

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

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U.S. DISTRICT COURT
ND OF ALABAMA

ENTERED *WJ*

SEP 09 2004

Civil Action Number
01-C-1407-S

ANTONIA TOLBERT, *et al.*,

Plaintiffs,

vs.

MONSANTO COMPANY;
PHARMACIA CORPORATION; and
SOLUTIA, INC.,

Defendants.

GERALDINE OLIVER,

Plaintiff,

vs.

MONSANTO COMPANY;
PHARMACIA CORPORATION; and
SOLUTIA, INC.,

Defendants.

Civil Action Number
02-C-0836-S

**ORDER APPROVING SETTLEMENT AGREEMENT WITH THE
UNITED STATES WITH RESPECT TO MEDICARE**

Presently before this Court is a proposed July 23, 2004, Letter Agreement between the Tolbert Qualified Settlement Fund and the United States, under which, in exchange for the optional settlement of consenting claimants (the "Settling Medicare Claimants") and the monetary consideration set forth therein, the United States will release all of its subrogation rights under the Medical Care Recovery Act, § 42 U. S. C. § 2651(a) *et seq.*, and its rights under

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the Medicare Secondary Payer Statute, § 14 U.S.C. 1395(y), and all other Medicare rights against the Settling Medicare Claimants, the Tolbert Qualified Settlement Fund, the Fund's Settlement Administrator, the Claimants agreeing to the optional settlement presented in the Letter Agreement, their counsel, the Defendants and their counsel, in connection with all personal injury payments made by the Tolbert Qualified Settlement Fund to the Settling Medicare Claimants only, and only in connection with the Settlement administered by the Tolbert Qualified Settlement Fund. The Court understands that the Letter Agreement has been recommended by the United States Department of Health and Human Services and the United States Department of Justice to the United States Attorney General for approval, such Letter Agreement will not become effective unless such approval is obtained, and approval is anticipated within thirty (30) days or less.

Upon reviewing the Letter Agreement, and considering all of the facts and circumstances, the Court hereby determines that the Letter Agreement is fair and reasonable, and is due to be approved by this Court.

Based upon the foregoing, and other matters and things as the Court deems appropriate, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. The Court hereby approves the July 23, 2004 Letter Agreement between the Tolbert Qualified Settlement Fund and the United States.
2. Upon United States Attorney General approval of the Letter Agreement and its execution and delivery by the Parties, the Tolbert Qualified Settlement Fund is hereby ordered and directed to notify all Medicare Claimants of the Letter Agreement, the Medicare Settlement option available to each Claimant under the Letter Agreement, and the negotiation option


available to each Claimant who chooses to reject the Medicare Settlement option under the Letter Agreement.

3. Upon United States Attorney General approval of the Letter Agreement and its execution and delivery by the Parties, the Tolbert Qualified Settlement Fund is hereby ordered and directed to remit to the United States the necessary consideration in connection with the Settling Medicare Claimants required by the Letter Agreement.

4. For Claimants who select the Medicare Settlement option by checking the "YES" box on the form attached to the Letter Agreement prior to United States Attorney General approval thereof, the Settlement Administrator is authorized, empowered and directed to remit to such Claimants the remaining 90% of their Partial Personal Injury payments and to hold the other 10% in escrow pending the United States Attorney General's decision on whether to approve the Letter Agreement.

5. Provided that the Settlement Administrator, his employees, co-workers or staff, act strictly in accordance with the provisions of the Letter Agreement and this Order, they are hereby granted judicial immunity and are protected and immune from liability to any claimant or his or her heirs, successors and assigns, in connection with the performance of the terms of the Letter Agreement and this Order.

Done this 9th day of September, 2003.



Chief United States District Judge
U. W. Clemon