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Honorable H. Russel Holland

14 IN THE UNITED STATES DISTRICT COURT

15 FOR THE DISTRICT OF ALASKA

16 In re:)
17 The EXXON VALDEZ) Case No. 3:89-cv-00095-HRH
18 _____) (Consolidated)

19 THIS DOCUMENT RELATES TO)
20 ALL CASES)
21 _____)

22 LEAD COUNSEL'S TWENTY-SECOND APPLICATION FOR AN ORDER
23 DISTRIBUTING EXXON QUALIFIED SETTLEMENT PUNITIVE DAMAGE
24 FUNDS TO CLAIMANTS IN MULTIPLE CLAIM CATEGORIES
25 AND THEIR ATTORNEYS

This is the twenty-second application for authority to distribute portions of the money plaintiffs received from Exxon as partial payments on the punitive damages

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1 judgment entered by the United States Supreme Court.

2 The current application to distribute punitive damages covers (1) claimants
3 scheduled to receive their portion of the Final Distribution (as defined in connection with
4 the Sixteenth Application) in any of the 51 claim categories that have multiple
5 impairments on their claims;¹ and (2) claimants who have who had some impediment to
6 distribution of their claims in a prior application, and for whom the impediment is now
7 resolved. See Declaration of Lynn L. Sarko, filed herewith.
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10 Examples of claimants who are covered in this application because their claim has
11 recently been resolved include those deceased claimants for whom a personal
12 representative had not been identified in the past, claimants who submitted updated
13 address information and those claimants whose IRS levies have now been released. The
14 number of recently resolved impaired claims is composed of approximately 63 claimants,
15 with 258 claims to process. Assuming no additional lien, levy or assignment is received
16 between now and when payments are issued, the entire amount will be paid to these
17 claimants, by either direct deposit or check.nts in the various categories. There are 147
18 claims being paid, the total amount of which is \$564,790.31.
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20

21 Because this is the last of the applications dealing with claimants in the multiple
22 claim categories that have been the principal distributees of the first through twenty-first
23

24 ¹ Because there were over 1720 claims with multiple liens, approximately one third of them were
25 included in each of the 20th and 21st applications. The final third is included in this application.

1 punitive damages applications, and because we are now in the final stages of
2 administration of the EQSF, I provide the following estimated timetable for the Court as
3 to what remains to be done.
4

- 5 • Within the next two months, the EQSF Administrator and I anticipate
6 seeking authority to distribute the very limited reserved funds for the
7 Halibut and Recreational Use claim categories. Both have very limited
8 funds available.
9
- 10 • There remain approximately 731 claimants for whom we have not been
11 able to make distributions in the normal course so far. These claimants fall
12 in several categories, including: (1) those whose have not maintained a
13 current address with the EQSF; (2) those who have passed away but no
14 representative has yet come forward on behalf of the estate, or (3) those
15 who have some other technical problem with their claims. It has been our
16 practice in the past to seek permission to pay such claims on the next
17 application to the Court once the issue which precluded their inclusion was
18 resolved. Before the end of this year, the EQSF Administrator and I
19 anticipate presenting an application that will authorize the AQSF and EQSF
20 to turn over any such un-distributable amounts in the Fund to the various
21 states in which claimants, lien agents, heirs, assignees or other 3rd-party
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1 judgment holders were last known to reside. The EQSF Administrator and
 2 I will be seeking a Court order authorizing the AQSF and EQSF to
 3 distribute the funds to the State's unclaimed property division no later than
 4 December 31, 2013. In the interim, the EQSF will continue efforts to
 5 aggressively identify and release funds on "deficient claims" after the Court
 6 approves such a request, so that the final amounts remitted to the various
 7 unclaimed property divisions are minimized. This work is expected to
 8 involve employing the IRS to send letters to such claimants (with the hope
 9 that the Service has a more current address than we do) under its letter
 10 forwarding program, as well as continuing the aggressive efforts we have
 11 made over the years to track down lost claimants or their relatives or other
 12 survivors for deceased claimants. I currently envision completing the
 13 transference process of unclaimed property before the end of 2013. No
 14 funds will be transferred to any State's unclaimed property division without
 15 prior authorization by the Court.

- 16 • Before the end of the year, The EQSF Administrator and I anticipate
 17 seeking authority for an order authorizing distribution of a portion of the
 18 1% Contingency Fund to claimants who have thus far received less than
 19 85% of the value of their claims. While work on the exact amount that will
 20

1 be available continues, I anticipate that we will have adequate resources to
2 ask for a *cy pres* remedy, which will permit an estimated 2000 claimants in
3 the Cannery Worker and other categories to receive an additional
4 distribution.²

- 5 • I anticipate that after all possible distributions have been made, and all
6 administrative expenses paid, there could be a small portion of our
7 contingency funds that may remain. A final filing will include a
8 recommendation for distribution of any such funds.
9

10 Exhibit A to the Sarko Declaration sets out the gross amounts of Combined
11 Compensatory Damages (the Supplemental, Compensatory Damages and Compensatory
12 Interest allocations are consolidated on Exhibit A) payments allocated to claimants.
13 There are 138 claims being paid, the total amount of which is \$6,729.59.

14 Exhibit B to the Sarko Declaration sets out the gross amounts of Punitive
15 Damages Principal allocated to claimants. There are 86 claims being paid, the total
16 amount of which is \$249,126.44.

17 Exhibit C to the Sarko Declaration sets out the gross amounts of Punitive
18 Damages Interest allocated to claimants. There are 97 claims being paid, the total
19 amount of which is \$407,724.43.

20 _____
21 ² Any claimant, lien agent, heir, assignee or any other 3rd-party judgment holder eligible to
22 receive funds via the *cy pres* remedy who the EQSF is unable fully pay by the end of 2013,
23 would also have their funds remitted as unclaimed property.
24
25

1 Exhibit D to the Sarko Declaration sets out the gross amounts of the Final
2 Distribution allocated to claimants. There are 412 claims being paid, the total amount of
3 which is \$2,233,784.11.
4

5 There are no contested claims being paid under the 22nd Application. The dollar
6 figures provided in Exhibits A, B, C and D are gross dollar allocations on claims prior to
7 any deductions for attorneys' fees or costs. The total amount of gross payments under
8 this Twenty-Second Distribution Application is \$2,897,364.57.
9

10 A proposed order is attached authorizing the proposed distributions discussed in
11 this application.

12 Respectfully submitted this 29th day of August, 2011.
13

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LEAD COUNSEL'S TWENTY-SECOND APPLICATION FOR AN ORDER DISTRIBUTING EXXON
QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO MULTIPLE CLAIM CATEGORIES
AND THEIR ATTORNEYS - 6

In re the Exxon Valdez, Case No. 3:89-cv-095-HRH

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Certificate of Service

The undersigned certifies that on August 29th, 2011, a true and correct copy of the foregoing
LEAD COUNSEL'S TWENTY-SECOND APPLICATION FOR AN ORDER DISTRIBUTING EXXON
QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO MULTIPLE CLAIM
CATEGORIES AND THEIR ATTORNEYS was served on the following attorneys or
parties of record by the court's ECF system:

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LEAD COUNSEL'S TWENTY-SECOND APPLICATION FOR AN ORDER DISTRIBUTING EXXON
QUALIFIED SETTLEMENT PUNITIVE DAMAGE FUNDS TO MULTIPLE CLAIM CATEGORIES
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In re the Exxon Valdez, Case No. 3:89-cv-095-HRH
DWT 18123041v1 0027510-000015