

**COMMONWEALTH OF KENTUCKY
FAYETTE CIRCUIT COURT
FOURTH DIVISION**

Civil Action No. 20-CI-00332

filed electronically

HAYNES PROPERTIES, LLC, *et al.*

PLAINTIFFS

v.

**BURLEY TOBACCO GROWERS COOPERATIVE
ASSOCIATION, *et al.***

DEFENDANTS

**Settlement Class Counsel's
Motion for Order(s) re Fund Disposition**

NOTICE

Please take notice that this Motion will be heard on Friday, June 30, 2023, beginning at the hour of 10:00 a.m. or as soon thereafter as counsel may be heard.

MOTION

Settlement Class Counsel, Katherine K. Yunker and Jason R. Hollon, hereby move the Court for an order or orders as necessary and appropriate to specify the disposition of the remainder of the \$1.5 million amount (“the Fund”) that is the subject of ¶¶ 22-36 (pp. 15-23) and Ordering ¶2 (p.23) of the Amended Opinion and Order Approving Partial Settlement entered July 28, 2021 (“7/28/21 Order”). In support of their motion, Class Counsel state as follows:

1. Paragraphs 31-36 (pp. 20-23) of the 7/28/21 Order provide for certain payments to the Burley and Dark Tobacco Producer Association, Inc. (“BDTPA”), bringing the Fund’s remainder to approximately \$1.325 million, and then a process “allowing qualified class members to directly voice their support for, or to withdraw from, the nonprofit” (*id.* ¶36 p.23), *i.e.*, BDTPA. This “postcard process” is the subject of the Court’s Order entered March 13,

2023, approving the form and content of a notice letter and return postcard with a deadline of May 31, 2023, for the postcards to be returned.

2. The postcard return deadline has passed, and the Class Counsel team is tallying the results for a report to be filed in the case record. In addition, Class Counsel are discussing with the Settlement Administrator an estimate for its costs of distributing proportionate shares to individual qualified Class members who elected therefor, and are preparing a report of their hours spent and expenses incurred in the process to a recent date, and an estimate of such costs going forward. As discussed at the in-chambers scheduling conference held April 4, 2023, the goal is to have the Fund distributed in the last two weeks of August 2023.

3. The requested Order(s) should provide for Class Counsel's determination about the proportionate share and the qualified Class members electing to be paid, which will then indicate the basic division of the Fund between payment as a grant to BDTPA and payments to the electing Class members. *See* 7/28/21 Order ¶ 33. The Court should also approve or award any claim for payment out of the Fund before the determination of the proportionate share, and provide for the handling/payment of further administrative expenses. *See id.* ¶¶ 32, 35.

4. Class Counsel propose that:

- a. their awarded costs for past efforts in implementing the postcard process (hours spent and expenses incurred) be charged, as well as any approved costs by the Co-op specific to the Fund, be charged against the Fund as a whole; and
- b. other costs approved or awarded by the Court, including the Settlement Administrator's fees for issuing the checks and follow-up thereto, be charged against the portion of the remaining Fund allocated to cover the individual payments to Class members who elected therefor.

Class Counsel suggest that the question of what to do with any portion of the Fund left in the Settlement Administrator's Qualifying Settlement Fund due to uncashed checks, administrative expenses being less than estimated, or otherwise, may be left to a later time.

Respectfully submitted,

/s/ Katherine K. Yunker

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/s/ Jason R. Hollon

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served this 26th day of June 2023, upon counsel via the e-filing system and electronic mail and upon unrepresented persons via first class U.S. Mail, postage prepaid, as shown on the attached Service List, and a courtesy copy was emailed to D. Gaines Penn, ENGLISH, LUCAS, PRIEST & OWSLEY, LLP, gpenn@elpolaw.com

/s/ Katherine K. Yunker

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Fayette Cir. 20-CI-00332