

Philips Settles Economic Claims Over Recalled Breathing Machines for \$479M

By Amanda Bronstad

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What You Need to Know

- Lead plaintiffs lawyers in the multidistrict litigation against Philips said the settlement amount could increase to as much as \$1 billion.
- In 2021, Philips recalled about 10.8 million breathing devices due to health risks associated with its sound-reducing foam.
- Philips, which faces nearly 700 lawsuits in multidistrict litigation, has moved to dismiss the claims excluded from the settlement.

Philips has agreed to pay \$479 million to resolve lawsuits brought by consumers over its recalled CPAP and other breathing machines.

The class action settlement, announced on Thursday, resolves economic claims but not personal injury or medical monitoring claims over the recalled CPAP (continuous positive airway pressure) and other breathing machines that lawsuits linked to cancer.

Lead plaintiffs lawyers in the multidistrict litigation against Philips said the settlement amount could increase to as much as \$1 billion.

“This settlement provides substantial monetary compensation to those who were sold or paid for defective devices by Philips and is an important step towards justice,” said



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CPAP machine.

co-lead plaintiffs counsel Sandra Duggan, of Levin Sedran & Berman; Kelly Iverson of Lynch Carpenter; Chris Seeger of Seeger Weiss; and Steven Schwartz of Chimicles Schwartz Kriner & Donaldson-Smith.

They added: “While this settlement marks a significant milestone, our work is far from finished. We will continue to pursue personal injury and medical monitoring claims on behalf of all plaintiffs against Philips, which are specifically excluded from this resolution.”

U.S. District Senior Judge Joy Flowers Conti, who is overseeing the multidistrict litigation, must approve the settlement.

In 2021, Philips recalled about 10.8 million breathing devices due to health risks associated with its sound-reducing foam. In a press release,



Courtesy photo

John P. Lavelle, Jr. partner with Morgan Lewis & Bockius.

Philips said payments could begin as soon as the first quarter of 2024 but clarified that the settlement does not include an admission of liability.

“We have structured this settlement to quickly deliver value to eligible patients in the U.S. and provide an additional measure of confidence in the safety and quality of Philips Respironics products,” a spokesman for Philips Respironics, a Philips subsidiary, said. “We have sought to resolve these claims now so that we may dedicate more time and energy to our central focus of transforming patient lives.”

Dismissal Motions Pending as to Other Claims

The settlement reimburses consumers for their purchases or rentals of the devices, which range from \$55.63 to \$1,552.25, and any other out-of-pocket costs. But users also will get \$100 for returning the devices, which could increase the total settlement value.

Philips, which faces nearly 700 lawsuits in multidistrict litigation in the Western District of Pennsylvania, has moved to dismiss the claims excluded from the settlement.

In dismissal motions, Philips attorney John Lavelle, of Morgan, Lewis & Bockius in Philadelphia, argued that plaintiffs failed to adequately allege the foam degradation in the devices caused them to get cancer or exposed them to a harmful substance linked to a latent disease.

Oral arguments on those motions were held on July 10 and 11. Special master Thomas Vanaskie, a retired judge of the U.S. Court of Appeals for the Third Circuit who is now of counsel at Stevens & Lee in Scranton, Pennsylvania, is due to submit a report and recommendation on the motions by Sept. 28.

In addition to Vanaskie, Conti appointed mediator Diane Welsh, a retired U.S. magistrate judge now at JAMS, in the multidistrict litigation.

Last year, Conti appointed more than 30 lawyers, including 18 women and eight attorneys of color, to lead the multidistrict litigation against Philips. She also named 10 attorneys on a leadership development committee, which is aimed at promoting lawyers who are younger or less experienced.

