

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

IN RE: TYLENOL (ACETAMINOPHEN)
MARKETING, SALES PRACTICES AND
PRODUCTS LIABILITY LITIGATION

*THIS DOCUMENT RELATES TO ALL
CASES*

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MDL NO. 2436

2:13-md-02436

HON. LAWRENCE F. STENGEL

CASE MANGEMENT ORDER NO. 4

(APPOINTING PLAINTIFFS' STEERING COMMITTEE, LEAD AND LIASION COUNSEL
AND PLAINTIFFS NEW JERSEY STATE-FEDERAL LIASION)

AND NOW, this 21st day of May 2013, the Court having carefully reviewed the Applications for Appointment to the Plaintiffs' Steering Committee ("PSC"), it is hereby **ORDERED** as follows:

I. APPOINTMENT OF THE PLAINTIFFS' STEERING COMMITTEE AND LEADERSHIP POSITIONS

The following attorneys are hereby appointed to the PSC to perform the duties set forth in *Section II* herein. Specific leadership roles, if any are set forth after the respective counsel's name:

- 1) Laurence S. Berman, Esquire
LEVIN FISHBEIN SEDRAN & BERMAN
510 Walnut St., Suite 500
Philadelphia, PA 19106
215-592-1500
215-592-4663 (facsimile)
LBerman@lfsblaw.com

Mr. Berman is appointed Plaintiff Co-Lead and Plaintiff Liaison Counsel)

- 2) R. Clay Milling, Esquire
HENRY SPIEGEL MILLING LLP
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(404) 832-8050 (facsimile)
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Mr. Milling is appointed Plaintiff Co-Lead Counsel.

- 3) Chris Seeger, Esquire
SEEGER WEISS, LLP
77 Water Street
New York, NY 10005
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(212) 584-0799 (facsimile)
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- 4) James F. Green, Esquire
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- 5) Leonard Davis, Esquire
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- 6) Gil Gainer, Esquire
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- 7) Dianne Nast, Esquire
NASTLAW
1101 Market Street
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Philadelphia, Pennsylvania19107

(215) 923-9300
(215) 923-9302 (facsimile)
DNast@nastlaw.com

Additionally, the Court hereby appoints as New Jersey Federal-State Liaison:

David Buchanan, Esquire
SEEGER WEISS, LLP
77 Water Street
New York, NY 10005
(212) 584-0700
(212) 584-0799 (facsimile)
DBuchanan@seegerweiss.com

II. DUTIES AND RESPONSIBILITIES

A. PLAINTIFFS' LIAISON COUNSEL

Plaintiffs' Liaison counsel is hereby charged with essentially administrative functions including the responsibility to:

1. serve as the recipient for all Court orders on behalf of all of the Plaintiffs;
2. coordinate service and filings for all Plaintiffs whether presently included or subsequently added;
3. maintain and distribute to co-counsel and to Defendants' Counsel an up-to-date service list;
4. receive and distribute pleadings, orders, and motions by overnight courier service and/or telecopier within two days after receipt, unless such service has been waived, in writing, by a receiving counsel (until some program for electronic service can be arranged and agreed upon);
5. coordinate and maintain the establishment of a document depository, real or virtual, to be available to all participating Plaintiffs' counsel;

6. maintain and make available to all participating Plaintiffs' counsel of record at reasonable hours a complete file of all documents served by or upon each party (except such documents as may be available at a document depository);

7. prepare agendas for court conferences and periodically report regarding the status of the case; and,

8. carry out such other duties as the Court may order.

Liaison Counsel shall be entitled to seek reimbursement for costs expended at the time and in a manner approved by the Court.

Further, the PSC and Liaison Counsel shall coordinate the responsibilities of the PSC, schedule PSC meetings, keep minutes or transcripts of these meetings, appear at periodic Court noticed status conferences, perform other necessary administrative or logistic functions of the PSC, and carry out any duty as ordered by the Court.

