

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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DONALD BATES, et al.,
Plaintiffs,
v.
ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

No. C 09-4150 CW
ORDER ON
STIPULATED MOTION
REGARDING
PLAINTIFFS'
REQUEST FOR
ADMINISTRATIVE
RELIEF AND ORDER
ESTABLISHING
QUALIFIED
SETTLEMENT FUND
AND APPOINTING
FUND
ADMINISTRATOR

CAROLYN HARRISON, et al.,
Plaintiffs,
v.
ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

No. C 09-4151 CW

TODD BOGGIS, et al.,
Plaintiffs,
v.
ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

No. C 09-4159 CW

United States District Court
For the Northern District of California

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PAUL TRIM, et al.,
Plaintiffs,

No. C 09-4160 CW

v.

ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

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ANTONIO BURTON, et al.,
Plaintiffs,

No. C 09-4162 CW

v.

ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

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GLORIA MILLER, et al.,
Plaintiffs,

No. C 09-4163 CW

v.

ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

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DAVID MARTE, et al.,
Plaintiffs,

No. C 09-4164 CW

v.

ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

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BONG NGUYEN, et al.,
Plaintiffs,

No. C 09-4166 CW

v.

ASTRAZENECA LP, ASTRAZENECA
PHARMACEUTICALS LP and MCKESSON
CORPORATION,
Defendants.

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Plaintiffs in these related cases and Defendants AstraZeneca LP, AstraZeneca Pharmaceuticals LP and McKesson Corporation ask the Court to assert jurisdiction over a settlement fund discussed in the parties' Master Settlement Agreement (MSA). In support of this joint request, the parties cite 26 C.F.R. § 1.468B-1(c)(1). Plaintiffs, but not Defendants, also seek an order establishing the "MLF Qualified Settlement Fund" and appointing the Garretson Firm Resolution Group, Inc. as fund administrator and trustee.

Treasury Regulation section 1.468B-1(c)(1) defines a qualified settlement fund to be one that is "established pursuant to an order of, or is approved by, the United States, any state (including the

1 District of Columbia), territory, possession, or political
2 subdivision thereof, or any agency or instrumentality (including a
3 court of law) of any of the foregoing and is subject to the
4 continuing jurisdiction of that governmental authority." The
5 regulation states that a fund is "'ordered by' or 'approved by' a
6 governmental authority . . . when the authority issues its initial
7 or preliminary order to establish, or grants its initial or
8 preliminary approval of, the fund, account, or trust, even if that
9 order or approval may be subject to review or revision." 26 C.F.R.
10 § 1.468B-1(e)(1). The regulation, however, does not appear to
11 provide the authority for the Court to establish a fund, or explain
12 the criteria for doing so.

13 These related cases are not class actions. Thus, there are no
14 absent class members to whom the Court owes a duty to protect and
15 the Court is not required to grant preliminary approval of the
16 parties' settlement. This contrasts with the examples identified
17 in section 1.468B-1, which refer to instances in which a court has
18 approved of settlements with a plaintiff class.

19 Accordingly, within three days of the date of this Order, the
20 parties shall file a joint brief, not to exceed three pages, on the
21 authority by which the Court may grant the relief they seek and the
22 criteria it should apply. Further, the parties shall explain why
23 the Court's intervention in their settlement is necessary.

24 IT IS SO ORDERED.

25 Dated: 2/15/2011



CLAUDIA WILKEN
United States District Judge