

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 INITIAL 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 progress of the law firms that have filed Registers of Petitions containing more than 400 claimants.

II. BACKGROUND

For thousands of claimants, the deadline for petitioning for Monitor review was November 13, 2000. Upon motion by Class

Counsel, the Court held a hearing on November 8, 2000, which explored, among other things, Class Counsel's difficulties in meeting that deadline. The Court issued an Order on November 8, 2000, which created a process by which lawyers and law firms could meet the deadline by timely filing a Register of Petitions ("Register"), and by then submitting supporting information for claimants listed on the Register according to a schedule established by the Order.

The November 8 Order 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.¹

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,

¹ 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.

Sanders, Sanders, Pettaway, Campbell and Albright, P.C. (the Chestnut, Sanders law firm).

IV. RECENT DEVELOPMENTS

On December 15, 2000, Class Counsel filed a motion requesting that the Court amend paragraph 1(e) of the Consent Decree to include as Class Counsel J.L. Chestnut of the Chestnut, Sanders law firm. On December 18, 2000, Class Counsel filed a motion requesting that the Court allow the Register filed by the Conlan, Frantz law firm and the Register filed by the Chestnut, Sanders law firm to be combined to become one Register. On December 22, 2000, the Court granted both motions.

V. 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.² These law firms have the obligation to

² 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

finish filing supporting materials or withdrawals for all of the claimants on their Registers by May 15, 2001.³

B. Attribution of Obligations

The Conlon, Frantz law firm and the Chestnut, Sanders, law firm each filed Registers listing more than 400 claimants. Pursuant to the Court's Order of December 22, 2000, they are now to be treated as one law firm for the purposes of Register obligations. Therefore, the two law firms together are required to have filed supporting materials or withdrawals regarding at least 400 claimants from their combined Registers as of December 15, 2000.

VI. MONITOR'S REPORT ON COMPLIANCE WITH ORDER

On December 15, 2000, Class Counsel filed a Report to the Court Regarding the December 15 Filing. In that report, Class Counsel wrote 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

accept supporting materials or withdrawals after May 15, 2001.

³ The November 8 Order does not affect claimants whose deadlines for petitioning for Monitor review are later than November 13, 2000. Some of the law firms that filed Registers may also have agreed to file petitions for Monitor review on behalf of claimants who have those later deadlines. Those later filing obligations are in addition to any obligations imposed by the November 8 Order.

combined Registers of Petitions.⁴ In light of the Court's December 22 Orders, explained above, this filing regarding more than 400 claimants satisfies the obligation imposed by the November 8 Order.⁵

Dated: December 26, 2000

Respectfully submitted,

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⁴ Class Counsel's Report at 3.

⁵ The Monitor has not yet been able to confirm with the Facilitator the numbers in Class Counsel's report because some of the petitions that were sent by regular mail, postmarked by December 15, have not yet been received by the Facilitator and sorted and logged into the Facilitator's system. If the final numbers confirmed by the Facilitator differ significantly from those represented by Class Counsel in its Report to the Court, the Monitor will file a supplement to this report to alert the Court to those differences.