

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF LOUISIANA

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4 IN RE: VIOXX PRODUCTS
5 LIABILITY LITIGATION

MDL No. 1657
Section: "L"
New Orleans, Louisiana
Thursday, August 4, 2011

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7 TRANSCRIPT OF MONTHLY STATUS CONFERENCE PROCEEDINGS AND MOTIONS
8 HEARD BEFORE THE HONORABLE ELDON E. FALLON
9 UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography, transcript
produced by computer.

P R O C E E D I N G S

(THURSDAY, AUGUST 4, 2011)

(MONTHLY STATUS CONFERENCE AND MOTIONS)

(OPEN COURT.)

THE COURT: Be seated, please. Good morning, ladies and gentlemen. Let's call the case.

THE DEPUTY CLERK: MDL No. 1657, *in re: Vioxx*.

THE COURT: Counsel make their appearance for the record.

MR. MARVIN: Good morning, your Honor, Douglas Marvin for Merck.

MR. BIRCHFIELD: Andy Birchfield, me and Chris Seeger will be handling for the plaintiffs.

THE COURT: We're here today for the monthly status conference, and I have met with liaison counsel and lead counsel to discuss the agenda with them.

The first item on the agenda is the Settlement Program. Anything on that?

MR. MARVIN: Your Honor, there's only really one open issue relating to the Settlement Program because almost all of the claims, as you know, have been processed. That open issue relates to claims largely where estate issues have not yet been resolved, and we filed a motion to put those moneys into the court registry. And I understand that your Honor will be considering that motion after the hearing? After the status conference today?

1 THE COURT: Yes. What basically what's happened is that
2 there's something issues, as I understand it, with the estates of
3 the individuals; there are certain estate issues, certain local
4 estate issues that have to be worked out and there may be some
5 issues on the distribution by and between the heirs of the amount.

6 But what my thinking is I'll give the people an
7 opportunity to tell me why it shouldn't be done. But what I would
8 like done is that the money should be deposited in the registry of
9 the court, the releases sent to Merck, and then when the estate
10 issues are resolved then those funds get distributed in the form
11 and fashion that the various state courts so order. But we've got
12 to get those funds into the registry of the court so that both
13 sides are confident that the funds are not going to be dissipated
14 or released or whatever it is.

15 But I won't do that just willy-nilly, I'll give people an
16 opportunity, I'll Rule to Show Cause why that should be done but we
17 need to move on that.

18 MR. MARVIN: Yeah, I think all of those oppositions have
19 been filed now, so I think that once your Honor has the opportunity
20 to review those. Largely most of the oppositions related to the
21 fact that they thought their claims were being extinguished, when,
22 in fact, they're not. The money is just being put in a different
23 place just awaiting the estate issues.

24 THE COURT: Yes, right. Special Master, anything from
25 the Special Master?

1 MR. THOMAS JUNEAU: Good morning, your Honor, Thomas
2 Juneau. Patrick Juneau is at an arbitration this morning, so I am
3 standing in batting for him today.

4 Judge, I have three very brief issues to report very
5 quickly to the court. First with regard to the overall Vioxx
6 program, there are no new issues to be addressed.

7 Second, with regard to the attorney lien issues that were
8 assigned to the Special Master: All of those issues have been
9 addressed by the Special Master, the report and recommendations
10 have been made to the court. So essentially all of the tasks with
11 regard to that issue have been completed by the Special Master.

12 Third and finally, your Honor, with regard to the state
13 Attorney General claims, I believe those claims are going to be
14 addressed by the parties subsequent to my presentation, your Honor.
15 Very briefly I will tell you that there have been conferences with
16 the state AG's and Merck that have been held with the Special
17 Master. There are issues that do continue to exist and there is no
18 resolution at this time. The NAMFCU 60-day period for reply is
19 still open, and we're hopeful that some outstanding issues can be
20 resolved during that process. But again, your Honor, I believe
21 that will be reported more fully by the parties later in today's
22 status conference.

