



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 MAY 16, 2001, THROUGH JUNE 15, 2001

A. Facilitator's Data

The Facilitator reported to the Monitor the following figures regarding Class Counsel's filing of supporting materials and withdrawals from the valid portion of the Register during the period of May 16, 2001, through June 15, 2001.

<b>FACILITATOR DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF MAY 16, 2001, THROUGH JUNE 15, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Conlon, Frantz	143	180	323
Chestnut, Sanders	85	8	93
Of Counsel	14	31	45
<b>Totals</b>	<b>242</b>	<b>219</b>	<b>461</b>

Additionally, the Facilitator reports that Class Counsel sent an additional 100 filings via Federal Express on June 8, 2001, but those filings were apparently lost in transit.<sup>1</sup>

In addition to filing supporting materials and/or withdrawals regarding claimants who are listed on the Register,

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<sup>1</sup> The Facilitator notes that Class Counsel reports that Federal Express lost the shipment.

Class Counsel has made filings for claimants who do not appear on the Register.<sup>2</sup>

B. Class Counsel's Data

Class Counsel reported to the Monitor the following figures regarding Class Counsel's filing of supporting materials and withdrawals from the valid portion of the Register during the period of May 16, 2001, through June 15, 2001.

<b>CLASS COUNSEL'S DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF MAY 16, 2001, THROUGH JUNE 15, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Conlon Frantz	181	194	375
Phillip Fraas	2	14	16
Coale Cooley	10	3	13
Speiser Krause	14	25	39
Chestnut, Sanders	32	2	34
<b>Totals</b>	<b>239</b>	<b>238</b>	<b>477</b>

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<sup>2</sup> The Facilitator reports that Class Counsel filed supporting materials and/or withdrawals regarding a total of 515 claimants during the period of May 16, 2001, to June 15, 2001. This number is irrespective of whether the claimants appeared on the valid portion of the Register. Of the 515 claimants, supporting materials were filed on behalf of 276 claimants and withdrawals were filed on behalf of 239 claimants. This means that some "withdrawals" were filed regarding claimants who, according to the Facilitator, are not validly listed on the Register.

### C. Reconciliation

Class Counsel and the Facilitator have similar data and work on an ongoing basis to reconcile their figures. They have attributed most of the discrepancies of this reporting period to three factors:

1. One shipment of filings from the Chestnut, Sanders firm was included in Class Counsel's report for the prior reporting period but included by the Facilitator in this reporting period.<sup>3</sup>

2. Class Counsel did not include in its data fifty claimants who were taken off the Register because they had already filed timely petitions through non-Class Counsel/Of Counsel attorneys. The Facilitator included these fifty claimants in their "withdrawal" count.

3. On June 8, 2001, Class Counsel submitted by Federal Express to the Facilitator 100 filings. Class Counsel informed the Monitor and the Facilitator that Federal Express has conceded that this shipment was lost. Class Counsel has informed the Monitor and Facilitator that it can retrieve copies of the 100 filings from each claimant's file and will photocopy and submit these documents to the Facilitator as soon as possible. The Facilitator will remove these names from the Register when it receives replacement copies from Class Counsel.

Once the considerations explained above are factored in, the differences between the Facilitator's data and Class Counsel's data become quite small. The Facilitator and Class Counsel reported to the Monitor that they are continuing to work together to reconcile the differences.

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<sup>3</sup> This shipment was postmarked May 16, 2001.

## 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.<sup>4</sup> The response time is sixty days. Class Counsel works with the claimant to evaluate the merits of the petition and, where appropriate, to prepare a response to the petition.

### A. Facilitator Data

The Facilitator's report explains that the Government has filed petitions for Monitor review in 528 cases, and that 343 of those have been routed to Class Counsel for response. The Facilitator reported to the Monitor the following figures regarding Class Counsel's filing of responses.

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<sup>4</sup> See Memorandum Opinion and Order, June 28, 2001.

<b>FACILITATOR DATA REGARDING CLASS COUNSEL'S RESPONSES TO GOVERNMENT PETITIONS</b>			
<b>Referral Date</b>	<b>Count</b>	<b>Response Deadline</b>	<b>Responses Received</b>
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	N/A
June 22, 2001	50	August 24, 2001	N/A

B. Class Counsel's Data

Class Counsel's data is consistent with the Facilitator's information and provides additional detail.

CLASS COUNSEL DATA REGARDING CLASS COUNSEL'S RESPONSES TO GOVERNMENT PETITIONS					
Batch of 50 Government Petitions	Received From Facilitator	Notice Mailed to Claimants (U.S. Mail)	Claimant's Response Deadline	Requests From Conlon, Frantz for Assistance	Responses Filed
1.	March 6	March 11	May 4	28	11 <sup>5</sup>
2.	March 13	March 15	May 11	29	16 <sup>6</sup>
3.	March 20	April 9	May 18	27	21
4.	March 27	April 9	May 25	23	19
5.	April 3	April 23	June 1	17	12

#### VI. CONCLUSION

According to the Facilitator's data, during the period of May 16, 2001 through June 15, 2001, Class Counsel filed supporting materials or withdrawals on behalf of 461 claimants who are listed on the valid portion of Class Counsel's Register. Additionally, Class Counsel evaluates and responds to Government petitions for Monitor review. Class Counsel assistance is

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<sup>5</sup> Class Counsel reports that:

Our response rate for this batch was lower than expected because many of the claims were presented with a common objection by the government. Without prejudicing the interest of Claimants who were the subjects of these government Petitions, Conlon, Frantz can certify that it conducted a substantive inquiry into the issue and objection raised by the government. This inquiry included seeking the assistance of an Alcorn State University representative who traveled to rural Mississippi to investigate the issue and objection. This investigation factored into the conclusion that our best course of action would be to allow the Monitor to rule on this issue without submitting a response on behalf of Claimants. Each of the Claimants was informed of our investigation and our decision to not file a response.

<sup>6</sup> See footnote 2, above.

requested by roughly half of the claimants who are the subject of each batch Government petitions. During this reporting period, Class Counsel filed responses to Government petitions on behalf of approximately three-quarters of the claimants who requested Class Counsel's assistance.

Dated: June 29, 2001

Respectfully submitted,

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