

1 [Submitting Counsel on Signature Page]
2
3
4
5
6
7

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 IN RE JUUL LABS, INC.,
13 MARKETING, SALES PRACTICES,
14 AND PRODUCTS LIABILITY
LITIGATION

Case No. 3:19-md-02913-WHO

**FEE COMMITTEE'S ALTRIA
SETTLEMENT FEE RECOMMENDATIONS
AND FIRST SUPPLEMENTAL EXPENSE
RECOMMENDATIONS**

15 This Document Relates to:

16 All Cases
17

Judge: Hon. William H. Orrick
Date: May 15, 2024
Time: 2:00 PM
Ctrm.: 2

18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on May 15, 2024, at 2:00 PM, in Courtroom 2 of this Court, located at 450 Golden Gate Avenue, 17th Floor, San Francisco, California, the Court-Appointed Fee Committee, will and hereby does move for an order accepting the Fee Committee’s Altria settlement fee recommendations and first supplemental cost recommendations.

1 **I. INTRODUCTION**

2 The Court-Appointed Fee Committee (ECF 4068), submits this set of recommendations
3 concerning: (1) fees in connection with the settlements between the Altria Defendants and the
4 personal injury, government entity, and class Plaintiffs; and (2) supplemental expense payments.
5 The recommended fee allocation, by firm, are attached as **Exhibit 1**. The recommended expense
6 reimbursements, by firm, are attached as **Exhibit 2**. The Fee Committee also respectfully seeks
7 this Court's guidance on reporting and authorization of cost fund expenses going forward.

8 **II. BACKGROUND**

9 **A. The Fee Committee's approach to Altria-related fees.**

10 In addition to the settlement with Defendant Juul Labs, Inc., three groups of Plaintiffs
11 (personal injury, government entity, and class) have reached settlements with the Altria
12 Defendants. When allocating fees in connections with the JLI settlements, the Fee Committee was
13 aware of the estimated fees to come from the Altria settlements, as well as the efforts various
14 firms put towards both class certification and the *SFUSD* trial against Altria. London Decl. ¶ 3.
15 (The time and expenses spent on trial and on the class certification appeal were reported to the
16 Court on November 15, 2023.)

17 To set firms' expectations, the Fee Committee determined it made sense to account for the
18 potential Altria fees in allocating JLI fees. *Id.* ¶ 4. In particular, the Committee decided that, for
19 most firms, their JLI allocation would reflect their contributions to the litigation as a whole. *Id.* ¶
20 5. They would receive no additional Altria allocation. *Id.* A few firms, especially those that
21 contributed most significantly to the *SFUSD* trial or to class certification, would receive Altria-
22 specific allocations (and bear the risks that the Court would reduce the Altria class fee or the
23 Altria settlements would not become final). *Id.* ¶ 6. The Fee Committee communicated this
24 arrangement to all affected firms, and they were given the opportunity to respond or object. *Id.* ¶
25 7. The Committee reiterated its determination in its Recommendations submitted to the Court:

26 The Fee Committee, in connection with the work associated with the JLI allocation, has
27 agreed to and communicated to affected firms an allocation of anticipated fees flowing
28 from the Altria settlements. That allocation provides for Altria-related fees to go to the
subset of firms primarily responsible for the San Francisco Unified School District trial as
well as firms primarily responsible for the class portion of the litigation.

1 ECF 4174 at 7.

2 On February 26, 2023, the Fee Committee sent to each firm that reported common benefit
3 time to this Court or the JCCP the Committee's Altria-related recommendations. London Decl. ¶
4 8. The Committee invited any firm that wished to discuss their proposed allocation to schedule a
5 meeting with the Committee. *Id.* ¶ 9. A few firms requested and received meetings. *Id.* The
6 Committee took those meetings into account when crafting the allocation attached to these
7 Recommendations. *Id.* ¶ 10.

