will be afforded by the Court.

THUS DONE AND SIGNED in Lafayette, Louisiana, this 16<sup>th</sup> day of February, 2016.

  
REBECCA F. DOHERTY  
UNITED STATES DISTRICT JUDGE