

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Vikram Bhatia, D.D.S., et al., on behalf
of themselves and all others similarly
situated,

Plaintiffs,

v.

3M Company,

Defendant.

Case No. 0:16-cv-01304-DWF-DTS

**DECLARATION OF JUSTIN L.
WIND IN SUPPORT OF
PLAINTIFFS' MOTION FOR
THIRD DISBURSEMENT OF
SETTLEMENT FUNDS TO
CLAIMANTS**

I, Justin L. Wind, hereby declare and state as follows:

INTRODUCTION

1. ***Personal Information.*** My name is Justin L. Wind. I am employed at BrownGreer PLC, located at 250 Rocketts Way, Richmond, Virginia 23231 ("BrownGreer"), the Claims Administrator in this matter.

2. ***The Capacity and Basis of this Declaration.*** I am over the age of 21. Unless otherwise noted, the matters set forth in this Declaration are based upon my personal knowledge, information received from the parties in this proceeding, and information provided by my colleagues at BrownGreer.

3. ***Background.*** BrownGreer provided Court-approved notice to the class and accepted and reviewed claim submissions for the initial Claim Period covering full or partial debonds that Class Members repaired or paid to have repaired on or before May 10, 2019 (the "Initial Claim Period"). BrownGreer also reviewed claim submissions for the

supplemental Claim Period covering full or partial debonds that Class Members repaired or paid to have repaired from May 11, 2019 to September 7, 2020 (the “Supplemental Claim Period”). Class Members could submit claims electronically through the Settlement Website or by completing and mailing a hard copy claim form to the mailing address established by the Claims Administrator. Class Members had the option to submit three types of claims: (1) a Fixed Amount claim of \$250 per debond, requiring no documentation; (2) a Documented Amount claim whereby the Class Member must submit documented proof of unreimbursed out-of-pocket loss caused; or (3) a “mixed” claim for Fixed Amount debonds and Documented Amount debonds (“Mixed Amount Claims”).

4. *Claims Review Process.* Counsel for the Parties established review guidelines in consultation with BrownGreer for the evaluation of Fixed Amount debonds (the “Review Criteria”). The Review Criteria included, among other triggering factors, (1) whether a claimant’s reported count of purchased Lava Ultimate blocks exceeded materially the sales information provided by 3M distributors and 3M product return data (the “Class Data”); (2) whether a claimant asserted that it seated more Lava Ultimate crowns from those purchased blocks than the Class Data showed were available to be seated; (3) whether a claimant asserted that it repaired more Lava Ultimate crown debonds than it claimed to have seated; and (4) whether a claimant asserted an excessive rate at which the Lava Ultimate crowns debonded compared to the total number of crowns seated.

5. *Early Disbursement of Settlement Funds.* In the Initial Claim Period, BrownGreer, in consultation with Plaintiff’s Lead Counsel (“Lead Counsel”), reviewed 450 timely claims with at least one Fixed Amount debond. Of those, BrownGreer

determined that 249 claims valued at \$4,278,500.00 satisfied the Review Criteria and could be paid immediately. On June 23, 2020, the Court approved Lead Counsel's request for disbursement of settlement funds to pay the 249 eligible claimants. BrownGreer mailed settlement checks to these claimants on August 4, 2020 and, to date, all but one of the checks from that disbursement have been cashed.

6. *Second Disbursement of Settlement Funds.* In August 2020, BrownGreer sent communications to claimants with Fixed Amount debonds whose claims triggered at least one of the review issues set out in Paragraph 4 above. These communications consisted of messages through the settlement website portal and direct emails. The communications explained the triggering factor, requested an explanation and/or further supporting materials to address these factors, and explained the discounted amount a claimant would receive if they did not respond to the communications. BrownGreer also conducted a follow-up calling campaign in an attempt to reach any claimant with Fixed Amount debonds who did not respond to the above-referenced communications.

7. Since the outreach effort, several claimants have responded to these communications electronically through the online portal or by email to the Claims Administrator's inbox, as well as through hard copy correspondence sent by regular mail. BrownGreer evaluated these responses and coordinated with the Parties to arrive at final outcomes for deficient claims and claims requiring secondary assessments. Based on those outcomes, BrownGreer recommended payments for 105 Fixed Amount debond claims totaling \$2,089,750.00.

8. BrownGreer also reviewed the Fixed Amount portions of 32 Mixed Amount Claims timely submitted in the Initial Claim Period. Using the same Review Criteria defined above, BrownGreer determined that 17 Mixed Amount claims satisfied the conditions for eligibility without any additional claimant communication. Applying the fixed amount of \$250 per debond, combined with the Documented Amount debond award determined by Lead Counsel and the Settlement Counsel Review Committee (the “SCRC”), the 17 eligible claims totaled \$1,204,153.92 in settlement award values.

