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1:91-cv-00256-HJW-SM Bowling, et al, v. Pfizer Inc, et al **CASE CLOSED on 09/10/1992**
CLOSED, R/R, SalePending, SuppressAnsRpt

U.S. District Court
Southern District of Ohio

Notice of Electronic Filing

The following transaction was entered by Lawson, Nancy on 4/15/2009 at 2:33 PM EDT and filed on 4/15/2009

Case Name: Bowling, et al, v. Pfizer Inc, et al
Case Number: 1:91-cv-256
Filer: Peter J Strauss
James A. Higgins

WARNING: CASE CLOSED on 09/10/1992

Document Number: 2592

Docket Text:

NOTICE by Trustee James A. Higgins, Special Master Peter J Strauss of Filing of the Thirtieth Report of the Special Masters/Trustees Covering the Period from October 9, 2008 to April 15, 2009 (Attachments: # (1) Exhibit 1, # (2) Exhibit 2, # (3) Exhibit 3, # (4) Exhibit 4, # (5) Exhibit 5) (Lawson, Nancy)

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Document description:Main Document
Original filename:n/a
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Document description:Exhibit 1

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Document description:Exhibit 2

Original filename:n/a

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Document description:Exhibit 3

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit 4

Original filename:n/a

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Document description:Exhibit 5

Original filename:n/a

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ARTHUR RAY BOWLING, ET AL.,	:	
PLAINTIFF,	:	No. C-1-91-256
v.	:	
PFIZER, INC. ET AL.,	:	JUDGE HERMAN J. WEBER,
DEFENDANT.	:	SENIOR JUDGE
	:	
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**NOTICE OF FILING OF THE THIRTIETH REPORT OF THE
SPECIAL MASTERS/TRUSTEES COVERING THE PERIOD
FROM OCTOBER 9, 2008 TO APRIL 15, 2009**

NOTICE IS HEREBY GIVEN to all counsel of record that the THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES COVERING THE PERIOD FROM OCTOBER 9, 2008 to APRIL 15, 2009 is hereby filed with the Court.

Respectfully submitted,

/s/ Nancy A. Lawson
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*Attorney for
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE: : Case No. C-1-91-256
: :
BOWLING-PFIZER LITIGATION : Judge Herman J. Weber,
: Senior Judge

THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES
COVERING THE PERIOD FROM OCTOBER 9, 2008 TO APRIL 15, 2009

SPECIAL MASTERS/TRUSTEES

James A. Higgins, Esq.
Peter J. Strauss, Esq.

AGENDA

THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES

In Re: Bowling-Pfizer Litigation

Case No. C-1-91-256

April 30, 2009
11:00 A.M.

Hon. Herman J. Weber, Senior Judge

1. Introductory remarks by Judge Weber.
2. Report of the Special Masters/Trustees.
3. Comments from Counsel:
 Class Counsel.
 Counsel for Defendants.
4. Questions and comments from those in attendance.
5. Request for date of next report of Trustees.
6. Closing remarks of Judge Weber.

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- A. Thirtieth Report of the Special Masters/Trustees
- B. Appendices to Court Report
 - 1. Summary of Research
 - 2. "Hit Report" regarding the Supervisory Panel's Website.
 - 3. Summary of the Status of Funding for the Settlement at December 31, 2008.
 - 4. Unaudited balance sheet as of December 31, 2008 and an unaudited statement of income and funds balance for the year ended December 31, 2008.
 - 5. Independent Auditors' Report for the year ended December 31, 2007.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

IN RE: : **Case No. C-1-91-256**
BOWLING-PFIZER LITIGATION : **Judge Herman J. Weber,**
: **Senior Judge**

THIRTIETH REPORT OF THE SPECIAL MASTERS/TRUSTEES

To the Honorable Herman J. Weber, Senior Judge, United States District Court:

Your Special Masters/Trustees respectfully present their thirtieth periodic report, covering activities from October 9, 2008 to April 15, 2009. This report is submitted fifteen days prior to the status hearing before the Court scheduled for April 30, 2009.

