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FILED
JUL 08 2016
BRIAN R. MARTINOTTI, J.S.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION: BERGEN COUNTY

IN RE Stryker Rejuvenate & ABG II
Modular Hip Implant LITIGATION

CASE NO. 296
MASTER DOCKET NO. : BER-L-936-13

This Document Relates To:
ALL CASES

CIVIL ACTION

ORDER APPROVING REIMBURSEMENT TO THE PLAINTIFFS' STEERING COMMITTEE COMMON BENEFIT COST ASSESSMENT FOR GENERIC COSTS INCURRED BY THE PLAINTIFFS' STEERING COMMITTEE FOR GENERIC LITIGATION RELATED EXPENSES

Having considered the Application to Authorize Payment of common benefit costs for generic costs incurred by the Plaintiffs' Steering Committee (PSC) for the general litigation related expenses, the Court hereby orders:

1. The Plaintiffs' Steering Committee brought before this Court an application seeking partial distribution from the Common Benefit Cost Assessment Fund pursuant to this Court's November 3, 2014 Order Aiding Private Settlement.

2. On November 3, 2014 a master settlement in the above matter was announced before this Court.

3. On that same date this Court entered an order entitled Order Aiding Private Settlement. The order provided that a Common Benefit Cost Assessment of ½ of 1% be applied to each New Jersey MCL filed case that enrolled in the settlement.

4. Since that date the Defendant has paid on settlements from which the Common Benefit Cost Assessment has been deducted creating a fund sufficient to pay for the costs submitted by the Plaintiffs' Steering Committee's application, Those funds are held in escrow by Providio, a company agreed to by the parties as part of the settlement administration and thus appointed by this Court in the Order Aiding Private Settlement, to administer lien resolution and establish a Qualified Settlement Fund (QSF) in administration of the settlement.

5. In accordance with the same order, a share of the lien administration expenses and the cost of establishing the Qualified Settlement Fund have been paid to Providio pursuant to prior orders of this court. It is currently estimated by the Qualified Settlement Fund and Lien Resolution Administrator (Providio) that additional disbursements of $141,986 will be made. It is hereby ordered that the anticipated Providio bills of $141,986 may be paid from the Common Benefit Cost Assessment Fund held in escrow by Providio after review and approval by the PSC.

6. The above referenced order permits the Court appointed PSC to apply to the Court for reimbursement of, "substantial costs expended funding the litigation such as transcripts, electronic document repository, expert and medical research costs, travel and mediation fees."

7. The expenses for which the PSC seeks to be reimbursed have been incurred in two basic ways. First, leadership created a common fund through contributions from which ongoing common benefit litigation expenses have been paid. Those contributions were made by the PSC

firms and some of the firms who were appointed to sub-committees. Second, those in leadership positions, primarily the members of the PSC, have individually incurred non-case specific, common benefit expenses that remain unreimbursed by the common fund.

8. The Court has reviewed *en camera* "Exhibit A," a current accounting of funding and payments from the Qualified Settlement Fund: MCL Common Benefit administrator, Providio, along with the bills that were the basis for this Court's June 24, 2016 order which authorized payment to Providio of an additional $36,500 which has since been paid.

9. The Court has reviewed *en camera* Exhibit B, which contains an accounting of all disbursements made from the Plaintiffs' Steering Committee's Common Assessment Fund with Wells Fargo Bank, entitled Stryker NJ Common Benefit Fund, maintained by the firm of Anapol Weiss. To date those payments for costs such as transcripts, electronic document depository hosting, mediation fees, and lien resolution consulting fee costs total $385,593.35.

11. The Court has reviewed Exhibit C and understands that the cost enumerated for insurance premium for the settlement program is to be shared jointly with the MDL group who pays from their separate cost fund, and thus $69,625 is another accepted cost pursuant to the Nov, 3, 2014 order.

10. The Court has reviewed *en camera* Exhibit D which is comprised of the PSC firm's summary accounting and bills for of all common benefit costs incurred by individual PSC members for which they seek reimbursement from the common benefit fund.

11. Leadership seeks the Court's approval of the submitted expenses and an order directing Providio to disburse any reimbursements approved by this Court in accordance with the Court's November 3, 2014 order. Having duly considered this Application, to Authorize Payment of

Common Benefit expense reimbursement, consistent with the November 3, 2014 Order Aiding Private Settlement, and recognizing that the costs described in this Order and enumerated in the attachments have been duly incurred in litigating, settling, and administering the settlement program, the Court hereby approves the submitted expenses and authorizes that Providio issue a check from the escrow account for $976,662.07 to the account entitled Stryker NJ Common Benefit administered by Thomas Anapol, Esq. of Anapol Weiss, one of the court-appointed members of the PSC so that he can reimburse through that account the specific costs enumerated in the Exhibits attached to this Order to the following firms in the following amounts:

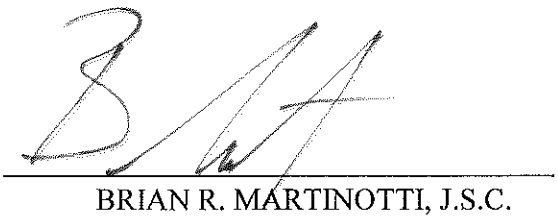
Searcy Denney Generic Costs: $235,540.41
Weitz & Luxenberg Generic Costs: $32,979.31
Anapol Schwartz Generic Costs: $61,721.61
Seeger Weiss Generic Costs: $5,393.60
Robins Kaplan Generic Costs: $179,456.37
Pogust Braslow Generic Costs: $6,352.42

TOTAL $521,443.72

and the payment of $69,625 for the pending bill enumerated above, and reimbursement to the Stryker NJ Common Benefit account of $385,593.35 for the common benefit costs the account paid which will enable reimbursement of a substantial portion of the contributions made by the PSC firms and Committee firm members who provided the funding for the litigation at its outset, in the discretion of the PSC, who still need to keep funds available to pay for ongoing document depository and discovery costs, and other ongoing costs related to the cases that have not settled to date.

IT IS SO ORDERED

Date: July 6, 2016



BRIAN R. MARTINOTTI, J.S.C.