

**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

**MEMORANDUM OF LAW IN
SUPPORT OF PLAINTIFFS’
MOTION FOR THIRD
DISBURSEMENT OF
SETTLEMENT FUNDS TO
CLAIMANTS**

INTRODUCTION

Plaintiffs’ Lead Counsel moves to approve the recommended awards and to order a third disbursement of a portion of the Settlement Fund to certain dentists who have submitted Fixed-Amount Claims, Documented Claims, and Mixed Claims during the Initial Claim Period and Supplemental Claim Period. No open issues remain with regard to the Fixed-Amount claims submitted during the Initial Claim Period and thus, the Claims Administrator, Brown Greer, and the Settlement Counsel Review Committee (“SCRC”) have approved these Fixed-Amount claims. In addition, the SCRC has completed its review of the Documented and Mixed Claims submitted during the Initial Claim Period and recommends that 23 dentists receive a full or partial award of the reimbursement sought. The specific amounts for disbursement are set forth in the list of “Initial Claim Period – Recommended Award Amounts,” attached as Exhibit A to the Declaration of Justin L. Wind (“Wind Dec.”).

The SCRC, with the assistance of the Claims Administrator, has completed its initial review of the Claims submitted during the Supplemental Claim Period and recommends that four (4) dentists receive a full or partial award of the reimbursement sought. The specific amounts for disbursement are set forth in the list of “Supplemental Claim Period – Recommended Award Amounts,” attached as Exhibit B to the Declaration of Justin L. Wind.

Finally, five (5) dentists submitted claims during both the Initial Claim Period and Supplemental Claim Period but have not yet received an award. The SCRC, with assistance of the Claims Administrator, recommends that these five (5) dentists receive one full or partial award for both claim periods, as set forth in the list attached as Exhibit C to the Declaration of Justin L. Wind.

3M takes no position on Plaintiffs’ motion to distribute funds to class members.

FACTUAL AND PROCEDURAL BACKGROUND

Pursuant to the Plan of Distribution, there are two claim periods: 1) the initial “Claim Period” covering debonds repaired on or before May 10, 2019, and 2) the “Supplemental Claim Period”, as amended, covering claims accrued between May 10, 2019, and on or before September 7, 2020. Doc. No. 131-1; Doc No. 169. Each Class Member could claim either a Fixed Amount, a Documented Amount, or a combination of both. Wind Dec. ¶ 3. Regardless of documentation shown, a valid Documented Amount claim would not receive less than \$250.00.

On June 23, 2020, the Court granted Plaintiffs’ first Motion for Early Disbursement of Settlement Funds to Some Claimants, Acceptance and Timely Certain Claims Filed

After the Deadline, and for Extension of the Supplemental Claim Period, authorizing the disbursement of \$4,278,500.00 to pay the 249 approved Fixed Amount Claims. Doc No. 169. Nearly all checks have been cashed by those claimants.

For the claims requiring additional review, BrownGreer, Lead Counsel, and 3M developed a list of four (4) considerations to ensure that claimants are being appropriately compensated for debonds that are compensable under the settlement. Wind Dec. ¶ 4. Beginning in August 2020, the Claims Administrator sent communications and conducted a calling campaign to Claimants that warranted further review under these criteria seeking an explanation, further supporting materials, or both. After receiving responses to these communications and the calling campaign, Plaintiffs filed a second motion.

On February 9, 2021, the Court granted Plaintiffs' Motion for Second Disbursement of Settlement Funds to Claimants, approving disbursement of \$3,689,553.52 to Fixed Only Claimants, Documented only Claimants, and Mixed Claimants. Doc No. 180. This included \$2,086,000 to pay Fixed Claim Class Members¹, \$502,449.72 to pay Documented Claim Class Members, and \$1,101,103.80 to pay Documented Claim Class Members eligible to receive at least 90% of their requested amounts. Checks were mailed to these claimants and nearly all have been cashed.

The SCRC has completed its review of all remaining claims submitted during the Initial Claim Period and all claims submitted during the Supplemental Claim Period.

¹ The Court approved the recommendation that one (1) claimant, who submitted claims for documented debonds seeking \$250.00 for each debond, be converted to a Fixed Claimant and be awarded \$250.00.

Plaintiffs ask that the Court approve the recommended awards and to order disbursement of a portion of the Settlement Fund to the remaining claimants who have submitted claims.

REMAINING INITIAL CLAIM PERIOD CLAIMS AND
SUPPLEMENTAL CLAIM PERIOD CLAIMS

Initial Claim Period – Remaining Claims

The SCRC has finalized its review of 23 of the remaining claims submitted during the Initial Claim Period and determined that these claimants can be paid². Eighteen of these claimants sought compensation for 1,446 Documented Amount debonds representing \$2,525,087.75. The SCRC recommends that these claimants be awarded \$1,083,993.25. Seven of these claimants filed Mixed Claims that also included Fixed Amount debonds. These Mixed Claims sought compensation for a total of 337 Fixed Amount debonds, totaling \$84,250.00. The SCRC, with assistance of BrownGreer, determined that six of these Fixed Claims are not subject to further review and recommends that they be awarded \$22,000.00. One of these Fixed Claim claimants did not respond to the trigger notice sent to their online portal, trigger notice sent via email, or the phone call, and the Claims Administrator recommends they be awarded the recommended default award, totaling \$21,750.00 for the Fixed portion of their claims.

