

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

---

TIMOTHY C. PIGFORD, et al.,  
Plaintiffs,  
v.  
ANN M. VENEMAN, Secretary,  
The United States Department  
of Agriculture,  
Defendant.

---

Civil Action No.  
97-1978 (PLF)

---

CECIL BREWINGTON, et al.,  
Plaintiffs,  
v.  
ANN M. VENEMAN, Secretary,  
The United States Department  
of Agriculture,  
Defendant.

---

Civil Action No.  
98-1693 (PLF)

MONITOR'S FINAL SEPTEMBER 2001 REPORT  
REGARDING REGISTERS OF PETITIONS

I. INTRODUCTION

This report is filed to supplement the Monitor's Preliminary September 2001 Report Regarding Registers of Petitions ("Preliminary Report"). This Report addresses Register filings during the period of August 16, 2001, through September 17, 2001. Background information explained in the Preliminary Report is not repeated here.

II. MONITOR'S REPORT ON CLASS COUNSEL'S PROGRESS  
FOR THE PERIOD OF AUGUST 16, 2001, THROUGH  
SEPTEMBER 17, 2001

A. Facilitator's Data

The Facilitator reported to the Monitor the following final data regarding Class Counsel's filing of supporting materials and withdrawals from the valid portion of the Register during the period of August 16, 2001, through September 17, 2001. This data is the same as the data provided in the Preliminary Report.

<b>FINAL FACILITATOR DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF AUGUST 16, 2001, THROUGH SEPTEMBER 17, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Conlon, Frantz	163	151	314
Chestnut, Sanders	31	10	41
Of Counsel	214	49	263
<b>Totals</b>	<b>408</b>	<b>210</b>	<b>618</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>

---

<sup>1</sup> The Facilitator reports that Class Counsel filed supporting materials and/or withdrawals regarding a total of 758 claimants during the period of August 16, 2001, to September 17, 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 meeting the Register criteria). Of the 758 claimants, supporting materials were filed on behalf of 508 claimants and withdrawals were filed on behalf of 250 claimants. This means that

B. Class Counsel's Data

Class Counsel reported to the Monitor the following final data regarding Class Counsel's filing of supporting materials and withdrawals from the valid portion of the Register during the period of August 16, 2001, through September 17, 2001.<sup>2</sup> This data is the same as the data provided in the Preliminary Report.

<b>CLASS COUNSEL'S FINAL DATA REGARDING CLASS COUNSEL'S FILING FROM VALID PORTION OF REGISTER FOR PERIOD OF AUGUST 16, 2001, THROUGH SEPTEMBER 17, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Conlon Frantz	157	69	226
Phillip Fraas	24	9	33
Coale Cooley	9	2	11
Speiser Krause	8	6	14
Chestnut, Sanders	17	2	19
Pro Bono	216	58	274
<b>Totals</b>	<b>431</b>	<b>146</b>	<b>577</b>

---

some "withdrawals" were either duplicates of previous filings or filed regarding claimants who, according to the Facilitator, are not validly listed on the Register.

<sup>2</sup> This footnote addresses a correction to Class Counsel data that was reported to the Court in a previous reporting period. After the Monitor's Register report regarding the July - August 2001 period was filed with the Court, Class Counsel informed the Monitor of an error in Class Counsel's report to the Monitor. In an electronic memorandum dated August 28, 2001, Class Counsel explained to the Monitor that 32 of the 109 withdrawals reported to the Monitor (and in turn reported to the Court) concerned individuals who were not validly listed on the Register. In the electronic memorandum Class Counsel noted that this data had been correctly reported in Class Counsel's weekly reports to the Court.

C. Reconciliation

As compared to the Facilitator's data, Class Counsel reports twenty-three additional filings of supporting materials, and sixty-four fewer filings of withdrawals.

<b>RECONCILIATION OF FACILITATOR AND CLASS COUNSEL DATA FOR PERIOD OF AUGUST 16, 2001, THROUGH SEPTEMBER 17, 2001</b>			
<b>Source</b>	<b>Supporting Materials</b>	<b>Withdrawals</b>	<b>Total</b>
Facilitator	408	210	618
Class Counsel	431	146	577
<b>Difference</b> (Facilitator Minus Class Counsel Figure)	<b>(23)</b>	<b>64</b>	<b>41</b>

Both the Facilitator and Class Counsel report that the difference in their figures regarding withdrawals for this one-month period is attributable to the timing of submissions. Class Counsel reports that the filings were made prior to August 16, 2001, but were not properly recorded. The Facilitator acknowledges that Class Counsel has records indicating that the filings were made in previous reporting periods, but the Facilitator, in most instances, did not receive the filings until this last period (August 16, 2001 - September 1, 2001). (For example, Class Counsel has copies of notification letters sent directly to claimants, but it does not appear that the copies were forwarded to the Facilitator's office at the same time.)

Both the Facilitator and Class Counsel report that the difference in their figures regarding supporting materials for this one-month period is attributable to Class Counsel filing supplements and/or amendments to twenty-three Petitions that were filed and accounted for in previous reporting periods.

III. 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.

A. Final Facilitator Data

The Facilitator reported to the Monitor the following final figures regarding Class Counsel's filing of responses.

<b>FINAL FACILITATOR DATA REGARDING CLASS COUNSEL'S RESPONSES TO GOVERNMENT PETITIONS</b>			
<b>Referral Date</b>	<b>Number Referred to Class Counsel</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	31
June 22, 2001	50	August 24, 2001	34
June 29, 2001	50	August 31, 2001	29
July 6, 2001	50	Sept. 7, 2001	26
July 13, 2001	50	Sept. 14, 2001	31

B. Class Counsel's Data

Class Counsel's data regarding responses to government petitions follows.

<b>FINAL CLASS COUNSEL DATA REGARDING CLASS COUNSEL'S RESPONSES TO GOVERNMENT PETITIONS</b>		
<b>Response Deadline</b>	<b>Number Referred to Class Counsel</b>	<b>Number of Responses Filed</b>
May 4, 2001	50	11
May 11, 2001	50	16
May 18, 2001	49	22
May 25, 2001	50	28
June 1, 2001	44	18
August 17, 2001	50	31
August 24, 2001	50	34
August 31, 2001	50	29
Sept. 7, 2001	50	26
Sept. 14, 2001	50	32

C. Reconciliation

The Facilitator's data and Class Counsel's data differ only in that Class Counsel reports one filing of a response that has not been received by the Facilitator.<sup>3</sup>

IV. CONCLUSION

This report focuses on the one-month period of August 16, 2001, through September 17, 2001. According to final Facilitator data, during that period Class Counsel and Of

---

<sup>3</sup> This filing was in the September 14 deadline group, and Class Counsel reports that it was sent in by "other counsel." ("Other counsel" refers to counsel other than the Conlon, Frantz and Chestnut, Sanders firms.)

Counsel filed supporting materials or withdrawals on behalf of 618 claimants who are listed on the valid portion of Class Counsel's Register.

Overall, for the entire Register period, the Facilitator reports that supporting materials or withdrawals have been filed on behalf of all individuals listed on the Register. The Monitor is aware, however, that several problems have arisen in the implementation of the Register process. As a result of these problems, the processing of many claimants' petitions has been delayed, suspended, or terminated. Data regarding those problems will not be available from the Facilitator until mid-to late November. When the data become available, the Monitor will file a report to inform the Court about the specifics.

Dated: November 7, 2001

Respectfully submitted,

---

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