I. PATIENT BENEFIT FUND

A. Supervisory Panel. The research project for ACES to study the BSCC heart valve sound recordings made on patients who participated in the imaging studies at Stanford and Beaumont has been completed. Unfortunately, the quality of the imaging study recordings was not at a level which permitted ACES to successfully analyze the acoustic signals of the heart valves therein. The panel is waiting on the outcome of the study by Dr. J. de Hart of HemoLab Cardiovascular Engineering in The Netherlands entitled "Outlet strut vibratory response study of BSCC valves at disc-strut closure impact" prior to considering possible next steps with ACES. The purpose of that study is to conduct in vitro research on seven BSCC heart valves, including the valve which had been implanted in a sheep at BioSurg, but was misclassified. The results of Phase I (static study of valves in air) of the study are expected in April, 2009.

The Supervisory Panel received a proposal from MedicAlert to provide emergency alert services to class members in Europe. After discussions with representatives from MedicAlert and with counsel, the Panel decided not pursue the proposal at this time because the Panel is still hopeful of developing a device or method that will give class members important information about the status of their valves and funds need to be preserved for this research.

A renewal agreement for the Penn State University, Hershey Imaging Program was approved by the Court on October 27, 2008 for a period of an additional six months or until the \$160,000 funding authorized by the Court is expended. As of February 28, 2009, the balance of funds remaining for this program was \$65,338. The Panel has recommended another six-month extension of this program.

In December 2008, Drs. Harrison and Weyman and the Chair of the Supervisory Panel along with John Johnson made an on-site visit to Hershey Medical Center. As a result of that visit, the Panel is in preliminary discussions with Hershey regarding Hershey's review of cine fluoroscopy films of BSCC heart valve patients.

In October 2008, Class Counsel requested that the panel consider posting a list of high-risk valves on the Bowling Pfizer website. After review of the materials submitted, the Panel decided not to post such a list as it is the Panel's position that such a list would undermine the guidelines and create confusion for the vast majority of class members who do not qualify for payment of surgical benefits under the guidelines.

At the April 30, 2008 hearing with the Court, the Court requested that the Trustees investigate the ramifications of indemnification by the Trust of the parties who are not otherwise protected by insurance in the event that the trust funds dwindle to the extent that indemnification is meaningless. The Trustees analyzed this issue and determined that commercial insurance should be investigated. The Trustees have investigated commercial insurance and have submitted several

applications for insurance. In each instance, the carriers either declined to provide coverage for the members of the Supervisory Panel or imposed such exclusions from their proposed coverage as to make the coverage pointless in relation to eliminating the risk of indemnification of the members of the Panel by the Trust. At this time the Trustees are not optimistic that satisfactory insurance can be obtained for the members of the Supervisory Panel. The Trustees will pursue this matter if circumstances change and a carrier is located that will provide coverage for the members of the Supervisory Panel. The Trustees will continue to report to the Court on the status of this matter.

B. Guidelines. Drs. Harrison, Ibrahim and Ivey regularly monitor the pertinent world-wide literature and review reported events occurring to class members to ensure that any issues which may impact the guidelines are detected and considered by the full panel. They have found no information indicating the need to change the Guidelines at this time.

C. Research. Our report on the status of the research program of the Supervisory Panel is set out in the attached Appendix 1.

D. Imaging. Since the imaging program at Penn State resumed again, effective April 26, 2005, there have been eleven imaging sessions for seven implantees who may qualify for valve replacement surgery. One implantee was imaged three times and two implantees were imaged two times during this period.

