

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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TIMOTHY C. PIGFORD, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.
	)	97-1978 (PLF)
DAN GLICKMAN, Secretary,	)	
The United States Department	)	
of Agriculture,	)	
	)	
Defendant.	)	

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CECIL BREWINGTON, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No.
	)	98-1693 (PLF)
DAN GLICKMAN, Secretary,	)	
The United States Department	)	
of Agriculture,	)	
	)	
Defendant.	)	

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MONITOR'S JANUARY 2001 REPORT  
REGARDING REGISTERS OF PETITIONS

I. INTRODUCTION

This report is being filed pursuant to the Court's Order of November 8, 2000, to explain the implementation progress of the case regarding Registers of Petitions.

II. BACKGROUND

Background regarding Registers of Petitions and the

Monitor's obligation to report regarding the Registers can be found in the Monitor's Initial Report Regarding Registers of Petitions, filed on December 26, 2000.

The Court's Order of November 8, 2000, provided that the Monitor shall report regularly to the Court about the progress being made by the lawyers or law firms that filed Registers listing more than 400 Claimants.<sup>1</sup>

III. LAW FIRMS WITH REGISTERS LISTING  
MORE THAN 400 CLAIMANTS

Based on information received from the Facilitator, the Monitor understands that only two law firms filed Registers listing more than 400 Claimants. They are Conlon, Frantz, Phelan, & Pires, LLP (the Conlon, Frantz law firm) and Chestnut, Sanders, Sanders, Pettaway, Campbell and Albright, P.C. (the Chestnut, Sanders law firm). The Court's Order of December 22, 2000, allowed the two firms' Registers to be combined to become one Register.

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<sup>1</sup> The Order provides:

FURTHER ORDERED that the Monitor shall submit monthly reports to the Court pursuant to Paragraph 12(b)(i) of the Consent Decree that summarize the progress of any lawyer or law firm that files a Register of Petitions listing more than 400 claimants. Such reports shall be filed on the last day of every month, beginning on December 31, 2000.

#### IV. OBLIGATIONS REGARDING THE REGISTER

##### A. General Obligations

In general, any law firm that timely filed a Register listing more than 400 claimants has an obligation to file supporting materials or withdrawals regarding at least 400 claimants per month.<sup>2</sup> These law firms have the obligation to finish filing supporting materials or withdrawals for all of the claimants on their Registers by May 15, 2001.

##### B. Attribution of Obligations

The Conlon, Frantz law firm and the Chestnut, Sanders law firm together are obligated to file supporting materials or withdrawals regarding at least 400 claimants per month.

#### V. VALID REGISTER LISTINGS

As the Facilitator sorted through the names listed on Registers, it became apparent that some of the claimants who are listed there do not meet the criteria for Register listing. The criteria delineated in the November 8, 2000, Order for listing

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<sup>2</sup> The November 8 Order provides that:

[I]f a Register of Petitions lists more than 400 claimants, counsel shall file supporting materials or withdrawals, as described above, with respect to a total of at least 400 claimants by December 15, 2000. Counsel shall file similar supporting materials or withdrawals with respect to at least 400 more claimants on the 15<sup>th</sup> of every month thereafter. Under no circumstances shall the Monitor accept supporting materials or withdrawals after May 15, 2001.

claimants on Registers were: (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.

Some claimants who do not meet all of the criteria listed above were inadvertently included on the Conlon, Frantz and Chestnut, Sanders Registers. Some of these invalid Register listings, for example, refer to claimants who received their Adjudicator decisions after July 14, 2000 (and who therefore had Monitor review deadlines that were later than November 13, 2000).<sup>3</sup>

As of the Monitor's December 26, 2000, report on this matter, the process of sorting out the valid and invalid

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<sup>3</sup> Other examples of invalid Register listings include cases that present multiple representation issues (i.e., cases in which a claimant appears on more than one law firm's Register), and cases in which the Petition issue is a Facilitator eligibility denial (no deadline has been set for Petitioning for Monitor review regarding Facilitator eligibility denials).

Register listings was not yet complete.<sup>4</sup> As of January 30, 2001, the Facilitator reported to the Monitor that the numbers are sorted out for the December and January reporting periods.