23 THE COURT: Right. Okay.

24 MR. THOMAS JUNEAU: Thank you.

25 THE COURT: Thank you. Any class actions, any discussion

1 on class actions?

2 MR. BIRCHFIELD: No, your Honor -- oh, I'm sorry.

3 MS. CABRASER: Elizabeth Cabraser from the PFC. As the
4 report indicates, your Honor has Merck's motion under submission.
5 Both sides periodically filed notices of supplemental authority
6 with the court, I think the most recent one was Merck's filed on
7 Tuesday. Plaintiffs will do likewise in related actions.

8 There is a state court proceeding in Missouri, as your
9 Honor is aware, that's a state wide class action certified under
10 Missouri state law and is set for trial in May. There is discovery
11 ongoing in that case, and, meanwhile, we remain in place behind the
12 Attorneys General cases for further activity in discovery or
13 resolution.

14 THE COURT: Tell me about the Missouri case, is that
15 going to have an impact on our situation?

16 MS. CABRASER: Well, your Honor, we would like to meet
17 and confer with Merck on that, the parties may have different views
18 on that. We've been in periodic touch with counsel in that case.

19 THE COURT: Who is trying that case from the plaintiff's
20 standpoint in Missouri?

21 MS. CABRASER: A local firm, your Honor, the firm that
22 obtained the class certification order and represented plaintiffs
23 through the appellate proceedings. The class decision and the
24 appellate decisions were submitted to your Honor sometime ago in
25 connection with all of our briefing.

1 THE COURT: Right.

2 MS. CABRASER: It had an earlier trial date but that was
3 continued by the court. We think the May 2012 date is firm.

4 THE COURT: Okay.

5 MS. CABRASER: But if and as the situation changes in
6 that case, we will report in to your Honor.

7 THE COURT: It's state wide?

8 MS. CABRASER: It is a state-wide class under the
9 Missouri consumer law, certified under the Missouri version of
10 Rule 23. So I think there's a debate between Merck and plaintiffs
11 as to the extent to which that would be applicable here.

12 We would state only at this point that it may serve, if
13 not as a formal bellwether, a helpful case to a similar extent that
14 a personal injury case tried under a different state law but
15 involving the same product might inform the proceedings here.

16 THE COURT: All right. Thank you, Elizabeth.

17 State/Federal Coordination, anything?

18 MS. BARRIOS: Good morning, your Honor. Dawn Barrios for
19 the State/Federal Committee.

20 Just a footnote to your question to Ms. Cabraser, one of
21 the trial attorneys in the Missouri case is Don Downing in
22 St. Louis, he is co-liaison counsel in the *Rice MDL*. And a very
23 competent counsel.

24 Your Honor, the task of the State/Federal Committee is
25 really winding down. We have all of the remands current through

1 PTO 167. We have whittled the cases down from 105 to 87 on this
2 date, and we have whittled the number of plaintiffs down as well.

3 Of the remaining 87 cases, 24 government
4 actions/TPP/consumer and seven are post settlement filings.

5 In order to assist in cleaning up your MDL so that we can
6 finally see some closure in it, I've been working with Ms. Cabraser
7 in trying to accumulate all of the consumer cases and working with
8 Mr. Birchfield on trying to clean up the rest of the docket. And
9 in answer to one of your questions last time, I was able to review
10 all of the open cases and found one RICO case and one case that is
11 a breach of contract. And I will be conferring with the PSC
12 further on that what their recommendation will be, but that's what
13 was found.

14 THE COURT: Where was the RICO case out of?

15 MS. BARRIOS: I don't remember, your Honor, but it is on
16 the disc. And my understanding is that there is a RICO MDL for
17 Vioxx, so I don't know what your Honor wants to do with it.

