

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

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

MONITOR'S FEBRUARY 2001 REPORT
REGARDING REGISTERS OF PETITIONS

I. INTRODUCTION

This report is 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 on same 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. Only two law firms filed Registers listing more than 400 Claimants: 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.

Pursuant to the November 8, 2000 Order, Class Counsel (the Conlon, Frantz firm and the Chestnut, Sanders firm together) have an obligation to file supporting materials or withdrawals regarding at least 400 claimants per month.¹ These law firms have the obligation to finish filing supporting materials or

¹ 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 15th of every month thereafter. Under no circumstances shall the Monitor accept supporting materials or withdrawals after May 15, 2001.

withdrawals for all of the claimants on their Registers by May 15, 2001.

III. VALID AND INVALID REGISTER LISTINGS

The criteria delineated in the November 8, 2000, Order for listing 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 of the claimants who are listed on Class Counsel's Register do not meet the Court-ordered criteria for Register listing.² On February 27, 2001, the Facilitator reported to the Monitor that the Facilitator had nearly completed its work in sorting out valid and invalid Register listings. The last piece of Facilitator work regarding the Register involves confirming

² Invalid Register listings are generally cases in which the claimant received his or her Adjudicator decision after July 14, 2000 (which means that the claimant's deadline to petition after November 13, 2000).

the status of approximately ninety listings. The Facilitator needs certain information from Class Counsel to make final determinations regarding these listings. The Facilitator notified the Monitor that the Facilitator intends to ask Class Counsel to provide this information by March 9, 2001.

IV. MONITOR'S REPORT ON COMPLIANCE WITH ORDER FOR THE PERIOD OF JANUARY 17, 2001 THROUGH FEBRUARY 15, 2001

The Facilitator reported the following figures to the Monitor for the period of January 17, 2001, through February 15, 2001.³

Facilitator's Report For Period of January 17,2001 Through February 15, 2001						
Law Firm	Total Petitions Filed from Entire Register	Total Withdrawals Filed from Entire Register	Total from Entire Register	Total Petitions Filed from Valid Portion of Register	Total Withdrawals Filed from Valid Portion of Register	Total from Valid Portion of Register
Conlon, Frantz	155	44	199	144	29	173
Chestnut, Sanders	115	0	115	109	0	109
Class Counsel Total	270	44	314	253	29	282

Class Counsel reports that his figures are slightly higher than the Facilitator's figures. He reports that Class Counsel

³ January 15, 2001, was a federal holiday; therefore, the January 15 filing deadline was extended to January 16, and this reporting period began on January 17.

filed a total of 358 petitions from Class Counsel's entire Register during this reporting period (208 from the Conlon, Frantz firm and 158 from the Chestnut, Sanders firm). Based on conversations with the Facilitator, the Monitor's understanding is that the discrepancy between Class Counsel's figures and the Facilitator's figures is likely due to: (1) some of the petitions included in Class Counsel's figures relate to Register listings regarding which the Facilitator has not yet made a final determination; (2) there have been some duplicate filings by Class Counsel; and, (3) it is possible that some of the petitions included in Class Counsel's figures relate to claimants who are not listed on the Register, but who are included in overall filings by Class Counsel (explained below).

V. OVERALL FILINGS BY CLASS COUNSEL

Class Counsel wrote to the Monitor on February 14, 2001, to express concern that the Monitor's report regarding Registers does not convey complete information regarding Class Counsel's efforts in the petition process. As mentioned above, in addition to filing petitions for claimants who are listed on Registers, Class Counsel has filed petitions for claimants whose names do not appear on Registers. The Facilitator's data shows that between January 17 and February 15, 2001, Class Counsel filed a total of 313 petitions and sixty-two withdrawals, for a total of 375 petitions and/or withdrawals in this reporting

period. Class Counsel reported to the Monitor that in the past two and one-half months, Class Counsel has processed a total of 1,295 claimants in the petition for Monitor review process.⁴

VI. 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 Class Counsel's Register. For the February 15, 2001, reporting deadline, Class Counsel fell short of meeting this requirement. According to the Facilitator's report, Class Counsel filed supporting materials or withdrawals on behalf of 282 claimants from the valid portion of Class Counsel's Register during the period of January 17, 2001 through February 15, 2001.

Dated: February 28, 2001

Respectfully submitted,

Randi Ilyse Roth
Monitor
Post Office Box 64511
St. Paul, Minnesota 55164-0511
877-924-7483

⁴ Class Counsel's February 14, 2001 letter reports that 1,121 of the Claimants were listed on Class Counsel's Register, and 174 of these Claimants had petition deadlines that fell after November 13, 2000, and therefore were not listed on the Register.