UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

IN RE: DEPO-PROVERA (DEPOT MEDROXYPROGESTERONE ACETATE) PRODUCTS LIABILITY LITIGATION	**Case No. 3:25-md-3140**
This Document Relates to: ***ALL CASES***	**Judge M. Casey Rodgers** **Magistrate Judge Hope T. Cannon**

COMMON BENEFIT ORDER NO. 2

This Order is entered to provide for the fair and equitable sharing among Plaintiffs and their counsel of the burden of services performed, capital provided, and expenses incurred by attorneys acting for the common benefit of all Plaintiffs in this complex litigation. This Order specifically incorporates by reference herein, and makes binding on all the Parties, the procedures and guidelines referenced in Common Benefit Order No. 1 (ECF No. 155) and as amended by Amended Common Benefit Order No. 1 (ECF No. 378).

I. PURPOSE FOR THE ORDER

This Order is intended to (1) avoid unnecessary conflicts and expense, conserve judicial resources, and expedite the disposition of all the cases; (2) provide for the fair and equitable sharing among Claimants, and their counsel, of the burden of services performed, capital provided, and expenses incurred by counsel acting for the common benefit of all Claimants in this complex litigation; and (3) enable

Claimants' counsel to obtain fair access to the common-benefit work product generated and paid for by Leadership Counsel.

The common benefit governing principles are derived from the United States Supreme Court's common benefit doctrine, as initially established in *Trustees v. Greenough*, 105 U.S. 527 (1881), and as refined in, inter alia, *Central R.R. & Banking Co. v. Pettus*, 113 U.S. 116 (1885); *Sprague v. Ticonic Nat'l Bank*, 307 U.S. 161 (1939); *Mills v. Elec. Auto-Lite Co.*, 396 U.S. 375 (1970); *Boeing Co. v. Van Gemert*, 444 U.S. 472 (1980); and approved and implemented in the MDL context in, inter alia, *In re Air Crash Disaster*, 549 F.2d 1006, 1019-21 (5th Cir. 1977);[1] and *In re MGM Grand Hotel Fire Litig.*, 660 F. Supp. 522, 525-29 (D. Nev. 1987). Common benefit work product includes all work performed for the benefit of all Claimants, including pre-trial matters, discovery, trial preparation, a potential settlement process, and all other work that advances this litigation to conclusion.

II. SCOPE OF THE ORDER

This Order applies to all cases now pending, as well as to any cases later filed in, transferred to, or removed to this Court and included as part of MDL No. 3140. This Order further applies to (1) all counsel who voluntarily sign the Participation Agreement (attached hereto as Exhibit A and incorporated herein); (2) all cases that

[1] *See Bonner v. City of Prichard,* 661 F.2d 1206, 1209 (11th Cir. 1981) (en banc) (adopting the case law of the former Fifth Circuit before October 1, 1981, as precedent in this Circuit).

participate in the settlement program established pursuant to the Master Settlement Agreement, dated July 2026, between MDL Plaintiffs' Leadership and Defendants; and (3) any counsel who were not otherwise Participating Counsel but who obtain access to or receive the common benefit work product of MDL 3140.

Exhibit A, attached and incorporated herein, is a voluntary Participation Agreement between: (1) Plaintiffs' Leadership, specifically Plaintiffs' Executive Committee ("PEC"), and other Claimants' counsel performing common benefit work in connection with the MDL and (2) other Claimants' counsel who elect to sign the Participation Agreement. The Participation Agreement is a private and cooperative agreement between Claimants' counsel only, and not Defendants' counsel. Subject to the terms of the Court's Common Benefit Orders, Participating Counsel have been and will continue to be entitled to receive all common benefit work product created by the PEC and Plaintiffs' Steering Committee ("PSC").

The Court has been advised that Plaintiffs' Lead and Co-Lead Counsel and all members of Plaintiff Leadership have already signed or will sign the Participation Agreement, subjecting themselves and their cases, whether filed in this MDL proceeding, filed in another venue, unfiled, or tolled, to an assessment of the attorney's fees derived from the Gross Monetary Recovery, as defined in III.B.1.

