

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

MDL NO. 1430

MASTER FILE NO. 01-CV-10861-RGS

IN RE: LUPRON® MARKETING AND
SALES PRACTICES LITIGATION

MEMORANDUM ACKNOWLEDGING RECEIPT OF THE FINAL REPORT
ON THE A. DAVID MAZZONE AWARDS PROGRAM
AND ORDER THAT ALL REMAINING PROGRAM FUNDS BE
DISBURSED TO THE DANA FARBER CANCER INSTITUTE

May 29, 2020

STEARNS, D.J.

On August 6, 2010, this court awarded the surplus funds from the Lupron® Class Settlement Pool to the Dana-Farber/Harvard Cancer Center (DF/HCC) and the Prostate Cancer Foundation (PCF) as the joint administrators and custodians of a prostate cancer and related diseases research program named in the honor of late District Judge A. David Mazzone. On March 3, 2020, the court received the Final Annual Report (number 14 in a series) summarizing the nine years of the Program's accomplishments. The Report was submitted by Dr. Miles Brown of

DF/HCC, the Principal Investigator, and Dr. Jonathan Simons of PCF, the Co-Principal Investigator.¹

It is with a sense of deep gratitude to all of those who contributed to the success of the Awards Program, and admittedly, with pangs of nostalgia, that with the acceptance of this Report, I declare that the Program has come to its conclusion. The goals of the Program were charted by the court with the assistance of a distinguished Scientific Advisory Board (SAB).² Members of the SAB, the DF/HCC Prostate Cancer Program, the SPORE Governance Committee, and two delegates selected by the court, Jonathan Tilly, PhD, of the Vincent Center for Reproductive Biology, who served as the court's Science Advisor, and First Circuit Executive, Gary Wentz, who served as the Patient Advocate, all donated numerous hours of their precious time to the Program. They personally reviewed the hundreds of applications that led to

¹ The court is deeply indebted to the two Principal Investigators, as well as to Dr. Philip Kantoff, Dr. Brown's predecessor, who served as the Principal Investigator until relocating to New York in 2015, and the indefatigable Howard Soule, PhD, the Chief Science Officer at PCF, for their integrity, dedication, and contribution to the Awards Program. There are a host of others to whom the court is also indebted who are too many in number to list in a brief order of this kind. I must, however, pause to acknowledge the tireless efforts invested in the administration of the Program by Juan Carlos Hincapie, who managed this enormous undertaking with skill and a spirit of magnanimity, ensuring its success.

² The names of the members of the SAB can be found on page 3 of the Final Report.

the award of research grants supporting “high impact” studies, clinical trials, disparities research, community outreach, career development, and student training. The Challenge Awards extended by PCF over and above the court’s original almost \$12 million cy près award served as a true “force multiplier” in expanding the reach and impact of the Program.³ Over its nine years of existence, the Program supported 142 investigators and 43 separate research projects nationwide.

As announced at the inception of the Awards Program, the court’s intent was to create an appropriate mechanism for the distribution of the unclaimed class action funds in the consumer settlement pool in a manner that would satisfy, as best the court could determine it, the wishes of patients, among them Judge Mazzone, who had fallen victim to prostate cancer, the disease that the drug Lupron[®] was developed to treat. After soliciting public comment and proposals, the court came to the view that their most fervent wish would have been to promote research seeking a cure for the disease as well as the discovery of new or enhanced methods of ameliorating its progression and debilitating effects. The court also expressed a desire to

³ The Program also benefited from the generosity of the institutions hosting the Program grantees who agreed to absorb all overhead costs rather than taxing the award funds. Careful stewardship of the funds also made it possible to fund two career development awards in the final year using unspent awards balances at no further expense to the Program.

direct funding to cutting edge and experimental investigations that have difficulty competing for funds from established sources, particularly in an environment in which government support for scientific research has greatly diminished. The outreach and diversity aspects of the Program, as well as its Student Training Program, were also integral to its success.

The harvest of Program achievements is reflected in the dozens of peer-reviewed publications, patent applications, and symposia presentations generated by the investigators and team leaders. As these are too numerous to detail in this order, I will post the Final Report which summarizes them in detail on the court's web site for any interested member of the scientific community or general public to review.

On a final note, one of the most satisfying days I have spent as a judge was attending the Program Retreat on September 13, 2019. Hosted by Dana Farber, a cross-section of Mazzone Awards grantees presented the results of their investigations, ranging from Dr. Steven Balk's paper on "Prostate Cancer Molecular Heterogeneity and Responses to Intensive Androgen Deprivation Therapy," to Professor Lorelei Mucci's presentation on "Epidemiology Studies of Racial and Ethnic Disparities in Prostate Cancer," to select but two offerings from the feast of superb science the Program

supported.⁴ I am privileged to have had the opportunity to play a small part in bringing the Program into existence.

As its last Program order, the court will now direct the Court Registry Investment System to issue a check paying over to Dana Farber Cancer Institute d/b/a Dana-Farber/Harvard Cancer Center the balance of the funds remaining in the cy prè account, plus any accrued interest to date.⁵ The Clerk will post the Final Report to the District Court's public website and then formally close the case on the court's docket.

SO ORDERED.

/s/ Richard G. Stearns
UNITED STATES DISTRICT JUDGE

⁴ Copies of the slide decks of the papers presented at the September Symposium can be found beginning at page 46 of the Final Report.

⁵ Currently the court holds \$35,271.47 in principle, and \$17,493.65 in accrued interest in the *Lupron*® court registry account. The total available as of May 29, 2020 is \$52,765.12.