

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

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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 AUGUST 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.

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 JULY 16, 2001, THROUGH AUGUST 15, 2001

A. Facilitator's Data

The Facilitator 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 July 16, 2001, through August 15, 2001.

<b>FACILITATOR DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF JULY 16, 2001, THROUGH AUGUST 15, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Conlon, Frantz	194	142	336
Chestnut, Sanders	26	2	28
Of Counsel	21	19	40
<b>Totals</b>	<b>241</b>	<b>163</b>	<b>404</b>

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.<sup>1</sup>

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<sup>1</sup> The Facilitator reports that Class Counsel filed supporting materials and/or withdrawals regarding a total of 431 claimants during the period of July 16, 2001, to August 15, 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

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 July 16, 2001, through August 15, 2001.

<b>CLASS COUNSEL'S DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF JULY 16, 2001, THROUGH AUGUST 15, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Conlon Frantz	124	109	233
Phillip Fraas	8	8	16
Coale Cooley	7	1	8
Speiser Krause	8	2	10
Chestnut, Sanders	28	2	30 <sup>2</sup>
Kilpatrick Stockton	7	1	8
Latham Watkins	1	2	3
Piper Marbury	0	1	1
Swidler Berlin	0	1	1
Sidley Austin	6	0	6
<b>Totals</b>	<b>189</b>	<b>127</b>	<b>316</b>

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meeting the Register criteria). Of the 431 claimants, supporting materials were filed on behalf of 260 claimants and withdrawals were filed on behalf of 171 claimants. This means that some "withdrawals" were filed regarding claimants who, according to the Facilitator, are not validly listed on the Register.

<sup>2</sup> Alexander Pires notes in an August 27, 2001, memorandum to the Monitor that this number includes supporting material filed in 12 cases and withdrawals filed in two cases in which the Chestnut, Sanders firm filed directly with the Facilitator on August 15, 2001. These filings were not accounted for in Class Counsel's August 20 Report to the Court.

### C. Reconciliation

Class Counsel and the Facilitator have similar data: the difference between their figures concerns only eighty-eight filings which apparently relate to filings that were lost by Federal Express and subsequently re-submitted by Class Counsel. Both Class Counsel and the Facilitator have assured the Monitor that they will work closely together in this last month of Register activity to reconcile the remaining differences in their data.

### 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>3</sup> The response time is sixty days. Class Counsel works with the claimant to evaluate

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<sup>3</sup> See Memorandum Opinion and Order, June 28, 2001.

the merits of the petition and, if 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 560 cases, and that 557 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.

<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
June 29, 2001	50	August 31, 2001	N/A
July 6, 2001	50	Sept. 7, 2001	N/A
July 13, 2001	50	Sept. 14, 2001	N/A
July 20, 2001	50	Sept. 21, 2001	N/A
July 27, 2001	11	Sept. 28, 2001	N/A
August 3, 2001	3	October 5, 2001	N/A

B. Class Counsel's Data

Class Counsel's data is consistent with the Facilitator's information. Class Counsel's most recent deadline for

responding to government petitions was June 1, 2001. No response deadlines fell within this reporting period.

VI. CONCLUSION

According to the Facilitator's data, during the period of July 16, 2001, through August 15, 2001, Class Counsel and Of Counsel filed supporting materials or withdrawals on behalf of 404 claimants who are listed on the valid portion of Class Counsel's Register.

Dated: August 28, 2001

Respectfully submitted,

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