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2 THE HONORABLE BARBARA J. ROTHSTEIN  
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11 UNITED STATES DISTRICT COURT  
12 WESTERN DISTRICT OF WASHINGTON  
13 AT SEATTLE

14 IN RE: PHENYLPROPANOLAMINE  
15 (PPA) PRODUCTS LIABILITY  
16 LITIGATION

NO. MDL Docket No. 1407

17 This document relates to all actions.

18 ORDER GRANTING PLAINTIFFS'  
19 STEERING COMMITTEE'S  
20 PETITION FOR AN INTERIM  
21 AWARD OF EXPENSES TO BE  
22 PAID FROM THE PLAINTIFFS'  
23 LITIGATION EXPENSE FUND

24 Upon consideration of the Plaintiffs' Steering Committee's Petition for an  
25 Interim Award of Expenses to be Paid from the Plaintiffs' Litigation Expense Fund, to  
26 which there was no opposition filed, this court finds that the litigation has progressed  
27 sufficiently to the point that it will GRANT the Petition.

28 The development of modern MDL jurisprudence involving common benefit  
assessments is exemplified in cases such as *Vincent v. Hughes Air West, Inc.*, 557 F.2d  
759, 769 (9<sup>th</sup> Cir. 1977) and *In re Air Crash Disaster at Florida Everglades*, 549 F.2d  
1006 (5<sup>th</sup> Cir. 1977). Established MDL jurisprudence confirms that assessments of  
portions of settlement proceeds of individual litigants that participate in MDL

ORDER GRANTING PLAINTIFFS' STEERING  
COMMITTEE'S PETITION FOR AN INTERIM  
AWARD OF EXPENSES TO BE PAID FROM THE  
PLAINTIFFS' LITIGATION EXPENSE FUND - 1

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2 proceedings should be set aside to ensure that counsel on Court appointed committees  
3 and coordinated counsel that provide common benefit work have funds available to  
4 compensate them for their beneficial efforts.

5           The Court finds that the Plaintiffs' Steering Committee and counsel  
6 working together with the members of that committee have conferred a common benefit  
7 on all plaintiffs participating in these MDL proceedings. These benefits were not  
8 created without significant costs. In support of this Petition, the PSC has provided the  
9 Court with affidavits from Ramon Rossi Lopez, David L. Suggs and Lance Palmer.  
10 Through these affidavits, the PSC has documented \$288,471.59 in expenses  
11 reasonably incurred prior to the existence of the MDL by an *ad hoc* group of attorneys  
12 subsequently recognized by this Court as the PSC. The PSC has also documented  
13 \$2,904,442.91 in expenses incurred after the formation of the PSC that were reasonably  
14 expended on MDL activities.

15           Accordingly, from the proceeds that have been previously set aside  
16 pursuant to Amended Case Management Order No. 8, it is hereby ORDERED that an  
17 interim award of funds from the MDL No. 1407 Common Benefit Fees and Cost Account  
18 is authorized to reimburse the PSC for the expenses documented above in the total  
19 amount of \$3,192,914.40. \$150,000.00 of this amount was previously released to The  
20 Murray Law Firm in the Court's Order Granting Motion by Plaintiffs' Liaison Counsel for  
21 Emergency Release of Common Benefit Funds.

22           The Court hereby directs the Trustee of the MDL No. 1407 Common  
23 Benefit Fee and Cost Account to immediately release \$3,042,914.40 to Plaintiffs'  
24 Liaison Counsel, Lance Palmer, for him to make appropriate distributions of the funds to  
25 reimburse members of the PSC for their contribution of assessments made to the  
26 common litigation fund.

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DATED this 26th day of January, 2006.



BARBARA JACOBS ROTHSTEIN  
UNITED STATES DISTRICT COURT JUDGE

Presented by:

KRAFT PALMER DAVIES PLLC

By: \_\_\_\_\_  
LANCE PALMER  
WSBA #18141  
Plaintiffs' Liaison Counsel