

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

TIMOTHY C. PIGFORD, et al.,)
)
Plaintiffs,)
)
v.) Civil Action No.
) 97-1978 (PLF)
ANN M. VENEMAN, Secretary,)
The United States Department)
of Agriculture,)
)
Defendant.)
)

CECIL BREWINGTON, et al.,)
)
Plaintiffs,)
)
v.) Civil Action No.
) 98-1693 (PLF)
ANN M. VENEMAN, Secretary,)
The United States Department)
of Agriculture,)
)
Defendant.)
)

MONITOR'S PRELIMINARY SEPTEMBER 2001 REPORT
REGARDING REGISTERS OF PETITIONS

I. INTRODUCTION

This report is filed to explain Class Counsel's progress regarding filings for claimants listed on the Register of Petitions. This is the last month for which such reports are required by Court Orders. This filing constitutes a preliminary report regarding filings during the period of August 16, 2001, through September 17, 2001. This report communicates data based on the number of filings that were postmarked in this time

period that have been received by the Facilitator. The events of September 11, 2001, have caused delays in the delivery of mail, and, as a result, the Facilitator does not have complete and accurate information to report to the Monitor at this time. The Monitor will file a final report regarding this time period by October 31, 2001.

II. BACKGROUND

The Court's Order of November 8, 2000, created a series of deadlines by which Class Counsel was obligated to file supporting materials or withdrawals regarding claimants who are listed on Class Counsel's Register. Background regarding the Register of Petitions and the Monitor's obligation to report on same can be found in the Monitor's Initial Report Regarding Registers of Petitions, filed on December 26, 2000, and in subsequent monthly reports. The Court's Order of April 27, 2001, suspended the deadlines imposed by the November 8, 2000, Order. The Court's Order of May 15, 2001, set a new deadline of September 15, 2001, for these filings.

The Order of May 15, 2001, required the Monitor to submit reports to the Court on the last days of May, June, July, August, and September of 2001. The reports are to summarize Class Counsel's progress based upon information provided by the Facilitator.

III. VALID AND INVALID REGISTER LISTINGS

The criteria for listing claimants on Registers are delineated in the Court's November 8, 2000, Order. They are: (1) the claimant received an Adjudicator or Arbitrator decision on or before July 14, 2000; (2) the claimant asked the attorney or law firm for assistance with the filing of his or her petition for Monitor review; and (3) the claimant presented counsel with a facially meritorious claim for a petition for Monitor review. Register listings that meet these criteria are valid Register listings. The Order provided that the Register shall not include any claimant who had already had an attorney file a petition on his or her behalf.

IV. MONITOR'S REPORT ON CLASS COUNSEL'S PROGRESS FOR THE PERIOD OF AUGUST 16, 2001, THROUGH SEPTEMBER 17, 2001

A. Facilitator's Data

The Facilitator reported to the Monitor the following preliminary data regarding Class Counsel's filing of supporting materials and withdrawals from the valid portion of the Register during the period of August 16, 2001, through September 17, 2001.

PRELIMINARY FACILITATOR DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF AUGUST 16, 2001, THROUGH SEPTEMBER 17, 2001			
Source	Supporting Materials	Withdrawals	Total
Conlon, Frantz	163	151	314
Chestnut, Sanders	31	10	41
Of Counsel	214	49	263
Totals	408	210	618

In addition to filing supporting materials and/or withdrawals regarding claimants who are listed on the Register, Class Counsel has submitted filings for claimants who do not appear on the Register.¹

B. Class Counsel's Data

Class Counsel reported to the Monitor the following data regarding Class Counsel's filing of supporting materials and withdrawals from the valid portion of the Register during the period of August 16, 2001, through September 17, 2001.

¹ The Facilitator reports that Class Counsel filed supporting materials and/or withdrawals regarding a total of 689 claimants during the period of August 16, 2001, to September 17, 2001. This number consists of claimants who appeared on the valid portion of the Register along with other claimants (some who have later deadlines, and some who for some other reason have not been designated by the Facilitator as meeting the Register criteria). Of the 689 claimants, supporting materials were filed on behalf of 459 claimants and withdrawals were filed on behalf of 230 claimants. This means that some "withdrawals" were filed regarding claimants who, according to the Facilitator, are not validly listed on the Register.

**CLASS COUNSEL'S DATA REGARDING CLASS COUNSEL'S
FILING FROM VALID PORTION OF REGISTER FOR
PERIOD OF AUGUST 16, 2001, THROUGH SEPTEMBER 17, 2001**

Source	Supporting Materials	Withdrawals	Total
Conlon Frantz	157	69	226
Phillip Fraas	24	9	33
Coale Cooley	9	2	11
Speiser Krause	8	6	14
Chestnut, Sanders	17	2	19
Pro Bono	216	58	274
Totals	431	146	577

C. Reconciliation

Reconciliation has not yet been attempted because the data is not yet final. Reconciliation will be addressed in the final report regarding this time period.

V. RESPONSES TO GOVERNMENT PETITIONS

In addition to filing supporting materials or withdrawals for claimants listed on the Register and filing petitions for claimants whose petition deadlines fall after November 13, 2001, Class Counsel files responses to Government petitions for Monitor review. When the Government petitions for Monitor review, the Facilitator routes the petition to Class Counsel for response. Due to privacy concerns, the petition is not routed directly to the claimant--it is sent only to Class Counsel. The Facilitator notifies the claimant that the petition has been

routed and that the response time is running.² The response time is sixty days. Class Counsel works with the claimant to evaluate the merits of the petition and, if appropriate, to prepare a response to the petition.

A. Preliminary Facilitator Data

The Facilitator reported to the Monitor the following preliminary figures regarding Class Counsel's filing of responses.

PRELIMINARY FACILITATOR DATA REGARDING CLASS COUNSEL'S RESPONSES TO GOVERNMENT PETITIONS			
Referral Date	Count	Response Deadline	Responses Received
March 2, 2001	50	May 4, 2001	11
March 9, 2001	50	May 11, 2001	16
March 16, 2001	49	May 18, 2001	22
March 23, 2001	50	May 25, 2001	28
March 30, 2001	44	June 1, 2001	18
June 15, 2001	50	August 17, 2001	30
June 22, 2001	50	August 24, 2001	34
June 29, 2001	50	August 31, 2001	29
July 6, 2001	50	Sept. 7, 2001	25
July 13, 2001	50	Sept. 14, 2001	18
July 20, 2001	50	Sept. 21, 2001	25
July 27, 2001	11	Sept. 28, 2001	N/A
August 3, 2001	3	October 5, 2001	N/A

² See Memorandum Opinion and Order, June 28, 2001.

B. Class Counsel's Data

The Monitor has not yet received data from Class Counsel regarding responses to government petitions. Class Counsel data regarding responses will be included in the final report regarding this time period.

VI. CONCLUSION

According to preliminary Facilitator data, during the period of August 16, 2001, through September 17, 2001, Class Counsel and Of Counsel filed supporting materials or withdrawals on behalf of 618 claimants who are listed on the valid portion of Class Counsel's Register.

Dated: October 1, 2001

Respectfully submitted,

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