8 **B. Status of CMO 5(A) cost account.**

9 On December 18, 2023, the Court approved reimbursement of MDL and JCCP cost fund
10 assessments and held cost, as well as transfer of \$700,000 to the MDL common litigation fund
11 and anticipated payments to BrownGreer PLC up to \$4,300,000. ECF 4178; *see* ECF 4152-2,
12 4153-1, 4153-2.

13 At this time, Co-Lead Counsel have authorized payment of 93% of the awarded cost fund
14 assessments and held costs, payment of \$700,000 to the MDL cost fund, and Brown Greer's
15 initial invoices of \$1,350,000. London Decl. ¶ 12. Co-Lead Counsel withheld the remaining 7%
16 of firm payments to ensure the fund would have enough money to pay ongoing MDL bills. *Id.* ¶
17 13. The JLI CMO 5(A) cost account currently includes approximately \$1,883,000. *Id.* More funds
18 are expected when the Altria settlements become effective, and when JLI makes its future
19 settlement payments. *Id.* ¶ 14.

20 After the Court approved the Fee Committee Recommendations, Co-Lead Counsel
21 became aware of two record-keeping errors in the held cost data. First, certain held costs
22 (\$28,996.21) were inadvertently attributed to one firm when they should have been attributed to
23 two other firms. *Id.* ¶ 15. This error will be corrected in future cost payments. *Id.* Second, one
24 firm had a \$200,000 cost fund assessment that was mistakenly double-counted. *Id.* This error has
25 already been accounted for by reducing one of that firm's fee payment (with the difference
26 transferred from the fee account to the cost account). *Id.*

27

28

1 **III. THE FEE COMMITTEE RECOMMENDS THE COURT AUTHORIZE THE**
2 **ATTORNEY FEE PAYMENTS IN EXHIBIT 1.**

3 As with the JLI settlement fees, the Fee Committee recommends pooling all fees deriving
4 from the three Altria settlements (including any fees awarded under Rule 23(h) in the class
5 settlement). As before, the Fee Committee recommends this approach because of the interrelated
6 nature of the various plaintiff groups' claims and the work performed. *See* ECF 4174 at 5-6.

7 The recommended fee percentages are set out in **Exhibit 1**.

8 **IV. THE FEE COMMITTEE RECOMMENDS THE COURT AUTHORIZE**
9 **REIMBURSEMENT OF INCURRED AND ANTICIPATED EXPENSES.**

10 Since the Court approved the Fee Committee's Recommendations, several cost-related
11 developments have occurred. First, MDL and JCCP firms continued to report their held costs to
12 Judge Andler and MDL firms continued to report to the Court. London Decl. ¶ 16.¹ Second, the
13 MDL cost fund continues to incur expenses related to MDL management generally. *Id.* Third, the
14 Tribal Subcommittee has established a Tribal Litigation Fund to manage common expenses
15 related to the ongoing tribal litigation against Altria. *Id.* Fourth, BrownGreer PLC has submitted
16 invoices and projected expenses that exceed the \$4.3 million the Court has already authorized. *Id.*

17 The Fee Committee recommends the Court authorize additional reimbursements in all
18 four areas. The Fee Committee also recommends that the Court authorize Co-Lead Counsel to
19 pay cost reimbursements from either the JLI or Altria CMO 5(A) costs accounts (i.e., costs
20 previously authorized by the Court can be paid from the Altria account, and any current or future
21 costs authorized can be paid from either the JLI or Altria accounts).

22 **A. Held Costs**

23 The Committee recommends reimbursement of \$2,076,034.37 in MDL held costs and
24 \$121,903.33 in JCCP held costs. *Id.* ¶ 18.² As with the held costs previously authorized by the
25 Court, all of these expenses were submitted to and approved by Judge Andler. *Id.* One firm

26 ¹ Exhibit 1 to the Fee Committee Recommendations (ECF 4152-2) inadvertently omitted one
27 firm's contribution of \$300,000 to the MDL common litigation fund. London Decl. ¶ 24. Exhibit
28 2 to these Recommendations includes that omitted amount. *Id.*

² These numbers account for a large trial-related cost refund that will be included in the April 15,
2024 report to the Court.

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.