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Judge James F. Hyland

Attorney for Plaintiffs

IN RE: TAXOTERE (DOCETAXEL)
 PRODUCTS LIABILITY LITIGATION

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION - MIDDLESEX COUNTY

CASE TYPE: MCL NO. 628

MASTER DOCKET NO.
 MID-L-4998-18-CM

CIVIL ACTION
 IN RE TAXOTERE LITIGATION

CASE MANAGEMENT ORDER NO. _____.

[Intent to Enter Common Benefit Order, Time and Expense Rules, and Related Issues]

Attached is a proposed Common Benefit Order, submitted to the Court by Plaintiffs' Co-Liaison Counsel, establishing guidelines to apply assessments against settlements and verdicts obtained from the date of this Order going forward, and the applications by attorneys for payment

of common benefit fees or expenses, from the assessments. These guidelines are not meant to be exhaustive, and the Court may issue additional procedures, limitations, and guidelines in the future, if after consultation with the MDL Court and/or Special Master it may be deemed to be appropriate. Therefore, for the foregoing reasons, and in recognition of the need for a mechanism to assess cases and reimburse Plaintiffs' counsel, as appropriate, for common benefit time and expenses, and for good cause shown;

IT IS on this 22nd day of March, 2019, Ordered:

1. Appointment of Common Benefit Liaison Counsel

The Court hereby appoints Rayna Kessler and Karen Beyea-Schroeder as Common Benefit Liaison Counsel, recognizing that Ms. Kessler and Ms. Beyea-Schroeder have guided this litigation from its inception, and have the most detailed knowledge of the work performed, expenses paid, interaction and involvement with related litigation around the country, and the value of that work in advancing the litigation on behalf of all plaintiffs. The Court recognizes that significant, valuable work has been performed and expenses advanced, by the Common Benefit Liaison Counsel, and that this work and these expenses have been advanced and paid for the common benefit of all claims in this litigation.

2. Governing Principles – The Common Benefit Doctrine

The governing principles are derived principally from the United States Supreme Court's common benefit doctrine, as established in Trustees v. Greenough, 105 U.S. 527 (1881); refined in, inter alia, Central Railroad & Banking Co. v. Pettus, 113 U.S. 116 (1884); Sprague v. Ticonic National Bank, 307 U.S. 161 (1939); Mills v. Electric Auto-Lite Co., 396 U.S. 375 (1970); Boeing Co. v. Van Gemert, 444 U.S. 472 (1980), and approved and implemented in the Multidistrict Litigation context in, inter alia, In re MGM Grand Hotel Fire Litigation, 660 F. Supp. 522, 525-

29 (D. Nev. 1987); and In re Air Crash Disaster at Florida Everglades on December 29, 1972, 549 F.2d 1006, 1019-21 (5th Cir. 1977). The common benefit principles expressed in the federal context mirror those espoused in New Jersey Multicounty Litigations (MCLs), including, inter alia, In re Stryker Rejuvenate & ABG II Modular Hip Implant Litigation, MCL Case No. 296, Master Docket No. BER-L-0936-13, Superior Court of New Jersey, Bergen County; and In re Vioxx Litigation, MCL Case No. 619, Superior Court of New Jersey, Atlantic County. Consideration has also been given to the New Jersey Rules of Professional Conduct in advising all plaintiffs' counsel of this common benefit assessment and obligations thereunder.

3. Administration

The Court is aware of the Taxotere (Docetaxel) Products Liability Litigation, Multi-District Litigation (MDL) No. 2740 in the United States District Court for the Eastern District of Louisiana, and has communicated with the Honorable Jane Triche Milazzo who presides over the MDL. Considering the consent of Plaintiffs' counsel in MCL No. 628, it is ORDERED that Pre-Trial Order No. 19 of MDL 2740 governing Common Benefit, Time and Expense Rules, Appointment of CPA, Holdback, Assessments, and Related Issues (Rec. Doc. 262), and Pre-Trial Order No. 31 of MDL 2740 on Amended Task Codes for Common Benefit Order (Rec. Doc. 305), and any amendments or supplements thereto, shall govern MCL No. 628, as if incorporated, fully adopted and entered by this Court. Attached as Exhibit A is Pre-Trial Order 19 and its exhibits, and attached as Exhibit B is Pre-Trial Order 31 which are fully incorporated and adopted herein.

IT IS FURTHER ORDERED that Co-Liaison Counsel in MCL 628 confer with the leadership of MDL 2740, particularly the Federal-State Liaison Counsel, in order that this Order and any Order of this Court on Common Benefit issues be fully consistent with the rules and obligations set forth in MDL Pre-Trial Orders 19 and 31 and the laws of New Jersey.

IT IS FURTHER ORDERED that all defendants have the identical responsibilities as those set forth in MDL PTO 19.

IT IS FURTHER ORDERED that a true copy of this Order be served on all plaintiffs' counsel by Royce Kessler, Esq. within ten (10) days hereof. In addition, a copy of this Order shall be posted on the Court's website.


Hon. James F. Hyland, J.S.C.