The Court recognizes the jurisdictional rights and obligations of the state courts to conduct their state court litigation as they so determine and that the state

court litigations may include counsel who are Participating Counsel. This Order and the Participation Agreement are not intended to be cited by a party to the Participation Agreement in any other court in support of a position that adversely impacts the jurisdictional rights and obligations of the state courts and state court Participating Counsel.

III. LITIGATION FEE AND EXPENSE FUNDS

A. Establishing the Fee and Expense Funds

At an appropriate time, Plaintiffs' Common Benefit Committee ("Plaintiffs' CBC") will be directed to establish two interest-bearing accounts to receive and disburse funds as provided in this Order (the "Funds"). The first fund will be designated the "Depo Provera Fee Fund" and the second fund will be designated the "Depo Provera Expense Fund." These funds will be held under the jurisdiction of and subject to the direction of this Court.

B. Payments into the Fee and Expense Funds

All Claimants and their counsel who are subject to this Order and who agree to settle, compromise, dismiss, or reduce the amount of a claim or, with or without trial, recover a judgment for monetary damages or other monetary relief, including such compensatory and punitive damages, with respect to Depo Provera Products Liability claims are subject to an assessment paid exclusively from the attorney's fees derived from the Gross Monetary Recovery, as provided in III.B.2.a.

1. Gross Monetary Recovery

A "Gross Monetary Recovery" occurs when a Claimant or his/her counsel either agrees or have agreed, for monetary consideration, to settle, compromise, dismiss, or reduce the amount of a claim or, with or without trial, recover a judgment for monetary damages or other monetary relief, including compensatory and punitive damages (hereinafter a "Settlement"), with respect to any Depo Provera Products Liability claim. In measuring the Gross Monetary Recovery, the parties are to (a) exclude court costs that are to be paid by the Defendants; (b) include any payments to be made by the Defendants on an intervention asserted by third-parties, such as to physicians, hospitals, or other healthcare providers in subrogation related to treatment of a Claimant, and any governmental liens or obligations; and (c) include the present value of any fixed and certain payments to be made in the future.

2. Assessment Amount

a. Claimants' counsel with cases subject to this Order as set forth above will be subject to a seven percent (7%) assessment of the Gross Monetary Recovery for all Depo Provera Products Liability cases in which they have a fee interest, paid exclusively from the Claimant's counsel's fee portion of the recovery. This assessment represents a hold back. *See In re Zyprexa Prods. Liab. Litig.*, 467 F. Supp. 2d 256, 266 (E.D.N.Y. 2006). The common benefit assessment will be deducted exclusively from the Claimant's counsel's fee

portion of the Gross Monetary Recovery and will not under any circumstances decrease the Claimant's recovery.

b. Claimants' counsel who currently have cases pending in this MDL Court and want to become a Participating Counsel but object to the assessment amount(s) in III.B.2.a above must file an objection within ten (10) days of this Order.

c. Claimants' counsel who do not yet have a case filed in the MDL Court or any state court and who want to become a Participating Counsel but object to the assessment amount(s) in III.B.2.a above must file an objection within ten (10) days of the date their first case is filed in the MDL Court or any state court.

C. Reporting Obligations

Within 30 days of this Order, Plaintiffs' Lead Counsel must provide to Defendants' a list of a list of all counsel who have executed the Participation Agreement. The Plaintiffs' CBC will provide Defendants with any updates to this list each quarter.

D. Defendants' Obligations

Defendants and their counsel must not distribute any settlement proceeds to any Claimant or Claimant's counsel until after (1) Defendants' counsel notifies the Plaintiffs' Lead Counsel in writing of the existence of a settlement and the name of

the Claimant and individual Claimants' counsel; and (2) the Plaintiffs' Lead Counsel has advised Defendants' counsel in writing whether or not the individual Claimant's counsel's cases are subject to an assessment pursuant to this Order.