9. BrownGreer received 26 timely claims in the Initial Claim Period with Documented Amount debonds only. In accordance with the Plan of Distribution approved by the Court, the SCRC examined these claims and recommended that 12 claimants receive payments, amounting to \$403,649.60.

10. On February 9, 2021, the Court granted Plaintiff’s Motion for Second Disbursement of Settlement Funds to the 134 claimants identified in Paragraphs 7-9 described above. BrownGreer mailed settlement checks to these claimants on February 17, 2021 and all but one check has cleared the settlement account.

11. *Third Disbursement of Settlement Funds – Initial Claim Period.* There remain 28 claims from the Initial Claim Period for which a claim outcome had not been reached after the second distribution of settlement funds. BrownGreer, Lead Counsel, and the SCRC have reviewed these 28 claims extensively and have conducted multiple rounds of outreach to the claimants to gain the clarity necessary to arrive at a final determination.

12. Of the 28 Initial Claim Period claims referenced above, five are Fixed Amount-only claims. These claims covered a total of 5,934 Fixed Amount debonds, which,

under the \$250 per debond model, represent \$1,483,500.00. After scrutinizing the claimants' assertions regarding the number of Lava Ultimate blocks purchased, crowns seated from those blocks, and the debond rate, as well as contacting the claimants to validate those assertions, BrownGreer determined that the five Fixed Amount claims are eligible for compensation amounting to \$809,250.00.

13. From the remaining initial claims, there are seven Mixed Debond claims containing Fixed Amount and Documented Amount components. As with other mixed claims, BrownGreer reviewed the Fixed Amount portion while Lead Counsel and the SCRC reviewed the Documented Amount debonds claimed. These seven mixed claims sought awards for 337 Fixed Amount debonds and 132 Documented Amount debonds, the values for which amount to \$84,250.00 and \$193,171.70, respectively. Applying the same review standard as before, BrownGreer, in collaboration with Lead Counsel and the SCRC, recommends a total award of \$138,369.50 for these claims.

14. There are 11 Documented Amount claims out of the 28 remaining that Lead Counsel and the SCRC evaluated as required by the Plan of Distribution. The SCRC has provided BrownGreer with its recommendation for these claims with awards totaling \$989,373.75.

15. Finally, there are five claimants that submitted Mixed or Documented Amount claims in the Initial Claim Period that subsequently filed claims in the Supplemental Claim Period. All told, the five dual-period claims requested compensation for 293 Fixed Amount debonds and 737 Documented Amount debonds, amounting to \$73,250.00 and \$2,696,101.48, respectively. BrownGreer assessed the Fixed Amount

portions of these claims for both periods and determined the claims eligible for \$73,250.00. Correspondingly, the SCRC reviewed the Documented Amount components and advised BrownGreer of its determinations and the associated award amounts. The final, combined awards for these claims covering the Initial and Supplemental Claim Periods equal \$947,104.45.

16. *Third Disbursement of Settlement Funds – Supplemental Claim Period.* In the Supplemental Claim Period, BrownGreer received nine Mixed Amount claims and nine Documented Amount claims. BrownGreer denied half of those claims as untimely or because the claimant could not be verified as a class member under the definition outlined in the Settlement Agreement. Of the other nine claims, we detailed the outcomes of five in Paragraph 15 stemming from the claimants submitting claims in both periods. For the remaining four, the claimants requested compensation for 167 Fixed Amount debonds valued at \$41,750.00 and 67 Documented Amount debonds valued at \$86,582.00. As with the claims in the Initial Claim Period, BrownGreer examined the Fixed Amount debonds and the SCRC reviewed the Documented Amount debonds. BrownGreer determined that these four claims satisfied all review criteria and merit full payments totaling \$41,750.00 for the Fixed Amount debonds. The SCRC has provided its recommendations as well, advocating for payments totaling \$80,310.00 for the Documented Amount debonds.

17. *Third Disbursement of Settlement Funds – Summary.* As they relate to the Third Disbursement of Settlement Funds, overall, there are 23 claims from the Initial Claim Period that BrownGreer and the SCRC determined eligible for payments totaling \$1,936,993.25, as detailed in Paragraphs 12-14 and attached as Exhibit A. There are four

Supplemental Claim Period claims described above and attached as Exhibit B for which BrownGreer and the SCRC recommend awards totaling \$122,060.00. Lastly, there are five claims outlined in Paragraph 15 and attached as Exhibit C who submitted claims in the Initial Claim Period and the Supplemental Claim Period and BrownGreer in collaboration with the SCRC advocate for awards totaling \$947,104.45.

I, Justin L. Wind, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing and the attached are true and correct to the best of my knowledge. Executed on this 1st day of September 2021.

A handwritten signature in black ink, appearing to read "J. L. Wind", written in a cursive style.

Justin L. Wind