

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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IN RE: FRESENIUS GRANUFLO/))
NAUTRALYTE DIALYSATE PRODUCTS))
LIABILITY LITIGATION) MDL No. 13-02428-DPW
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THIS DOCUMENT RELATES TO:))
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All Surviving Post-*Lone Pine*))
Actions Which Opted Out Of))
Global Settlement))
_____))

CASE MANAGEMENT ORDER NO. 18
PERMITTING SETTLING CASES TO SUBSTITUTE NAMED PLAINTIFF IN
SETTLEMENT-RELATED STIPULATIONS OF DISMISSAL
September 11, 2017

After hearing and consideration regarding the Plaintiffs' Executive Committee's motion (Document No. 1902) for a settlement-related case management order relating to substitution of named plaintiffs, I find as follows:

It has been represented to me by the PEC and counsel for Fresenius that the parties expect the private global settlement in the above-captioned matter to be triggered and funded in the coming months.

The Plaintiffs' Executive Committee (PEC) has moved for entry of a case management Order to assist in the efficient resolution of cases participating in the global settlement

program in which the plaintiff of record has changed during the course of the litigation (due, for example, to either the patient or the personal representative becoming deceased) but where counsel has not yet filed a motion to substitute the named plaintiff.

As explained by the PEC, in connection with the election to opt-in to the pending settlement program, counsel for claimants have already executed a signed Stipulation of Dismissal with Prejudice, which Fresenius is holding in escrow and will file upon notification by the settlement Claims Administrator of resolution of the settlement claim. Again, according to the PEC, in many instances, claimant counsel changed the caption of the Stipulation of Dismissal to reflect the name of the new plaintiff personal representative, so the caption is now different from the caption of the complaint and the case docket. The PEC has represented to the Court that it has communicated with counsel for all such cases who, in turn, have verified to the PEC that the newly named plaintiff is the proper party, because he or she is either anticipated or has been court-approved as personal representative of the estate of the decedent at issue.

Based upon the representations set forth in the PEC's motion and accompanying affidavit, I agree the procedure proposed by the

PEC will most efficiently allow for the resolution of settling cases when the time is ripe for doing so.

Accordingly, it is hereby ORDERED:

That for all settling cases where the caption on the Stipulation of Dismissal with Prejudice identifies a named plaintiff different than the named plaintiff of record in the case:

1. The filing of such a Stipulation of Dismissal with Prejudice shall be deemed by this Court and docketed by the Clerk not only as a Stipulation of Dismissal with Prejudice, but also as a Motion of the Plaintiff to Substitute the Named Plaintiff of Record, assented to by Fresenius, and by this Case Management Order been allowed by this Court; and
2. The Clerk's office shall accept and enter onto the docket such Stipulations of Dismissal with Prejudice tendered by Fresenius, and by this Case Management Order enter a final judgment in the case.

It is so ORDERED.

/s/ Douglas P. Woodlock
DOUGLAS P. WOODLOCK
UNITED STATES DISTRICT JUDGE