18 THE COURT: Right. Okay.

19 MS. BARRIOS: Thank you.

20 THE COURT: Thank you. Anything on the Pro Se?

21 MR. MARVIN: Your Honor, just to correct that one point,
22 we are not aware of any RICO MDL.

23 MS. REZNIK: Good morning, your Honor. Heather Reznik
24 for pro se curator Bob Johnson. Our office continues to receive
25 several calls a week from pro se claimants, and we continue to help

1 them as best we can.

2 THE COURT: Is that winding down somewhat?

3 MS. REZNIK: Usually it's about between five and eight a
4 week. It's winding down, a lot of it's the same callers, repeats,
5 but it is winding down.

6 THE COURT: Okay. Thank you.

7 And the Government Actions?

8 MS. BARRIOS: Your Honor, I believe we're going to do a
9 that after the status conference because we have a special
10 telephone status conference.

11 THE COURT: We'll talk about that with the -- one of the
12 things that I have to be aware of in that matter is that the NAMFCU
13 opportunity is still extant and will remain so until September 15th
14 or so, so I think to some extent we're going to have to meet and
15 confer and then talk about what we do after that particular date to
16 see who is on board and who is not and deal with it accordingly.

17 Pending Personal Injuries, it's 28, 29 and 43.

18 MS. OLDFATHER: Good morning, your Honor, Ann Oldfather
19 liaison counsel for certain of these cases.

20 I suppose the most important thing for me to mention,
21 your Honor, is that we have followed up with the court's directive
22 that we ask all pending personal injury claimants or their counsel
23 to provide a consent or waiver to our firm so that we can obtain
24 medical records, PPF forms, and lone pine reports for each of the
25 remaining personal injury plaintiffs. We started that process in

1 early June, and we have filed two update reports with the court.

2 At this point there are 13 claimants who have not
3 responded to our request for consents. Would the court like me to,
4 since we might have some telephone participants, read those names?

5 THE COURT: Yes, let's list them.

6 MS. OLDFATHER: Some of these people, your Honor, I'll
7 leave them to the end, we haven't contacted yet for specific
8 reasons; but these are people whom we have contacted or attempt to
9 contact. Claimants Diane Brown, who is pro se; claimant Deborah
10 Byrd, B-Y-R-D, who is pro se; claimant Lerene Campbell, pro se;
11 claimant Sheryl Gross, represented by Don Melancon, well, Law
12 Offices Of Donald J. Melancon in New Orleans; claimant Gene M.
13 Collin, C-O-L-L-I-N, pro se; claimant Darlene Harris, pro se;
14 claimant Patricia Kelly, pro se; claimant Clinita Lawrence
15 represented by Sheryl Berkowitz from Hallandale, Florida; claimant
16 Virginia Pickett; claimant Betty Terrill, represented by Chris
17 Limberopoulos of Tampa, Florida; claimant Shannon Thibault,
18 represented by Richard L. Hughes of Little Rock, Arkansas; and
19 claimant Christine Woodock.

20 In addition, there is claimant Jamaal Bilal, whom we have
21 not yet asked for the consent because he was not on our list
22 originally in June, and I believe his case is up for a dismissal so
23 we thought we would wait and determine the status of his case
24 before we reviewed his medical records.

25 In terms of those folks, your Honor, we haven't heard

1 from those 13, but we have heard from everybody else; and there are
2 approximately 100 to 106 claimants, depending upon who is counting.
3 We have submitted those consents to Merck, Merck is in the process
4 of providing all of the information to us. We understand that the
5 bulk of the information has been provided as of yesterday, and we
6 are going to be continuing with the process we've already started
7 of reviewing that information.

8 In addition to obtaining those consents, we are moving
9 forward in the individual cases. Various counsel have been
10 providing discovery as requested by Merck and conducting their own
11 discovery. Merck has agreed to provide me with specific
12 information as liaison counsel that we discussed off the record.

