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Constar Directors Reach $23M Deal To Exit Investor Suit

By **Dan Packel**

Law360, Philadelphia (September 05, 2012, 4:50 PM ET) -- Board members of Constar International Inc. asked a Pennsylvania federal judge Friday to approve a $23.5 million settlement shedding class action claims stemming from the plastic bottle manufacturer's 2002 initial public offering.

Under the proposed settlement, the directors deny all claims that they misrepresented its business plan and financial outlook in the 2002 offering. If approved by U.S. District Judge Edmund Ludwig, the settlement will mark the end to over nine years of litigation surrounding the case. The underwriters for the IPO are also participating in the settlement.

“The principal reason for the settlement is the benefit to be provided to the class now. This benefit must be compared to the risk that no recovery might be achieved after a contested trial and likely appeals, possibly years into the future,” the proposed summary notice said.

Two groups of lead plaintiffs initially sued Constar on behalf of all participants in the 2002 IPO, claiming that the prospectus and registration statement attached to the offering provided misleading information about the company's financial health.

These complaints were then consolidated in 2004. According to the consolidated complaint, Constar misrepresented its manufacturing and design capabilities and failed to disclose that its market share was declining.

The complaint also targeted the underwriters for the IPO, including Citigroup Inc., J.P. Morgan Securities Inc. and Salomon Smith Barney Inc.

After a lengthy period of discovery, followed by appeals of the granting of class certification, and then failed mediation, discussions on a settlement began to advance earlier this year, according to settlement documents.

According to the proposed settlement, the $23.5 million fund is likely to translate into roughly $2.19 per each damaged share held by individual class members.

The lead counsel for the plaintiffs seeks fees of up to 30 percent of the settlement, along with up to $1.75 million in expenses. These fees and expenses come to approximately $0.82 per each damaged share.

As a part of the settlement, the defendants deny all wrongdoing and emphasized that they are not admitting guilt by putting the litigation to an end. The claims against Constar itself were dismissed as part of the company's bankruptcy plan in 2009, leaving the directors and the underwriters as defendants.

Constar has financially struggled since the 2002 offering. In May 2011, the company exited bankruptcy for the second time in two years.

The most recent restructuring wiped out existing shareholders, as the company swapped new stock and debt for the $220 million of floating rate notes that comprised 95 percent of the debtors' capital structure.

An attorney for the underwriter defendants declined to comment Wednesday. Attorneys for the Constar directors and the plaintiffs were not immediately available for comment.

The plaintiffs are represented by Robins Geller Rudman & Dowd LLP and Bernstein Liebhard LLP.

The directors are represented by Dechert LLP. The underwriter defendants are represented by Morgan Lewis & Bockius LLP.

The case is In re: Constar International Inc. Securities Litigation, case number 2:03-cv-05020, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Andrew Park.