B. PLAINTIFFS' STEERING COMMITTEE AND CO-LEAD COUNSEL

The Plaintiffs' Steering Committee ("PSC") and Co-Lead Counsel shall, at a minimum, have the following responsibilities:

1) **DISCOVERY**. The PSC and Co-Lead Counsel shall:

- a. Initiate, coordinate, and conduct all pretrial discovery on behalf of Plaintiffs in all actions which are consolidated with the instant Multidistrict Litigation;
- b. Develop and propose to the Court schedules for the commencement, execution, and completion of all discovery on behalf of all Plaintiffs;
- c. Cause to be issued in the name of all plaintiffs the necessary discovery requests, motions, and subpoenas pertaining to any witnesses and documents needed to properly; and,
- d. Conduct all discovery in a coordinated and consolidated manner on behalf of and for the benefit of all plaintiffs, in a fashion in keeping

with practice guidelines to be established in subsequent discovery plans or orders of this Court.

2) **HEARINGS AND MEETINGS.** The PSC and Co-Lead Counsel shall:

- a. Call meetings of Plaintiffs' counsel for any appropriate purpose, including coordinating responses to questions of other parties or of the Court;
- b. Initiate proposals, suggestions, schedules, or joint briefs, and any other appropriate matter(s) pertaining to pretrial proceedings;
- c. Examine witnesses and introduce evidence at hearings on behalf of Plaintiffs;
- d. Communicate on behalf of all Plaintiffs at pretrial proceedings and in response to any inquiries by the Court, subject to the right of any Plaintiff's counsel to present non-repetitive individual or different positions.

3) **MISCELLANEOUS.** In addition, the PSC and Co-lead Counsel shall:

- a. Submit and argue any oral or written motions presented to the Court on behalf of the PSC and oppose when necessary any motions submitted by the Defendants or other parties which involve matters within the sphere of the PSC;
- b. Negotiate and enter into stipulations with Defendants' Steering Counsel regarding this litigation. All such stipulations must be submitted to the Court for approval, except for purely administrative details. Any attorney not in agreement with a non-administrative stipulation shall file with the Court a written objection within 5 days after he/she knows or should have reasonably become aware of the stipulation. Failure to object within the term allowed shall be deemed a waiver and the stipulation will automatically be binding on that party.
- c. Explore, develop and pursue all settlement options pertaining to a claim or portion thereof of any case filed in this litigation;
- d. Perform any task necessary and proper for the PSC to accomplish its responsibilities as defined or authorized by the Court's orders; and,
- e. Maintain adequate files of all pretrial matters, including establishing and maintaining a document or exhibit depository, in either real or virtual format, and having those documents available,

under reasonable terms and conditions for examinations by all MDL plaintiffs or their attorneys;

- f. Perform any task necessary and proper for the PSC to accomplish its responsibilities as defined by the Court's Orders, including organizing subcommittees comprised of plaintiffs' lawyers not on the PSC and assigning tasks consistent with the duties of the PSC. Membership on the subcommittees shall be subject to the approval of the Court, and,
- g. Perform other such functions that may be expressly authorized by further Court Orders

Compensation for work performed and the approved costs incurred by the PSC, Co-Lead, Liaison Counsel, any subcommittee approved by the PSC, Co-Lead and Liaison Counsel or any attorney appointed by this Court *ie.* New Jersey Federal-State Liaison, will be paid by the common benefit funds which and shall be covered in a separate Case Management Order.

C. **NEW JERSEY FEDERAL-STATE LIAISON**

The New Jersey Federal-State Liaison is to provide reports to the Court at status conferences on state and federal court coordination efforts, to facilitate the coordination of discovery efforts in cooperation with Defendants, and to perform such other duties as the Court may order. Any communications with Judges, litigants, and attorneys must make clear that the New Jersey Federal-State Liaison is an attorney representing plaintiffs in the MDL, not a Court representative or neutral spokesperson.

SO ORDERED this 21st day of May, 2013



LAWRENCE F. STENGEL, J.