For cases subject to an assessment, Defendants are directed to ensure that the assessment is withheld consistent with Section B.2 of this Order from any and all amounts paid to all those subject to this Order to ensure that the assessment is paid directly into the Funds as a credit against the settlement or judgment. No orders of dismissal of any claim or case that is subject to this Order will be sought by any Claimant's or Defendants' counsel unless accompanied by a certificate of Claimant's and Defendants' counsel that the assessment, where applicable, will be withheld and will be deposited into the Funds at the same time the settlement proceeds are paid and/or funded for payment to the settling Claimant or his/her counsel or designee, and no such order of dismissal will be granted absent compliance with the Court's Common Benefit Orders. If for any reason the assessment is not or has not been so withheld, the Defendants as well as the Claimant and his or her counsel are jointly responsible for paying the assessment into the Funds promptly.

Counsel for each Defendant must provide at least quarterly notice to the Court and Plaintiffs' Lead Counsel, of the names and docket numbers of the cases for which it has paid an assessment into the Funds since the last such report. A report is

not due if there are no payments made into the Funds by that Defendant during that quarter. Details of any individual settlement agreement, individual settlement amount and individual amounts deposited into escrow will be confidential and must not be disclosed unless the Court requests the information.

IV. ASSESSMENT DISTRIBUTIONS

A. Common Benefit Expenses

In order to be eligible for reimbursement of common benefit expenses, said expenses must meet the requirements and the limitations set forth in the Common Benefit Fund Orders entered by this Court.

B. Procedures and Forms

The procedures and forms as set forth in Common Benefit Order No. 1 and Amd. Common Benefit Order No. 1 (ECF Nos. 155 and 378) are incorporated by reference as if fully set forth herein.

C. Court Approval

The amounts deposited in the Funds must be available for distribution to Participating Counsel who have performed professional services or incurred expenses for the common benefit. Amounts will be distributed only on order of this Court. This Court retains jurisdiction over any common benefit award or distribution.

D. Distribution

At a time and in a manner ordered by the Court, each Participating Counsel

who does common benefit work must present their claim(s) for compensation and/or reimbursement prior to any distribution approved by this Court. Without exception, any Claimants' counsel who does not sign the Participation Agreement in accordance with this Order will not be eligible to receive common benefit payments for any work performed or expenses incurred. At the appropriate time, the Court will enter an order regarding the protocols and procedures for Special Master David Herndon to make recommendations to the Court on common benefit fee allocations.

Accordingly:

The Court directs the Clerk to file a copy of this Order in Case No. 3:25-md-3140. This Order will apply to each MDL No. 3140 member-case previously transferred to, removed to, or filed in this District or subsequently filed in, or removed or transferred to, this District.

It is the responsibility of the parties to review and abide by all Orders entered by the Court. The Orders may be accessed through PACER, as well as on the MDL's webpage, https://www.flnd.uscourts.gov/depo-provera-products-liability-litigation-mdl-no-3140.

SO ORDERED, on this 28th day of August, 2026.

M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE

Depo-Provera (Depot Medroxyprogesterone Acetate) Products Liability Litigation
MDL 3140
Attorney Participation Agreement

This Participation Agreement is made as of the date identified below, by and between the Plaintiffs' Lead Counsel, Co-Lead counsel and the Plaintiffs' Executive Committee (collectively "Plaintiffs' Leadership"), appointed by the United States District Court for the Northern District of Florida in MDL No. 3140, and: _____ (hereinafter "Participating Counsel").

WHEREAS, Plaintiffs' Leadership, in association with other attorneys working for the common benefit of plaintiffs have developed or are in the process of developing work product which will be valuable in the litigation of state and federal court proceedings involving claims of Depo-Provera/medroxyprogesterone acetate related injuries (the "Common Benefit Work Product"); and

WHEREAS, the Participating Counsel wish to acquire the Common Benefit Work Product and establishing an amicable, working relationship with Plaintiffs' Leadership 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:

Scope of Agreement

1. This Participation Agreement is a private cooperative agreement between plaintiffs' attorneys to share Common Benefit Work Product pursuant to the Common Benefit Order(s) entered by the Court in MDL 3140 and this Participation Agreement.

