



IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA

IN RE: FLOOD LITIGATION

MC FLOOD 7/8/2001

THIS DOCUMENT APPLIES TO ALL CASES

NOTICE OF SETTLEMENT HEARING

WHEREAS, on November 16 and 17, 2009, Lead Resolution Judge Booker T. Stephens and Resolution Judges Alan D. Moats and James P. Mazzone conducted mediation of all cases in *In re: Flood Litigation*, MC FLOOD 7/8/2001 ("7/8/2001 Flood Litigation") in which Plaintiffs are represented by attorney Scott Segal.

WHEREAS, on December 9 and 10, 2009, Judge Stephens, Judge Moats and Judge Mazzone conducted mediation of all 7/8/2001 Flood Litigation cases in which Plaintiffs are represented by attorneys Stuart Calwell, Randolph McGraw and James Humphreys.

WHEREAS, after engaging in extensive discussion regarding the issues presented in the 7/8/2001 Flood Litigation and the possible terms of settlement, counsel for Plaintiffs and counsel for Defendants reached agreement to compromise and settle the 7/8/2001 Flood Litigation as a result of the aforementioned mediation.

WHEREAS, information regarding the method of distribution and the method of allocation of settlement proceeds is required by the Mass Litigation Panel to ensure an equitable distribution of such proceeds to the individual Plaintiffs.

NOW THEREFORE, please take notice that there will be a hearing regarding the proposed settlements of the **7/8/2001 Flood Litigation cases in which Plaintiffs are represented by attorney Scott Segal at 11:00 a.m. on March 23, 2010**, in the Circuit Court of Raleigh County, West Virginia, in the Courtroom of The Honorable Robert A.

Burnside, Jr. Please take further notice that there will be a hearing regarding the proposed settlements of the **7/8/2001 Flood Litigation cases in which Plaintiffs are represented by attorneys Stuart Calwell, Randolph McGraw and James Humphreys at 1:30 p.m. on March 23, 2010**, in the Circuit Court of Raleigh County, West Virginia, in the Courtroom of The Honorable Robert A. Burnside, Jr. All Judges assigned to the 7/8/2001 Flood Litigation cases will preside.

The purpose of these hearings will be to review the terms of the proposed settlements and to discuss counsel for Plaintiffs' proposed method for allocation and distribution of settlement proceeds as well as notice to individual Plaintiffs regarding such allocation and distribution. The Court will also consider any application for an award of attorneys' fees and expenses.

No later than **February 22, 2010**, Counsel for Plaintiffs is **ORDERED** to provide the following to each individual Plaintiff affected by the proposed settlements:

1. A copy of the proposed settlement agreements affecting the individual Plaintiff;
2. A disclosure of the amount the individual Plaintiff will receive under each of the proposed settlement and distribution plans; and
3. A copy of this Notice of Hearing.

Counsel for Plaintiffs shall advise the individual Plaintiffs that they have the option, but are not required to attend the hearing on March 23, 2010. Counsel for Plaintiffs is further **ORDERED** to submit an accounting of any and all notices that are returned to Counsel for Plaintiffs to Lead Presiding Judge A. Hutchison and Lead Resolution Judge Booker T. Stephens by no later than. **March 15, 2010**

Counsel for Plaintiffs is further **ORDERED** to submit a copy of any proposed settlement agreements that are the subject of these hearings directly to Judge Hutchison and Judge Stephens by **no later than March 15, 2010**. If any such settlement agreements are subject to confidentiality agreements the word “CONFIDENTIAL” is to be clearly and prominently marked or stamped across the top of each page of such settlement agreement. **The settlement agreements will not be subject to distribution beyond the Panel and all information regarding the terms of the settlement agreements will remain strictly confidential.** In addition, Counsel for Plaintiffs is **ORDERED** to provide Judge Hutchison and Judge Stephens with the following information by no later than **March 15, 2010**:

1. A proposed method of allocating and distributing gross settlement proceeds to individual clients. Counsel’s proposed method of allocation and distribution should address the impact of divorce, death, incompetence, claims by minors, and dissolution of business entities or other organizations on allocation and distribution of settlement proceeds; investment of settlement proceeds; and interim distributions and partial payments of fees and expenses.
2. A procedure for handling lost or returned settlement checks, and a proposed method of accounting for and disposition of all undistributed or unclaimed settlement proceeds, including whether the unclaimed settlement proceeds will be returned to the settling defendant, paid to other plaintiffs, distributed to a charitable or non profit institution, left to the discretion of the Panel for making *cy pres awards*, or any other reasonable distribution proposed by counsel.
3. A proposed report to the Court in spread sheet format regarding allocation and distribution of settlement proceeds to individual clients. The proposed report should include the name of the settling defendant; watershed(s) or subwatershed(s) to be included in the settlement; gross fee percentage; any fee sharing information; allocated gross proceeds; allocated expenses; client last name; client first name; client middle name; claimed damages used for allocation; allocated proceeds; gross fees; allocated expenses; total to the plaintiff’s law firm; and net to the client.
4. A detailed accounting of costs, expenses and attorney’s fees incurred by Counsel for the Plaintiffs.

5. The name and address of the financial institution where settlement proceeds will be deposited, including the name of the account, the account number and the name of any Trustee or Account manager.
6. Any document showing authorization by the client to enter into the proposed settlements.
7. Any document showing the client is informed of and agrees to the attorney's method of allocation and distribution of settlement proceeds.
8. Any document showing an accounting of the individual client's settlement allocation and distribution.
9. A proposed order approving the settlement, the method of allocation and distribution, and dismissing the appropriate parties.

The responses and information provided pursuant to this Order are regarded as highly confidential; therefore, it is **ORDERED** that the responses and information provided pursuant to this Order shall be marked "CONFIDENTIAL" and shall not be filed with the Clerk of the Court. Counsel for the Plaintiffs shall file a certificate of compliance with the Clerk of the Court certifying that the information has been provided to the Court as ordered herein.

Only counsel representing the settling Plaintiffs, counsel representing the settling Defendants and any self-represented parties affected by the proposed settlements are required to attend the March 23, 2010, hearing.

ENTER: February 1, 2010

/s/ Booker T. Stephens
Lead Resolution Judge, Flood Litigation

/s/ John A. Hutchison
Lead Presiding Judge, Flood Litigation