

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

**TIM P. BRUNDLE, on behalf of the
Constellis Employee Stock Ownership Plan,**

Plaintiff,

v.

WILMINGTON TRUST, N.A.,

Defendant.

Civil Action No. 1:15-cv-1494 (LMB/IDD)

**PLEASE READ THIS NOTICE CAREFULLY.
A FEDERAL COURT AUTHORIZED THIS NOTICE.
THIS IS NOT A SOLICITATION.**

You are receiving this notice because you were a participant in the Constellis Employee Stock Ownership Plan (“ESOP”) from January 1, 2013 through July 25, 2014. **Please read the following information carefully to find out about a lawsuit, your rights concerning a request for attorneys’ fees, and applicable deadlines.**

WHAT IS THIS LAWSUIT ABOUT?

A lawsuit was filed against Wilmington Trust, N.A. (“Wilmington Trust”), by Tim P. Brundle. Brundle claimed that Wilmington Trust, the trustee for the ESOP, violated the Employee Retirement Income Security Act (ERISA) by causing the ESOP to pay too much for Constellis Group, Inc. stock when the ESOP was formed. After a six-day trial in November–December 2016, the judge to whom the case was assigned found that Wilmington Trust was liable to the ESOP for \$29,773,250.00. You are receiving this notice so that you have an opportunity to object to the \$9,924,416.67 in fees requested by Brundle’s attorneys, \$8,104,785.56 of which will be paid in part out of the money recovered for the ESOP.

WHAT HAPPENED IN THE LAWSUIT?

After the initial complaint was filed on November 10, 2015, the parties litigated the case for a year before the trial. Defendants filed motions to dismiss and for summary judgment, which the Court denied. The parties took the depositions of fact and expert witnesses. Tens of thousands of pages of documents were produced and reviewed. The litigation culminated in a six-day trial in late November and early December 2016. On March 13, 2017, the Court filed a decision. It found that Wilmington Trust violated ERISA by causing the ESOP to pay too much for Constellis stock. It found that Wilmington Trust was liable to the ESOP for \$29,773,250.00. After the Court’s judgment was filed, Wilmington Trust filed a motion challenging the judgment. Brundle’s attorneys defended the judgment. The Court denied Wilmington Trust’s challenge to the judgment. Brundle’s attorneys filed a motion asking for fees and expenses to be paid from the amount recovered from Wilmington Trust on behalf of the ESOP. Brundle’s attorneys also filed a motion asking that Wilmington Trust pay part of the attorneys’ fees. The Court decided that Wilmington Trust should pay \$1,819,631.11 toward attorneys’ fees. Wilmington Trust says it will appeal the judgment. Until the appeals process is over, we do not expect the judgment amount or attorneys’ fees to be paid. The appeals process could take as long as two years. Brundle’s attorneys will represent him and the ESOP on any appeal.

WHAT HAPPENS TO THE MONEY?

If Wilmington Trust’s appeal is denied, Wilmington Trust will have to pay the judgment amount to the ESOP for the benefit of its participants. Brundle gets nothing more than he is owed as a participant in the ESOP.

WHEN WILL I RECEIVE MY ESOP PAYMENT?

ESOP assets are currently held in trust while Constellis and the trustee wait for the IRS to make a determination on the ESOP. The money recovered in the lawsuit will be deposited into the same trust and held in trust pending resolution of this issue. ESOP benefits will be determined under the terms of the Plan.

ATTORNEYS' FEES

Brundle's attorneys, the law firm Bailey & Glasser LLP ("B&G"), requested that the Court order Wilmington Trust to pay B&G \$2,815,729.50 in attorneys' fees. The Court reduced the amount of attorneys' fees to be paid by Wilmington Trust to \$1,819,631.11. B&G also requested that \$9,924,416.67, or 1/3 of the \$29,773,250.00 judgment amount, be awarded to B&G pursuant to a contractual arrangement with their client Brundle. This amount will be offset in part by \$1,819,631.11 that the Court ordered Wilmington Trust to pay in attorneys' fees. B&G attorneys and staff put in over 5,500 hours on the case, but the Court discounted the hours worked by the attorneys as explained in the Court's Memorandum Opinion of June 23, 2017. B&G has not yet been paid any money for its hours or received any money for the expenses it incurred. B&G took this case on a contingent basis, meaning the firm would not receive any money unless money was recovered for the ESOP. B&G signed an attorney-client agreement with Brundle in which he agreed that the firm would receive up to 1/3 of any money recovered on behalf of the ESOP, but Brundle's agreement is not binding on the ESOP or other participants and is subject to the Court's supervision and approval. In its June 23, 2017 Order on attorneys' fees, the Court stated that a 1/3 contingent fee is a relatively standard arrangement, but expressed its concern about the fairness of the arrangement to the unrepresented ESOP participants. The Court directed B&G to provide notice to the ESOP participants so you have a chance to object to the fee request. The amount of any contingent fee award exceeding the amount of attorneys' fees already approved by the Court will reduce the amount received by the ESOP and the proportionate share received by each participant's account.

OPPORTUNITY TO OBJECT

You can object to the fee request. You will not be penalized for submitting an objection and will be entitled to receive a portion of the judgment as determined by the terms of the Plan regardless of any objection. To object, you must send your objection in writing (not by e-mail) to the Court, including the name of the case (Brundle v. Wilmington Trust) and the case number (No. 1:15-cv-1494), addressed to the Clerk of the Court, United States District Court for the Eastern District of Virginia, Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA 22314, and to the parties' lawyers at the following addresses:

<p>To Plaintiff's Counsel: Gregory Y. Porter BAILEY & GLASSER LLP 1054 31st Street, NW, Suite 230 Washington, DC 20007</p>	<p>To Defendant's Counsel: Stephen W. Robinson McGuireWoods LLP 1750 Tysons Boulevard, Suite 1800 Tysons, Virginia 22102-4215</p>
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Objections must be written and filed with the Court on or before September 23, 2017. Objections filed after that date will not be considered. Your objection should include: (1) the case name and number; (2) your full name, current address, telephone number and signature; (3) a statement that you are an ESOP participant and an explanation of the basis upon which you claim to be a participant; and (4) all reasons for the objection. The Court will consider objections in deciding the additional fees to award to B&G. You may hire a lawyer to advise you, but you will have to pay the lawyer with your own money.

The Court will hold a final hearing on B&G's fee request on October 13, 2017, at 10:00 a.m., in Courtroom 600, Albert V. Bryan U.S. Courthouse, 401 Courthouse Square, Alexandria, VA. If you submit an objection, you, or your lawyer if you hired one, may (but you do not have to) attend the hearing and, at the discretion of the Court, speak to the Court about your objection.

GETTING MORE INFORMATION

You can visit the website at www.WilmingtonTrustESOPlawsuit.com, where you will find the complaint, the Court's decision on the trial, the Court's preliminary decision on attorneys' fees, and the parties' filings on the motion for attorneys' fees and related documents. Do not contact the Court to get additional information.

Dated: August 9, 2017

By Order of the United States District Court

/s/ Leonie M. Brinkema
Leonie M. Brinkema
United States District Judge