

**Prometheus Law Receivership**  
**Case Portfolio FAQs**  
**Updated as of 02/21/2018**

The Receiver appreciates that investors are anxious to receive a projection and timeline on revenues that could flow to the receivership from the Prometheus case portfolio. Unfortunately, lead counsel advises that there is just no reasonable basis, at this time, by which to project any specific valuation and/or timeline. In order to provide the most current update and as much clarification as possible regarding the Case Portfolio, the Receiver has prepared these Case Portfolio FAQs.

1. What about the mass tort case portfolio – shouldn't it generate enough money to pay back investors?

The primary potential asset of the receivership is the case portfolio of mass tort cases generated by Prometheus-funded marketing. But, there is limited certainty or predictability as to the ultimate value of that portfolio. The only real certainty is that the portfolio is not what Prometheus portrayed it would be:

- Although presenting itself as a “litigation marketing company,” Prometheus spent only 27% of the funds raised from investors on actual marketing. Not all of that marketing was productive or cost-efficient. The end result is the current portfolio of 2,278 “cases” involving 11 different drugs.
- Prometheus claimed that its cases would be pre-settled cases covered by a mass tort settlement – hence, the only risk was when, not whether, the portfolio would pay off. But, less than 3% of the cases in the portfolio relate to drugs subject to such a mass tort settlement. The remaining cases are primarily Risperdal (97% of the total) which were not pre-settled and have not settled yet. Even under a mass tort settlement, there are no guarantees as to the recovery amount for each case because settlement funds are allocated to qualified plaintiffs based on the specific facts of their case.
- As is common in mass tort litigation, not all cases in the portfolio represent cases actually filed in court – many reflect plaintiffs whose cases may be filed in the future and/or be included in a future mass tort settlement. The value of a specific case, filed or unfiled, will vary based on its own specific facts and the applicable law.
- The receivership does have an interest in the portfolio, but limited to 33 1/3% of net fees paid to lead counsel in successful cases. Under this formula, the Prometheus portfolio must generate more than \$90 million in recoveries for the receivership to cover investor losses of \$11.7 million. To date, the receivership has received \$185,043 as its fee share on settlements of 18 non-Risperdal cases.

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2. Prometheus represented that it only funded pre-settled cases, so why is it taking so long since the only issue is how much each plaintiff gets?

56 cases in the portfolio relate to drugs that were or later became part of a mass tort settlement. But, actual payments from the settlement fund on specific cases are not made until the settlement administrator evaluates each case and assigns a recovery amount based on the specific facts. All cases in a given portfolio will not necessarily be processed at the same time. Since mass tort settlements often include thousands or tens of thousands of plaintiffs or potential plaintiffs, this process can be lengthy, sometimes a year or more. And funds for a specific settlement are not disbursed until each plaintiff executes a release and any medical liens on individual cases are resolved. For settlement status of these 56 cases, see FAQ# 5 below.

None of the 2,204 Risperdal cases were pre-settled and none have been settled or resolved to date. If all or some of the Risperdal cases are included in a future mass tort settlement, the above settlement procedures would apply before the receivership would receive its fee share from successful cases.

3. I have heard about big verdicts in Risperdal cases. So, why aren't the Risperdal cases in the Prometheus portfolio also winners?

To date, none of the Risperdal cases in the Prometheus portfolio have been settled or resolved. Lead counsel continues to work these cases, and coordinate with counsel in the other cases, to maximize potential recovery by trial or settlement. Unfortunately, there is no specific timetable by which the cases will be resolved.

There have indeed been verdicts, some with substantial damage awards, in favor of plaintiffs in Risperdal cases in other jurisdictions. There have also been some rulings in favor of defendant. Results in other cases may indicate defendant's potential liability, but results in specific cases are not binding on other cases and each case has its own specific facts. But, results in other cases may influence how counsel on both sides evaluate their cases for trial and settlement.

Lead counsel continues to advise us that Risperdal cases can be difficult to value. Plaintiffs are people who have been prescribed antipsychotic medicine, hence they can be difficult clients. Each case varies by its specific facts, including age of the plaintiff, period and extent of use, and medical records which document injury due to the drug usage. Defendant may also raise legal defenses applicable to specific cases, including but not limited to, the statute of limitations and federal pre-emption.