13 And I believe that's all I have to report at this point

14 THE COURT: I think we're going to have to, Dorothy,
15 you're going to have to file a motion to dismiss those cases. I
16 will give the people an opportunity, I'll set a Rule to Show Cause
17 why they shouldn't be dismissed for failure to act, I'll give them
18 enough time, I'll send it to them, we'll do the same thing that
19 we've done. I am not going to willy-nilly dismiss their case, but
20 they have to know that they've got to do something, they can't just
21 stay out there. We've got to begin -- not begin, but we've got to
22 do something in these cases.

23 So let's do that, I'll set them for next conference, and
24 we'll -- give us the address that you have on those, Ann, and I'll
25 have them mailed, the court will send them out.

1 MS. OLDFATHER: Yes, your Honor. And I should correct
2 myself. Virginia Pickette, we have not yet asked her directly for
3 a consent because she has changed counsel and the consent we
4 obtained from her --

5 THE COURT: Let's take her off the list.

6 MS. OLDFATHER: Right. The consent we obtained from her
7 counsel didn't cover her, so we need to get an address for her from
8 Merck. And there are about two or three other people whose
9 addresses have been problematic, and you asked us to work together
10 with Merck on that.

11 THE COURT: The attorneys have responsibilities on these
12 cases, but the clients have responsibilities, also. They have to
13 at least let their attorneys know where we are or let the court
14 know where they are or respond to the court's directive. They
15 can't just come into the litigation and just forget it, and if they
16 do I'll forget about them.

17 MS. OLDFATHER: Thank you, your Honor.

18 THE COURT: Anything from the Fee Allocation Committee?

19 MR. BIRCHFIELD: Your Honor, the Special Master has
20 completed his report and submitted it to the court.

21 THE COURT: I have all of the reports and now I'm dealing
22 with it and I will be dealing with it, I will be issuing something
23 shortly.

24 MR. BIRCHFIELD: The only other issue is the third party
25 payor matter.

1 THE COURT: Sure.

2 MR. SEEGER: Judge, we have been contacting, as your
3 Honor has, by certain members who are looking for the court to set
4 up a procedure with regard to the fees being held back on that.

5 THE COURT: My thinking on that is I would like the
6 interested parties to get together and then I'll set a status
7 conference. Maybe we can talk after this hearing at least to give
8 you some guidance as to how to go about designing a procedure.
9 Hopefully it will be less of a meticulous procedure than the other
10 one, but we do need some procedure, it needs to be transparent.

11 MR. SEEGER: Thank you, your Honor.

12 THE COURT: Okay. Thank you. Motions that we should
13 know about?

14 MR. MARVIN: Your Honor, there are two motions that are
15 ready for review by the court, and those will follow the status
16 conference as has been the practice. The first we've alluded to,
17 that's the motion to show cause about the Settlement Program
18 releases. Ms. Horn will be able to address that and explain the
19 two-step process that we have in place there.

20 The second motion relates to Jamaal Bilal, and I believe
21 Ms. Pistilli will be dressing that.

22 As for the other motions, motion as to plaintiff Stanley
23 Long, that has been deferred to the next conference; and the
24 motions relating to Mary Jackson and Violet Blanton are now moot.

25 There are several motions that have been fully briefed,

1 the Quackenbush matter and the Emmanuel Iwobi matter. And so those
2 have been submitted to the court.

3 THE COURT: Okay.

4 MS. OLDFATHER: Your Honor, if I may?

5 THE COURT: Yes.

6 MS. OLDFATHER: I believe it was on the status report
7 that Merck would request permission of the Iwobi matter on the
8 brief. We have been in contact with Mr. Iwobi, and the court may
9 know that he had made a concerted effort as a pro se claimant to
10 file pretty decent pleadings on his own behalf. And he asked us if
11 we would at least stand up for him today; so I would ask rather
12 than that being submitted, that it be passed to the hearing date
13 that we obtained of August 30 for some of the motions that we
14 haven't gotten to yet that are coming you up later on in the status
15 report.

