

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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

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

This document relates to:

Tonneson. et al. v. Sunoco, Inc., et al., 03 Civ. 8248

and

Basso, et al. v. Sunoco, Inc., et al., 03 Civ. 9050

PROPOSED ORDER

WHEREAS, the plaintiff, the third-party defendant and one of the defendants in the actions entitled *Tonneson. et al. v. Sunoco, Inc., et al.*, 03 Civ. 8248 and *Basso, et al. v. Sunoco, Inc., et al.*, 03 Civ. 9050 entered into a Settlement Agreement in or about December 2008 (the "Settlement Agreement");

WHEREAS, pursuant to the terms and conditions of the Settlement Agreement, a Settlement Master, the Honorable Justice Samuel G. Fredman, retired, was appointed, *inter alia*, to manage the funds from the settlement and disburse or reserve such funds pursuant to the Settlement Agreement;

WHEREAS, on March 14, 2018, Justice Fredman passed away;

WHEREAS, as of the date of Justice Fredman's passing, the administration of the matters assigned to him pursuant to the Settlement Agreement was substantially complete, but certain tasks remain to be completed before the position of Settlement Master can be terminated;

WHEREAS, pursuant to the terms of the Settlement Agreement, the Plaintiffs agreed "that at any such time that the Settlement Master is unable to fulfill his duties pursuant to this Settlement Agreement, Plaintiffs shall select an individual with a comparable stature, who is also a retired jurist, to replace the Settlement Master" named therein;

WHEREAS, the Plaintiffs, through their counsel, Miller & Axline, have selected the Hon. Francis Nicolai as Settlement Master in this matter to replace the late Judge Fredman;

WHEREAS, Judge Nicolai, presently retired from the bench, is eminently qualified to serve as Settlement Master in this matter, having served with distinction as a Justice of the Supreme Court of the State of New York, Ninth Judicial District, the Administrative Judge of the Ninth Judicial District, Justice of the New York Supreme Court, Westchester County and Presiding Justice of the Appellate Term for the Ninth and Tenth Judicial Districts; it is hereby

ORDERED, ADJUDGED AND DECREED as follows:

1. The Honorable Francis Nicolai is hereby appointed Settlement Master pursuant to the Settlement Agreement between the parties to the matters entitled *Tonneson. et al. v. Sunoco, Inc., et al.*, 03 Civ. 8248, and *Basso, et al. v. Sunoco, Inc., et al.*, 03 Civ. 9050.

2. The Court finds that the duties of the Settlement Master will be the same as those outlined in the original Settlement Agreement entered into in or about December 2008.

3. The Settlement Master has provided an affidavit disclosing that there is no grounds for disqualification under 28 U.S.C. Section 455. *See* Fed. R. Civ. P. 53(a)(2) and (b)(3).

4. The Settlement Master's term of service will end when his duties are completed or the Court terminates the appointment, whichever comes first.

5. The Settlement Master shall proceed with all reasonable diligence to perform his duties. *See* Fed. R. Civ. P. 53(b)(2).

6. The Hon. Francis Nicolai is well qualified to serve as Settlement Master in this matter.

7. The Settlement Agreement agrees to the appointment of a Settlement Master for the duties as outlined in that document and herein.


8. The Settlement Master's duties will be governed by the Settlement Agreement under the terms consented to by the parties.

9. The Settlement Master shall have the authority take appropriate measures to perform his duties fairly and efficiently. *See* Fed. R. Civ. P. 53(c).

10. The Settlement Master's authority will otherwise be governed by the Settlement Agreement under the terms consented to by the parties.

11. The Settlement Master's compensation will be governed by the terms and conditions of the Settlement Agreement.

Dated this 24th of October, 2018


Vernon S. Broderick
United States District Judge