All litigation is unpredictable, but mass joinder litigation can be uniquely so as it is often dependent on whether decisions and rulings in specific cases motivate both sides to pursue a global settlement.

**Prometheus Law Receivership**  
**Case Portfolio FAQs**  
**Updated as of 02/21/2018**

4. What is the status of the Risperdal cases in the portfolio?

Lead counsel is limited by ethical rules on what he can tell the Receiver or investors. Lead counsel has an attorney-client relationship with the plaintiff in each case, not the Receiver or investors, and he must protect any privileged or confidential information about the cases and/or plaintiffs. Based on information from lead counsel, we can provide a general status of the cases.

Although there are 2,204 Risperdal “cases” in the portfolio, not all of them have been formally filed in court as cases, which is common practice in mass tort litigation. The cases that have been filed have been consolidated with thousands of other Risperdal cases and assigned to a single judge in L.A. County Superior Court (Judge Highberger). Lead counsel has associated co-counsel on approximately 380 of the filed cases in the Prometheus portfolio. The unfiled cases may be filed later or could be included in a future mass tort settlement.

To date, there have been no settlements, rulings or decisions and no trial dates set in any of the Risperdal cases in the Prometheus portfolio pending in L.A. Superior Court. Lead counsel continues to prepare these cases, as well as the unfiled cases, with the goal to maximize potential recovery by trial or settlement.

There have been some rulings and decisions in some of the other Risperdal cases pending in the L.A. Superior Court, including: one Risperdal case went to trial in late 2017, resulting in a defense verdict; the judge selected five Risperdal cases to be prepared for trial, but then granted motions for summary judgment filed by all five of them; the judge dismissed some Risperdal cases on the ground of federal pre-emption that federal law governed and hence the case could not be brought in state court, but that ruling has been appealed to the California District Court of Appeal. Whether, and to what extent, any of these rulings impact cases in the Prometheus portfolio will depend on the specific facts and legal posture of each case.

5. What is the status of the non-Risperdal cases in the portfolio?

The portfolio contains 56 cases on drugs covered by mass tort settlements: Nuvaring (birth control device, four cases); TVM (mesh for treatment of pelvic organ prolapse in women, 23 cases); Actos (oral diabetes medicine, 20 cases); Yaz (birth control device; three cases); Topomax (antipsychotic; one case); Tylenol (two cases); and Pradaxa (blood thinner; three cases). Settlements have been processed in 18 cases involving Nuvaring (all four cases settled), TVM (four of the 23 cases), and Actos (10 of the 20 cases) and \$185,043 has been remitted to the receivership as its fee share on the settlement payments received to date. The remaining 38 cases remain subject to settlement processing. The receivership will also receive some additional fees on nine of the settled Actos cases where the fee share was based on interim settlement payments.

The portfolio also contains 18 cases not covered by a mass tort settlement and not otherwise settled: SSRI (antidepressants prescribed to pregnant women leading to birth

**Prometheus Law Receivership**  
**Case Portfolio FAQs**  
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defects, 15 cases); IUD (birth control device, two cases) and Xarelto (blood thinner; one case).

6. How much is the receivership entitled to receive from successful cases?

The receivership is entitled to receive 33 1/3 % of lead counsel's net fees from successful cases. Net fees are defined as the contingency fee due lead counsel (usually 40% of the award), reduced by any fees incurred by lead counsel for local counsel, co-counsel or Multi District Litigation fees. For example, if a case settles for \$100,000, the injured plaintiff receives \$60,000, lead counsel receives \$40,000 (netted down by other identified fees), and the receivership then receives 33 1/3% of lead counsel's net fees. Under this formula, the Prometheus portfolio must generate more than \$90 million in recoveries for the receivership to cover net investor losses of \$11.7 million. To date, the receivership has received \$185,043 from lead counsel as its fee share on settlements of the 18 non-Risperdal cases identified in FAQ #5 above.