E. Repository. The Supervisory Panel maintains a repository of certain documents and information concerning the BSCC heart valve. The repository contains reports on the results of research sponsored by the Supervisory Panel, minutes of meetings of the Supervisory Panel, a bibliography of published literature regarding the BSCC heart valves, certain unpublished reports prepared by Dr. Ron Brookmeyer of his statistical analysis, the Bowling Settlement Agreement, and other information. The repository is available electronically in a database. Some of the information, such as published articles are not available for review due to copyright and other intellectual

property concerns. To access the on-line repository, an individual need only contact the Trustees' office for the website address and a password.

F. Website. The Supervisory Panel's website continues to be found at www.bowling-pfizer.com. It provides basic information on the parties involved (biographies, addresses, telephone numbers, email, etc.), certain orders of the Court including the Guidelines, the Settlement Agreement, Trustee Reports and a bibliography of relevant articles as well as other important information. The panel prepared a summary of key studies which is intended to provide a more user-friendly bibliography. This user-friendly bibliography is available on the website. A copy of the most recent "hit report" of the Supervisory Panel's website is attached to this Report as Appendix 2.

G. Valve Replacement Surgery Claims and Fracture Claims.

The Claims Administrator continues to receive and process claims for valve replacement surgery and outlet strut fracture. Some of the claimants have elected other courses of action rather than to receive the Settlement benefits.

From the beginning there have been 98 (74 foreign) qualified outlet strut fracture claims and 99 (39 foreign) qualified valve replacement surgery claims other than single leg fracture claims. In addition, there have been 39 (16 foreign) single leg fracture claims.

The office of the Claims Administrator continues to fulfill requests to calculate estimated annual fracture rates under the 2007 Guidelines and to respond to other inquiries from and on behalf of Class Members.

II. FINANCIAL INFORMATION

At December 31, 2008, the total balance of cash and cash equivalents was \$21,880,946.

Attached as Appendix 3 are a summary of the status of funding for the Settlement and five related schedules.

Attached as Appendix 4 are the following: an unaudited balance sheet as of December 31, 2008 and an unaudited statement of income and funds balance for the year ended December 31, 2008 (which includes the budgeted amounts for expenses for the administrative office for the year ended December 31, 2008).

Attached as Appendix 5 is a copy of the Independent Auditors' Report for the year ended December 31, 2007.

III. COMMUNICATIONS

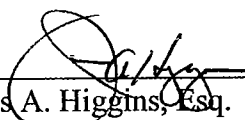
Communications remain open, whether with physicians, Class Members, other BSCC heart valve implantees, Class Counsel, Special Counsel, Defendant's Counsel, or Counsel for Public Citizen.

IV. APPROVALS


Your honor, the Special Masters/Trustees request that the Court:

- Approve this Report, and
- Approve, or provide guidance with respect to, each of the Appendices to this Report, and
- Provide guidance with respect to any duty of the Special Masters/Trustees, and
- Fix the date for the next Report.

Respectfully submitted,



James A. Higgins, Esq.



Peter J. Strauss, Esq.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of this Thirtieth Report of the Special Master/Trustee Covering Period from October 9, 2008 to April 15, 2009, has been electronically sent to the following this 15th day of April, 2009.

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SUPERVISORY PANEL SUMMARY OF RESEARCH PROJECTS (as of April 6, 2009)

A. Current Epidemiology Projects		Effective Date	Termination Date	Description of Project	Current Status	Contract Amount	Billed To Date
None							
B. Current Imaging & Acoustic Projects		Effective Date of Contract	Termination Date	Description of Project	Current Status	Contract Amount	Billed To Date
1.	Hershey Imaging	10/27/08	4/28/09	Radiographic Imaging to Detect SLS		\$160,000	\$94,662
2.	Hemolab Cardiovascular (Jurgen de Hart)	12/10/08	8/9/09	Study of second harmonic in BSCC valves.		€75,000	0
C. Projects Completed During Quarter							
3.	ACES	7/14/08	12/22/08	Analysis of acoustic recordings of human volunteers		\$37,900	\$37,900
D. Approved Research Projects Pending Contract							
None							
E. Proposed Research Projects							