VI. MONITOR'S UPDATE ON COMPLIANCE WITH ORDER  
FOR THE PERIOD OF NOVEMBER 13, 2000 THROUGH  
DECEMBER 15, 2000

The Monitor's December 26, 2000, report noted that the Conlon, Frantz law firm and the Chestnut, Sanders law firm together filed supporting materials or withdrawals regarding a total of 430 claimants from their combined Registers of Petitions for the period of November 13, 2000 through December 15, 2000. This report was based on representations that Class Counsel had made to the Monitor.

The Facilitator has provided the Monitor with the following updated figures for this period.

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<sup>4</sup> The sorting process involved many detailed communications between the Facilitator and the lawyers who filed the Registers.

**Facilitator's Report For Period of  
November 13, 2000 Through December 15, 2000**

	Total Petitions Filed from Entire Register	Total Withdrawals from Entire Register	Total from Entire Register	Total Petitions Filed from Valid Portion of Register	Total Withdrawals from Valid Portion of Register	Total from Valid Portion of Register
Law Firm						
Conlon, Frantz	207	61	268	180	52	232
Chestnut, Sanders	198	0	198	167	0	167
<b>Class Counsel Total</b>	405	61	<b>466</b>	347	52	<b>399</b>

According to these figures, during this period Class Counsel filed supporting materials or withdrew on behalf of a total of 466 claimants from their entire Registers (including both valid and invalid listings); they filed supporting materials or withdrew on behalf of 399 claimants from the valid portion of their Registers.

VII. MONITOR'S REPORT ON COMPLIANCE WITH ORDER  
FOR THE PERIOD OF DECEMBER 16, 2000,  
THROUGH JANUARY 16, 2001

Class Counsel reported the following figures to the Monitor for the period of December 16, 2000 through January 16, 2001.<sup>5</sup>

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<sup>5</sup> January 15, 2001, was a federal holiday; therefore, the January 15 filing deadline was extended to January 16.

Class Counsel's Report For Period of December 16, 2000 Through January 16, 2001		
Law Firm	Total Petitions and Withdrawals from Entire Register	Total Petitions and Withdrawals from Valid Portion of Register
Conlon, Frantz	232	181
Chestnut, Sanders	170	170
<b>Total Class Counsel</b>	<b>402</b>	<b>351</b>

The Facilitator's figures are somewhat different from Class Counsel's figures for the same period.

Facilitator's Report For Period of December 16, 2000 Through January 16, 2001						
Law Firm	Total Petitions Filed from Entire Register	Total Withdrawals from Entire Register	Total from Entire Register	Total Petitions Filed from Valid Portion of Register	Total Withdrawals from Valid Portion of Register	Total from Valid Portion of Register
Conlon, Frantz	138	94	232	117	50	167
Chestnut, Sanders	107	55	162	102	46	148
<b>Class Counsel Total</b>	245	149	<b>394</b>	219	96	<b>315</b>

Class Counsel state that during this period they filed supporting materials or withdrew on behalf of 402 claimants from their entire Registers (including both valid and invalid listings); the Facilitator states that that number should be 394. Class Counsel state that during this period they filed supporting materials or withdrew on behalf of 351 claimants from

the valid portion of their Registers; the Facilitator states that that number should be 315.

#### VIII. CONCLUSION

Pursuant to the November 8, 2000 Order, Class Counsel is obligated to file supporting materials or withdrawals on behalf of at least 400 claimants each month from the valid portion of their Registers. For the December 15 reporting deadline, Class Counsel either met or very nearly met this obligation.<sup>6</sup> For the January 15 reporting deadline, Class Counsel fell short of meeting this requirement.<sup>7</sup>

The Monitor will work with Class Counsel and the Facilitator to attempt to understand the reasons for the reporting discrepancies.

The Monitor has discussed with Mr. Pires (for Class Counsel) the monthly obligation to file supporting materials or withdrawals on behalf of at least 400 claimants from the valid portion of Class Counsel's Registers. Mr. Pires expressed to the Monitor that he understands this requirement and that he

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<sup>6</sup> According to Class Counsel's figures, they met the obligation; according to the Facilitator's figures, they filed or withdrew in 399 cases, falling short by just one claimant.

<sup>7</sup> According to Class Counsel's figures, they filed or withdrew in 351 cases; according to the Facilitator's figures, they filed or withdrew in 315 cases.



expects to fully comply with it in the next reporting period.

Dated: January 31, 2001

Respectfully submitted,

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