

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

IN RE: TRASYLOL PRODUCTS LIABILITY Case No. 1-08-MDL -01928
LITIGATION – MDL – 1928 MIDDLEBROOKS/JOHNSON


This Document Relates to all actions.

**NOTICE OF FILING OF EXECUTED
COMMON BENEFIT FUND AGREEMENT**

ATTACHED hereto as Exhibit A for filing with this Court is an executed Agreement regarding the Common Benefit Fund.

Respectfully submitted,

By:



H. Blair Hahn, Esquire
Elizabeth Middleton Burke, Esquire
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1037 Chuck Dawley Boulevard, Building A
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ATTORNEYS FOR PLAINTIFFS

February 12, 2009

EXHIBIT A

Exhibit "A"

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA**

Case No. 1:08-MD-01928-MIDDLEBROOKS/JOHNSON

**IN RE TRASYLOL PRODUCTS LIABILITY
LITIGATION – MDL-1928**

This Document Relates to All Actions

AGREEMENT

This Agreement is made this 11TH day of FEBRUARY, ~~2008~~²⁰⁰⁹, by and between the Plaintiffs' Steering Committee ("PSC") appointed by the United States District Court for the Southern District of Florida in MDL Docket No. 1928 and RICHARDSON, PATRICK WESTBROOK & BRICKMAN, LLC (hereinafter "the Participating Attorneys").

WHEREAS the United States District Court for the Southern District of Florida has appointed Counsel to serve as members of the PSC to facilitate the conduct of pretrial proceedings in the federal actions relating to the ingestion of Trasylol; and

WHEREAS the PSC in association with other attorneys working for the common benefit of plaintiffs (with written authorization of the PSC) in MDL 1928 have developed or are in the process of developing work product which will be valuable in the litigation of state court proceedings involving Trasylol induced injuries, possible including:

- a. CD-ROMs and a virtual depository containing images of the key documents selected by the PSC from the document productions of the defendants and third-parties in MDL 1928;
- b. A bibliographic database providing a "coded" index of such key documents;
- c. The depositions of each generally applicable fact witness taken in MDL 1928 and in any coordinated state-court actions in the form of paper transcripts, text searchable computer disks and CD-ROMs and/or videotapes of videotaped depositions; and

- d. Time-lines, casts of characters, and/or other work product relating to the facts at issue in MDL 1928;

Which will collectively be referred to as the "PSC Work Product"; and

WHEREAS the Participating Attorneys are desirous of acquiring the PSC Work Product and establishing an amicable working relationship with the PSC for the mutual benefit of their clients;

NOW, THEREFORE, in consideration of the covenants and promises contained herein, and intending to be legally bound hereby, the parties agree as follows:

1. With respect to each client who they represent in connection with a Trasylol related claim, whether currently with a filed claim in state or federal court or unfilled or on a tolling agreement, each of the Participating Attorneys shall deposit or cause to be deposited in an MDL 1928 Fee and Cost Account established by the District Court in the MDL a percentage proportion of the gross amount recovered by each such client which is equal to six percent (6%) of the gross amount recovered by each such client (3% of the gross amount recovered coming from the Participating Attorneys attorneys' fees and 3% of the gross amount recovered coming from the client's share as a cost). By way of example, if a Participating Attorneys' client recovers a gross amount of \$100, then \$6 will be deposited into a MDL 1928 Fee and Cost Account (\$3 coming from the participating attorney's fees and \$3 coming from the client's share as a cost). For purposes of this Agreement, the gross amount of recovery shall include the present value of any fixed and certain payments to be made to the plaintiff or claimant in the future.

2. The Participating Attorneys, on behalf of themselves, their affiliated counsel, and their clients, hereby grant and convey to the PSC a lien upon and/or a security interest in any recovery by any client who they represent in connection with any Trasylol induced injury, to the full extent permitted by law, in order to secure payment in accordance with the provisions of

paragraph 1 of this Agreement. The Participating Attorneys will undertake all actions and execute all documents which are reasonably necessary to effectuate and/or perfect this lien and/or security interest. The Participating Attorneys also hereby warrant that they have informed their clients of this agreement and have obtained their clients' consent regarding same.

3. The amounts deposited in the MDL 1928 Fee and Cost Account shall be available for distribution as attorneys' fees and/or cost reimbursement to PSC attorneys and other attorneys who have performed work and/or incurred expenses of the common benefit of plaintiffs (with written authorization from the PSC) in MDL 1928. Such sums shall be distributed upon an Order of the Court in MDL 1928, which will be issued in accordance with applicable law governing the award of fees and costs in cases involving the creation of a common benefit.

4. This Agreement shall apply to each and every claim or action (whether state or federal, filed or unfilled) arising from the ingestion of Trasyolol in which the Participating Attorneys have or may have a right to a fee recovery.

5. As the litigation progresses and work product of the same type and kind continues to be granted, the PSC will provide Participating Attorneys with such work product will otherwise cooperate with the Participating Attorneys to coordinate the MDL litigation and the state litigation for the benefit of the plaintiffs.

PLAINTIFFS' STEERING COMMITTEE

By: 


[Participating

Attorney/Firm]

Certificate of Service

I hereby certify that a true and correct copy of the foregoing Notice of Filing of Executed Common Benefit Fund Agreement in IN RE Trasylol Products Liability Litigation, MDL No. 1928 has been served upon the below listed counsel via first class U.S. Mail with appropriate postage affixed thereto.

This 9th day of February 2009.



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