

**FOSAMAX SETTLEMENT  
CLAIM PORTAL TRAINING  
MAY 27, 2014**

**Tim O'Brien: Levin, Papantonio  
- *PSC Lead Counsel***

**Deb McComb: KCC LLC  
- *Court Appointed Escrow Administrator***

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# FOSAMAX SETTLEMENT CLAIM PORTAL TRAINING

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ALL SETTLEMENT UPDATES ARE  
POSTED EXCLUSIVELY TO:

# FOSAMAX SETTLEMENT CLAIM PORTAL TRAINING

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THIS WEBINAR VIDEO WILL BE  
AVAILABLE AT:

# FOSAMAX SETTLEMENT TERMS

- \$27.7 million at 100% Participation
  - Participation is at approximately 95%
  - Merck's walk away
- Participation is at approximately 95% right now
- Merck's must walk away or elect claw-back by July 1
- Settlement claim information must be submitted by July 1

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# PHASE 1 = RELEASE OF CLAIMS

- This is a TWO PHASE settlement
  - Phase 1 is complete
  - Phase 2 runs June 1 through July 1
- Phase 1: submission of Releases and Dismissals
  - Held in Escrow by Merck Pending July 1 Decision
- Phase 2: submission of Claims for Compensation
  - If Merck elects to proceed with the settlement on July 1, if no claim completed for a claimant who completed Part 1, that claimant will get no compensation



# PHASE 2 = COMPENSATION

- *IF YOU SUBMITTED YOUR CLIENT'S RELEASE AND DISMISSAL IN PHASE 1, YOU MUST SUBMIT THE CLAIM FOR COMPENSATION BY JULY 1 TO GET YOUR CLIENT ANY COMPENSATION FOR THE DISMISSAL AND RELEASE!*

**THERE ARE NO PROVISIONS FOR  
DEADLINE EXTENSIONS.**

# PHASE 1 = RELEASE OF CLAIMS

## PHASE 2 = COMPENSATION

- All attorneys should operate on the assumption that Merck will not walk away from the settlement
  - therefore all attorneys must timely submit their clients' claims for compensation to get any compensation in exchange for the clients' releases submitted to Merck
- Rather than walk away, Merck has right to claw-back what the non-participants would have gotten in Phase 2 compensation
- Merck's claw-back analysis is ongoing at the same time as Phase 2 Compensation Claims submissions



- This is the online claims portal web address
- This is the only way claims can be submitted:
  - Minimize administrative expenses
  - Expedite eligibility and allocation determinations
- No hard copy submissions will be accepted



- This is the online claims portal web address
- We will show you the training in this webinar
- Training webinar is being recorded and will be available on [www.fosamaxmdl.com](http://www.fosamaxmdl.com)

[www.fosamaxjawsettlement.com](http://www.fosamaxjawsettlement.com)

→ Just have to answer 10 questions and provide supporting documentation via .pdf upload

→ These 10 questions and documentation will drive (1) the eligibility determination and (2) the allocation category determination

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[www.fosamaxjawsettlement.com](http://www.fosamaxjawsettlement.com)

- It is very important to answer the 10 claims questions accurately and honestly
- Pursuant to ¶ 62 of the Master Settlement Agreement, misrepresentation of claim information can result in Merck demanding the Claimant's removal from the settlement program

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# CLAIM SUBMISSION: ELIGIBILITY FOR COMPENSATION

- Questions 1-4 in the On-line Claim Submission
- Compensability Gates:
  - Osteonecrosis of the Jaw
    - Diagnosis in Records *OR*
    - 8 Weeks of Bone *OR*
    - Rule 26 Expert Report by Board Certified Oral & Maxillofacial Surgeon
    - AFTER at least 3 Months (84 days) of Fosamax Use Documented in Pharmacy Records

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# FOSAMAX COMPENSATION GATE

- Eligibility Committee Reviews the Questions and Documentation in Questions 1-4 So It is Important to Get the Documentation Filed
- Merck Can Push Non-Eligible Claimants Into Lowest Level of Compensation
- If Gate Committee Determines “Not Compensable” and Merck Does Not Push, Either:
  - 1. Appeal to the Magistrate Judge  
» Final Determination
  - 2. Not Appeal and Get Release Returned



# FOSAMAX ALLOCATION PROCESS

- Questions 5-10 Pertain to Allocation
- Allocation Determination Issued by the Allocation Committee and Special Master for Allocation
- Right to Appeal Allocation Category to Magistrate Judge James Francis