There are five remaining Fixed-Only claimants that sought compensation for 5,934 Fixed Amount debonds representing \$1,483,500.00. The SCRC, with assistance of BrownGreer, determined that two of these Fixed Claims are not subject to further review

² Five additional claims submitted during the Initial Claim Period can also be paid. These claimants also submitted claims during the Supplemental Claim Period and the SCRC recommends they receive one combined award. This is outlined in more detail below.

and recommends that they be awarded \$643,250.00. The remaining three (3) claimants did not respond to the trigger notice sent to their online portal, trigger notice sent via email, or the phone call from the Claims Administrator or did not provide supplemental supporting documentation. The Claims Administrator recommends that these three claimants be awarded the recommended default award, totaling \$166,000.00. In total, the SCRC recommends that these five Fixed-Only Claimants be awarded \$809,250.00.

Supplemental Claim Period

The SCRC has reviewed the Documented Amount claims submitted by 18 claimants and denied nine claimants' claims as untimely or non-class members. The SCRC determined that three claimants can be paid now and in full. These three claimants sought compensation for 48 Documented Amount debonds representing \$58,108.00. Two of these three claimants filed Mixed Claims that also included Fixed Amount debonds. These Mixed Claims sought compensation for a total of 19 Fixed Amount Claims, totaling \$4,750.00. The SCRC, with the assistance of BrownGreer, has determined that these Fixed Claims are not subject to further review. Thus, these three claimants should be paid \$62,858.00.

The remaining claimant filed a Mixed Claim for both Documented Amount Debonds and Fixed Amount Debonds, seeking compensation for 148 Fixed Amount Debonds representing \$37,000.00 and 19 Documented Amount Debonds representing \$28,474.00. The SCRC, with the assistance of BrownGreer, determined that this claimant's Fixed Amount Debonds are not subject to further review and should be awarded the full

amount of \$37,000.00, and that he be awarded \$22,202.00 for his Documented Amount Debonds. Thus, these four (4) claimants should be awarded a total of \$122,060.00.

The remaining five (5) claimants submitted claims during both the Initial Claim Period and Supplemental Claim Period and have not yet received any award. The SCRC and the Claims Administrator recommend that these five dentists receive one full or partial award for both claim periods. These five claimants sought compensation for 737 Documented Amount Debonds during both claim periods representing \$2,696,101.48. The SCRC recommends that these claimants be awarded \$873,854.45. Three of these claimants filed Mixed Claims that also included Fixed Amount debonds. These Mixed Claims sought compensation for a total of 293 Fixed Amount debonds, totaling \$73,250.00. The SCRC, with assistance of BrownGreer, has determined that these Fixed Claims are not subject to further review and should be awarded in full. The Claims Administrator recommends that these five claimants be awarded \$947,104.45 for claims submitted during the Initial Claim Period and Supplemental Claim Period.

BrownGreer, at the recommendation of the SCRC, will notify the remainder of the claimants whose claims have been denied in whole or in part in the initial determinations. Lead Counsel expects to transmit such determinations as soon as practicable but no later than two weeks after the date this motion is approved (should it be approved). These Claimants have the option of submitting additional verification within 20 days of the date of the recommendation letter, in which case their claim will be reviewed again. Doc. 131-1. If a dispute remains, the claimant has the option to submit the claim to Judge Boylan, who will make a final determination.

Plaintiffs' Lead Counsel asks that authorization for payment of these claims, totaling \$3,006,157.70, be ordered now so that BrownGreer can disburse payments in the event that the claimant affirmatively accepts the recommended award or does not respond to the recommendation letter within 20 days.

Pursuant to the Plan of Distribution, once the third distribution is paid out, Class Counsel will make a proposal to the Court for what to do with Remaining Funds. Doc. No. 131-1. Class Counsel anticipates proposing a supplemental distribution to Claimants who submitted Fixed Amount claims.

CONCLUSION

Lead Counsel respectfully moves the Court to authorize BrownGreer to authorize disbursement of \$1,936,993.25 to the claimants who submitted claims during Initial Claim Period, \$122,060.00 to the claimants who submitted claims during the Supplemental Claim Period, and \$947,104.45 to the claimants who submitted claims during the Initial Claim Period and Supplemental Claim Period but have not yet received any award, should they not contest their proposed awards within 20 days of the recommendation letter, if applicable.

Dated: September 2, 2021

Respectfully submitted,

/s/ Daniel C. Hedlund

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