16 MR. MARVIN: That's fine, your Honor.

17 THE COURT: Okay. We'll do that.

18 Any appeals, any discussion on the appeals? Other
19 matters? I understand we have some --

20 MS. WOODWARD: Good morning, your Honor, Margaret
21 Woodward, former co-lead counsel for the 18 objectors.

22 As the court is aware, at the time of the conclusion of
23 the Special Master's hearing on May 13th, all but four of the
24 objectors had reached a resolution with the Fee Allocation
25 Committee.

1 THE COURT: Right.

2 MS. WOODWARD: When the Special Master entered his
3 recommendations to the court, he addressed only the claims of those
4 four. As the matter now moves before your Honor, each of those
5 four has filed appeals, and the court indicated just a moment ago
6 that you would be issuing something soon. We're getting a number
7 of calls, not only from the objectors but also from people who were
8 not previously objectors about what the process would be going
9 forward, whether the court is going to look only at the four --

10 THE COURT: No.

11 MS. WOODWARD -- whether the court is going to look the at
12 whole matter --

13 THE COURT: Right.

14 MS. WOODWARD: -- and whether if the court is going to
15 look at the entire allocation process, will there be a further
16 opportunity -- and if so, for whom -- to submit further material to
17 the court either in defense of the recommendations of the fact
18 which they're approving of or in further opposition.

19 THE COURT: Okay. All right. My thinking on it is that
20 I have all of the material that I am going to need. I am going to
21 issue my opinion, and then I guess if anybody wishes me to
22 reconsider, state so. I'll either set that up or deal with it.
23 But I am going to be writing an opinion on everybody at this point
24 deciding the entire amount, that's what I am doing.

25 As I am doing it, it's sort of like no good deed goes

1 unpunished kind of thing. Traditionally in these cases, or at
2 least I should say early on in this type of litigation, it was
3 necessary, it was felt necessary to appoint a committee. The
4 committees did all of the work and the committees got all of the
5 fee. As these cases, not this case, but as the development of this
6 type of litigation proceeded in the '80s and '90s and now into the
7 2000's, it becomes problematic to have a small group go from case
8 to case, place to place, and handle that to the exclusion of local
9 lawyers and to the conclusion of other people who have something to
10 contribute.

11 That doesn't mean in my opinion that you don't need a
12 targeted group who leads the litigation, but I do feel that opening
13 it to everyone is good for the system. And so I've tried to do
14 that in this particular case, and after I phoned the committees I
15 instructed the committees to think about creating subcommittees and
16 to invite non-committee members on to subcommittees. Almost every
17 meeting thereafter I came out and told everybody -- and in those
18 days I had a room full of lawyers and a couple of hundred on the
19 phone -- and I would repeat that anybody who was interested in
20 participating in the common benefit of this litigation to feel free
21 to do so, contact the lead and liaison plaintiff counsel and get on
22 a committee.

23 And if you have any problems getting on the committee let
24 the court know and I would look at it. As a result of that, some
25 107 people participated in this operation. Now the difficulty is

1 in doing it -- and I've tried to -- we don't have a lot of history
2 and a lot of precedent to follow because some of these things we've
3 done for the first time in this type of litigation. But early on I
4 created or at least I appointed a CPA and came up with some rules
5 and regulations as to what was compensable and how you would do it,
6 and I asked the parties to submit on a monthly basis their fee and
7 their expenses.

8 And then I received an in-camera report from the CPA on a
9 monthly or bi-monthly basis, and I met with him to go over what the
10 submissions were, particularly in the early stages so that I could
11 be assured when you're coming in in the form and fashion that I
12 felt they should be.

13 But this was done and time logged and expenses given and
14 so forth. But in doing it, it really does add a level of work that
15 the MDL court has to go through. So to personally evaluate the 107
16 individuals and look at the material that I have on those
17 individuals is kind of a daunting task, one that I wouldn't have if
18 I only stuck with 12 appointees. So I don't know whether my other
19 colleagues throughout the nation are going to want to do this, but
20 I think the process is worthwhile, at least to get people who have
21 not been in them before to get some experience and also something
22 on their resumé that they have done MDL work for the next
23 opportunity.

