

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X

**In Re: Methyl Tertiary Butyl Ether
("MTBE") Products Liability Litigation**

**Master File No. 1:00-1898
MDL No. 1358 (SAS)
M21-88**

----- X

This Document Relates To:

State of New Mexico vs. Amerada Hess Corp., et al.
Civil Action No.: 04-CV-1726

----- X

PETITION FOR ATTORNEYS' FEES

To prosecute the State of New Mexico's MTBE claims, the New Mexico Office of the Attorney General entered into a Professional Services Agreement with Baron & Budd, P.C., Weitz & Luxenberg, P.C., and Sher Leff LLP. The Agreement does not specify an exact fee percentage to be paid to the Firms out of the State's recovery; rather, the Agreement requires the three Firms to petition the Court for a determination of reasonable fees and costs to be awarded out of a successful recovery for the State.

In Re: Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation Doc. 2984
When the State settled its claims against the non-ExxonMobil Defendants last year, the Firms asked the Court to award the Firms a fee in the amount of 33 1/3 % of the State's settlement and to award the Firms their litigation costs and expenses. *See* Petition for Attorney's Fees, attached as Exhibit A. The Court granted the Firms' request, ordering that 33 1/3 % of the State's cash recovery plus the final allocation of costs and expenses be awarded to Baron & Budd, P.C., Weitz & Luxenberg, P.C., and Sher Leff LLP. *See* Order Granting Petition for Attorney's Fees, attached as Exhibit B.

The State has since settled its claims against two additional defendants — ExxonMobil and Navajo Refining. The Firms must now petition the Court for an award of fees from the State's recovery. For all of the reasons stated in the Firms' first Petition, the Firms ask the Court to award them a fee in the amount of 25 % of the cash recovery of \$331,990.37 and \$199.01 for costs and expenses. The Attorney General agrees with this request.

The Firms will not repeat the arguments made in their first Petition to the Court but incorporate them here and emphasize that the Firms have waived any right to a future fee that would be owed for the value of treatment. Thus, the Firms will collect only the 25 % fee on the cash recovery and will collect no additional fees if the State exercises its right to treatment under the Protocol.

The Firms respectfully ask the Court to enter an Order awarding them (1) a fee of 25 % of the ExxonMobil and Navajo Refining settlement proceeds and (2) the Firms' expenses.

DATED: December 30, 2009.

Respectfully submitted,



Carla M. Burke
Scott Summy
BARON & BUDD, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, Texas 75219-4281
Telephone: (214) 521-3605
Fax: (214) 520-1181

Rob Gordon
WEITZ & LUXENBERG, P.C.
180 Maiden Lane
New York, New York 10038
Telephone: (212) 558-5500

Victor M. Sher
SHER LEFF LLP
450 Mission Street, Suite 400
San Francisco, CA 94105
Telephone: (415) 348-8300

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **PETITION FOR ATTORNEYS' FEES** was served on all counsel of record by posting it directly to LexisNexis File & Serve on the 30th day of December 2009.



SHELLY SHETLER