

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

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<b>IN RE CONAGRA PEANUT BUTTER PRODUCTS LIABILITY LITIGATION</b>	) ) ) ) )	<b>Civil Action No. 1:07-mdl-1845 TWT  ALL CASES</b>
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**ORDER GRANTING IN PART AND DENYING IN PART  
PLAINTIFFS' MOTION FOR THE ESTABLISHMENT OF A  
COMMON BENEFIT FUND**

This matter is before the Court on the plaintiffs' Motion to Establish a Common Benefit Fund (Dkt. Entry 417). It has been fully briefed and argued. For the reasons stated on the record, the Court hereby GRANTS the Motion in part and DENIES the Motion in part as follows:

The Court DIRECTS Plaintiffs' Liaison Counsel to establish an interest bearing account into which Common Benefit Fund Payments can be made. The Court further DIRECTS ConAgra Foods, Inc. to withhold, from this point forth, **four percent (4%)** of any payment satisfying a settlement or judgment of a case or claim alleging injuries resulting from the consumption of Salmonella contaminated peanut butter produced by ConAgra, **so long as** **the case or claim fits into any one of the following four categories of cases:**

1. Cases now or in the future pending in this Multi-District Litigation; and
2. Cases and unfiled claims in which Plaintiffs' Lead Counsel, Liaison Counsel and members of the Plaintiffs' Steering Committee have a fee interest of any sort; and
3. Cases or claims in which counsel representing the plaintiff or claimant consents to the payment of the Common Benefit Fund assessment; and
4. Those cases and claims in which the parties demonstrate that the plaintiff or claimant received a tangible benefit from the efforts of Plaintiffs' counsel in this MDL.

Notwithstanding anything to the contrary, this Order shall not apply to cases or claims in which the plaintiff or claimant is represented by any of the following law firms, all of which have negotiated agreements with Plaintiffs' Liaison Counsel exempting them from this Order: MarlerClark, LP; Simon & Luke, LLP; Morgan & Morgan; Parker, Waichman, & Alonso; Nesblett, Beard & Arsenault; The Orlando Firm, P.C. and Bellovin & Karnas, P.C.

If for any reason, the assessment is not withheld, plaintiffs or claimants receiving such settlement or judgment payments and their counsel shall be jointly responsible for paying the assessment into the fund.

ConAgra shall periodically make deposits into the Common Benefit Fund Account of all sums withheld pursuant to this order and shall provide accountings to the Court, as directed.

No sums shall be disbursed from the Common Benefit Fund Account except upon Order of this Court, to which requests for reimbursement of expenses resulting in a common benefit should be directed.

It is so ORDERED. This the 6 day of April,  
2009 *inve pro tunc to February 9, 2009.*

*Thomas W. Thrash*  
Thomas W. Thrash, United States District Court Judge

Submitted by:

/s/ James F. Neale

James F. Neale, Esquire

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