

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

IN RE: ORAL SODIUM PHOSPHATE	:	
SOLUTION-BASED PRODUCTS	:	
LIABILITY ACTION	:	Case No. 1:09-SP-80000
	:	(MDL Docket No. 2066)
	:	
THIS DOCUMENT RELATES TO	:	
ALL ACTIONS	:	JUDGE POLSTER
	:	
	:	<u>SETTLEMENT ORDER NO. 2</u>

As earlier directed in this Court’s Scheduling Order (docket no. 56), the Court engaged in a Settlement Conference on January 21-22, 2010 with plaintiffs, defendant Fleet, and Fleet’s Insurers. The parties made significant progress in pursuing global resolution of all OSPS claims. The Court has directed the parties to continue discussions amongst themselves, and to call upon the Court or the Special Master for assistance if necessary.

In addition, the Court will engage in a **mandatory** second settlement conference with all of the same parties. This conference will take place in the Chambers of Judge Polster on Thursday, February 4, 2010, beginning at 8:00 a.m. EST and continuing that day for as long as necessary.

Accordingly, the Court again **ORDERS** the following persons to appear for the second settlement conference: (1) all members of the Plaintiffs’ Executive Committee (“PEC”), and also any other plaintiffs’ attorneys or consultants whom the PEC authorizes; (2) lead counsel representing Fleet, and also any other attorneys or consultants whom lead counsel authorizes; (2a) executive(s) from Fleet with full settlement authority; (3) counsel representing each Insurer; and (3a) executive(s) from each Insurer with (i) full settlement authority, up to policy limits **AND** (ii) full business decision-making authority to commit the Insurer to alternative financial settlement

resolutions designed to enable Fleet to avoid extra-contractual damages while any coverage issues are resolved.¹ Attendance is mandatory.

Further, in the Court's Settlement Order No. 1 (docket no. 61), the Court ordered all attorneys with OSPS claims to submit certain "Claim Information" to Fleet and to Plaintiffs' Liaison Counsel on or before January 18, 2010. At the first Settlement Conference, the PEC explained that most attorneys have undertaken good faith efforts to fulfil this mandate, but may not have met the deadline for all of their clients, or may not have submitted all of the required information for each client, because of the volume of Claim Information they need to gather and assemble. Accordingly, the Court extends the deadline for submission of Claim Information to February 1, 2010. All attorneys with OSPS cases should continue to: (1) submit all "Claim Information" **as soon as possible**; (2) supplement previously-submitted information where necessary; and (3) review previously submitted information for accuracy. This information is vital to a successful outcome.

IT IS SO ORDERED.

/s/ Dan Aaron Polster
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE

DATED: January 26, 2010
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¹ While the Insurer representatives present at the first settlement conference apparently had authority to offer settlement funds up to policy limits, as the Court had directed, many of those representatives apparently did not have authority to negotiate alternative methods for resolution. Thus, the Court now adds that persons fulfilling requirement 3(a)(ii) must also attend the second settlement conference for the following Insurers in the 2008-09 and 2006-07 Insurance Towers: Gemini, Aspen, Axis, Swiss Re, AWAC, AIG Cat Excess, Colony, Lexington, Catlin, AIG, Arch, and Starr Excess. Although the Court suggested it would order the CEOs of these Insurers to appear, the Court is not so ordering at this time; rather, the Insurers may choose their own executive representative, so long as he or she meets these requirements.