2. This Participation Agreement incorporates by reference any and all Orders of the Court entered, or which may subsequently be entered, regarding, *inter alia*, common benefit administration and/or assessments and incorporates fully herein all defined terms from such

Order(s). Participating Counsel agree to be bound by the Court's determination on common benefit attorney fee awards, attorney fee allocations, and expense awards, and Participating Counsel knowingly and expressly waive any right to appeal those decisions or the ability to assert the lack of enforceability of the Court's Orders or to otherwise challenge their adequacy.

3. This Agreement applies to each and every claim, case, or action arising from the use of Depo-Provera and/or medroxyprogesterone acetate in which the Participating Counsel has or will have a financial interest, whether the claim, case, or action is currently filed in state or federal court, or is unfiled, or is on a tolling agreement.

4. Participating Counsel shall provide an executed copy of this Participation Agreement to the Common Benefit Special Master by email at randy@sansomcpa.com as well as to Plaintiffs' Leadership at bwilliams@awkolaw.com

Rights and Privileges of Participating Counsel

5. Any plaintiffs' attorney who executes this Agreement is entitled to receive the Common Benefit Work Product created by those attorneys who have also executed, or have been deemed to have executed, the Participation Agreement, regardless of the venue in which the attorney's cases are pending.

6. Upon request of the Participating Counsel, Plaintiffs' Leadership will provide within a reasonable time to the Participating Counsel, to the extent developed, the Common Benefit Work Product, including access to Plaintiffs' Leadership's virtual depository, and, if and when developed, a complete trial package.

7. As the litigation progresses and Common Benefit Work Product continues to be generated, Plaintiffs' Leadership will provide Participating Counsel with such work- product and

will otherwise cooperate with the Participating Counsel to coordinate the MDL litigation and any related state litigation for the benefit of the plaintiffs.

8. Participating Counsel are also eligible to submit for consideration claims for reimbursement of common benefit costs and time submissions for authorized common benefit work in accordance with the terms of the Court's Common Benefit Orders. Should the Court at some future point establish a percentage assessment to be held back from each claimant's Gross Monetary Recovery[1] ("Common Benefit Assessment") and funds become available for distribution to Participating Counsel pursuant to and subject to any Order of the Court, Participating Counsel may apply to the Court for common-benefit fees and reimbursement of expenses, provided that the time worked and/or expenses incurred are in compliance with the Court's Common Benefit Orders. Specifically, such work and/or expense must have been (1) For the common benefit; (2) Appropriately authorized; and (3) Timely and properly submitted.

Obligations of Participating Counsel

9. Should the Court at some future point establish a Common Benefit Assessment, Participating Counsel and their law firms agree to deposit, or cause to be deposited, the Common Benefit Assessment into the common benefit fund designated as the repository for such Common Benefit Assessments. It is the intention of the parties that, absent extraordinary circumstances, such Common Benefit Assessment would be in full and final satisfaction of any present or future obligation on the part of each claimant and/or Participating Counsel to contribute to any fund for the payment or reimbursement of any legal fees, services or expenses incurred by, or due to,

[1] A "Gross Monetary Recovery" occurs when a claimant or his/her counsel either agree or have agreed, for monetary consideration, to settle, compromise, dismiss, or reduce the amount of a claim or, without trial, recover a judgment for monetary damages or other monetary relief, including compensatory and punitive damages, with respect to any claim relating to Depo-Provera and/or medroxyprogesterone acetate.

Plaintiffs' Leadership, Participating Counsel, and/or any other counsel eligible to receive disbursements a common benefit fund pursuant to an Order of the Court regarding assessments.

10. Pursuant to CMO 1, Plaintiffs' Leadership may share common benefit work product with Non-Participating Counsel only subject to a written agreement approved by the Court. Participating Counsel shall not share or otherwise prove access to the common benefit work product of the to Non-Participating Counsel who have not been given written authorization to access MDL common benefit work product.

PLAINTIFFS' LEADERHSIP

By:

Christopher A. Seeger

PARTICIPATING ATTORNEYS

By: _____

Firm: _____

Date:_____