
IN RE: PELVIC MESH/GYNECARE
LITIGATION

FILED

MAY 25 2023

RACHELLE L. HARZ
J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

CASE NO. 291

MASTER DOCKET NO.: BER-L-11575-14

CIVIL ACTION

ORDER ON COMMON BENEFIT ALLOCATION

THIS MATTER having come before the Court on Plaintiffs' application for an allocation of the common benefit funds assessed from settlements of cases in this MCL, and only two Plaintiff law firms having submitted applications, and the Court having considered the submissions from Common Benefit Liaison Counsel, and for the reasons set forth in the attached Opinion dated May 25th, 2023, and for good cause shown;

IT IS on this 25th day of May, 2023,

ORDERED that the common benefit fund, currently containing funds in the amount of \$380,001.01, shall be allocated and paid as follows:

\$1,560.00 shall be paid to the Court appointed CPA, Mary Lou Portney, and Ms. Portney shall close the bank account utilized to hold the common benefit funds, and is hereby discharged from this position as no further funds will need to be maintained by her;

\$359,518.96 shall be paid by Ms. Portney to Mazie Slater Katz & Freeman, LLC, within 10 days hereof;

\$18,922.05 shall be paid by Ms. Portney to The Oshman Firm, LLC, within 10 days hereof;

ORDERED any common benefit funds resulting from future settlements or payment of settlements, shall be paid by Defendants directly to Adam M. Slater, Common Benefit Liaison

Counsel, via payment to "Mazie Slater Katz & Freeman, LLC Trust Account," along with documentation of the amount paid, and then distributed by Mr. Slater in the following percentages:

95 % shall be paid to Mazie Slater Katz & Freeman, LLC;

5 % shall be paid to The Oshman Firm, LLC, Esq., and it is;

FURTHER ORDERED that a copy of this Order shall be served by Adam Slater, Esq. within 5 days of receipt of this Order on all interest parties.



RACHELLE L. HARZ, J.S.C.

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OPINION

This Court has received two submissions pursuant to Case Management Order # 71, filed April 21, 2021, and Case Management Order #94, Common Benefit Procedure and Criteria, filed March 30, 2023. Before this Court are only two applications. One application was received from Adam Slater, Esq. of Mazie Slater Katz & Freeman, LLC (hereinafter “Mr. Slater” and “Mazie Slater”), and the second was received from Theodore Oshman, Esq. of The Oshman Firm, LLC (hereinafter “Mr. Oshman” and “The Oshman Firm”).

The applicant law firms have described their involvement in various aspects of this litigation for the common benefit including document review, conducting depositions, monetary investments, hourly work time contributions, and bellwether trial work.

Mr. Slater provided this Court a summary of his firm’s activities with regard to preparation of cases that went to trial and others that were settled just prior to trial, all of which conferred significant benefit to all plaintiffs. Mr. Oshman has provided this Court with information regarding his firm’s work on a particular case that was a bellwether trial, which was the subject of numerous conferences, and led to certain refinements to the opinions of an important plaintiff expert. That particular case settled prior to trial.

Mr. Slater was the lead of the Gynecare Work Group, had significant involvement in document review, conducted a substantial number of important depositions and third-party witness depositions, has attended every case management conference over the 13 years in his role as liaison counsel, and briefed and argued most every motion before the New Jersey MCL Judges since 2010. Mr. Slater has argued multiple appeals involved in the Gynecare litigation. In addition to this substantive legal work performed by Mazie Slater, the length and depth of commitment to the MCL is a factor that merits significant weight. Mazie Slater has been engaged in this litigation in a leadership role, actively involved in all aspects of the litigation, from the start and continues in that role to date. Mr. Slater was appointed common benefit liaison counsel and the order of this Court entered on April 20, 2021 setting forth that appointment recognized that Mazie Slater has guided this litigation from its inception and has the most detailed knowledge of the work performed, expenses paid, interaction with related litigation around the country, including the MDL, and the value of that work in advancing the litigation on behalf of all plaintiffs. The Oshman Firm was involved in the litigation from the outset as a member of the Gynecare Work Group, and Mr. Oshman attended case management conferences.

The two applications provide this Court with the approximate numbers of hours worked in connection with the Gynecare pelvic mesh litigation as well as the amount of money contributed for the funding of various aspects of the litigation.

Another significant factor this Court is looking at is the leadership role and administrative contributions to maintaining and shepherding the litigation. Mr. Slater has been the leader of the plaintiffs in this litigation from the outset. Mr. Slater also ensured that the plaintiffs presented a unified effective front and worked with many plaintiff law firms in order to aid them in representing their clients. Many associates at Mazie Slater also contributed in this regard and

interfaced with and aided many plaintiff law firms throughout this litigation. This effort has directly benefited all other law firms in this litigation, and their clients.

When this Court compares the number of hours expended and money invested on behalf of both firms, the extraordinary percentage favors Mazie Slater. If this Court was to do an actual mathematical computation based on the information provided, the appropriate percentage share to The Oshman Firm would be negligible, and this Court does not wish to suggest that Mr. Oshman's contributions to the litigation is not meaningful.

There are insufficient funds in this common benefit account to make either law firm whole. Considering all the equities, and the fact that there is not a significant amount of money in this common benefit fund to warrant employment of an accountant to perform a detailed analysis, this Court has decided that a fair apportionment of the common benefit fund is 95% to Mazie Slater and 5% to The Oshman Firm. This percentage allocation is meant to recognize the efforts and contributions of The Oshman Firm. It is not based on any mathematical calculation. A mathematical calculation would result in a smaller percentage to The Oshman firm. This Court does not want the contribution of The Oshman Firm to be considered *de minimis*, and accordingly, awards 5% for their efforts and contributions.