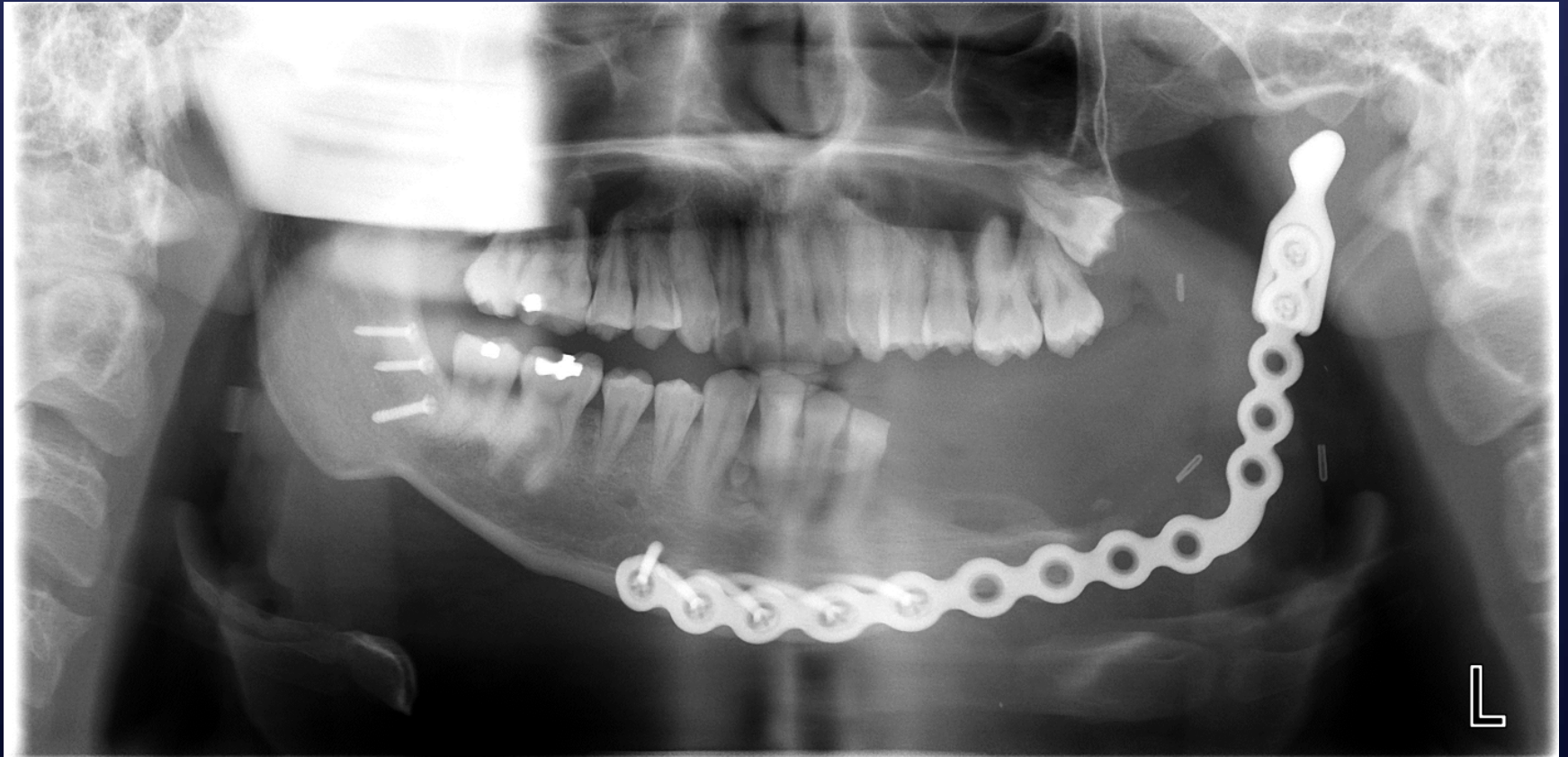


# FOSAMAX ALLOCATION PROCESS

- 4 Categories of Payment :
  - CATEGORY 1: Merck Push: \$500
  - CATEGORY 2: Non-Surgical ONJ: \$7,500
  - CATEGORY 3: Stage 3 ONJ w/no surgery or Stage 2 w/debridements and no hospitalization, or with hyperbaric oxygen or IV antibiotics treatment : \$20,000 - \$25,000
  - CATEGORY 4: In-patient Resection Surgery: \$80,000 plus pro rata of remainder of fund



# JAW RESECTION



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[www.fosamaxjawsettlement.com](http://www.fosamaxjawsettlement.com)

- The claim process is designed to be efficient so we can get claims paid this year
- Absent prior permission from the Allocation Committee, supporting .pdf materials should not exceed 30 pages in length
  - email specific requests to:  
[tobrien@levinlaw.com](mailto:tobrien@levinlaw.com)

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**MOCK CLAIM SUBMISSION  
THROUGH THE ON-LINE CLAIMS  
PORTAL**

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# FOSAMAX SETTLEMENT REMINDERS

- Submit claims and documentation through [www.fosamaxjawsettlement.com](http://www.fosamaxjawsettlement.com) no later than July 1
- There are no email reminders. All settlement updates post through [www.fosamaxmdl.com](http://www.fosamaxmdl.com)
- .pdf should not exceed a total of 30 pages



# FOSAMAX SETTLEMENT REMINDERS



- PSC has negotiated a very favorable rate with the Court-appointed lien resolution administrator: MRC
  - <http://www.multicclaimantsolutions.com/fosamax/>
  - Contact them directly to begin lien work for your clients



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