24 But I do recognize that it is a very difficult thing to
25 handle. It's particularly difficult from my seat in the bus, so to

1 speak, because I change law clerks yearly or sometimes every two
2 years, so my institutional memory is gone each year basically and
3 I'm the only institutional memory. So it's a difficult task but it
4 is what it is.

5 MS. WOODWARD: Thank you, your Honor.

6 THE COURT: Thank you.

7 MR. BIRCHFIELD: Your Honor, if I could, I just want to
8 address one point --

9 THE COURT: Wait, before I leave. You mentioned, too,
10 that I know you all have an interest in fees. You have to bring
11 that to me so that it just doesn't sit. I know you filed it and
12 I've also had the opportunity to have other people comment on it,
13 so I would like to take care of that. You've earned fees in the
14 case, and I want to make sure that fees and costs are transmitted
15 to you. So let's just not forget about that, let's get to me on
16 it.

17 Danny, you have something?

18 MR. BECNEL: Judge, I don't want you to forget about the
19 Stratton matter because that's particularly important to me because
20 I've had to pay taxes on that this past year, and I put all of the
21 money back and I can't file anything with the IRS to say, hey,
22 look, I really didn't get this half a million dollars, I got it for
23 a few weeks and did a notice to the court, didn't know what to do
24 with it, gave it right back.

25 THE COURT: Sure, it is.

1 MR. BECNEL: And I've been contacted by numerous people
2 around the country who will pay the difference and weren't in
3 involved in an outrage.

4 THE COURT: Okay. Thank you.

5 MR. BECNAL: I am just letting the court know that.

6 THE COURT: Okay.

7 MR. BIRCHFIELD: Your Honor, just to address one point
8 that Ms. Woodward made, and that is in regards to Special Master
9 Juneau's reports. For those that are listening or may read the
10 record, I want to make sure that it's clear.

11 Special Master Juneau, following the court's instruction,
12 oversaw the discovery process. He presided, he ordered the
13 deposition of a Fee Allocation Committee designee. He not only had
14 that transcript but he provided over that deposition that involved
15 the entire process, each firm that was involved, and his order
16 dealt with each of the applicants. It was not just addressing the
17 four objectors.

18 I know the court is aware of that, but I wanted the
19 record to be clear on that point. Because -- he also conducted a
20 week long, full-blown evidentiary hearing where the entire process,
21 each of the applicant firms were on the table.

22 THE COURT: Okay.

23 MS. WIMBERLY: Your Honor, under the Other Matters
24 section, Dorothy Wimberly for Merck.

25 We had listed three pending matters that had kind of

1 fallen through the cracks. The first is Merck's motion and Rule to
2 Show Cause to dismiss with prejudice the claims of Dennis Harrison
3 for failure to comply with PTO 28. That was originally set earlier
4 this year, Mr. Harrison had medical issues, it was continued by
5 consent. It was supposed to have been reset for hearing today.
6 That order didn't get entered, and we are going to reset it for
7 August the 30th at 9 A.M.

8 THE COURT: Okay.

9 MS. WIMBERLY: And I want to make the court aware that
10 early this morning Mr. Harrison did e-mail to me answers to
11 interrogatories along with other documents; so it may be that
12 motion is moot, but we need to get it on the schedule so that we
13 can get it resolved one way or the other.

14 THE COURT: Sure. Right.

15 MS. WIMBERLY: Also there was our motion and Rule to Show
16 Cause why a case should not be dismissed with prejudice as to
17 plaintiff Michael Wodowski. It was actually heard on June 1st and
18 the court granted the motion and dismissed the claims, but the
19 order was not entered. Several weeks later Mr. Wodowski's counsel
20 uploaded to Lexis/Nexis File and Serve a motion to reinstate the
21 claim. That motion was not filed with the court. We contacted --
22 and we learned that when we attempted to file our opposition and
23 the clerk wouldn't allow us to do so.

24 After repeated contacts with Mr. Wodowski's counsel, they
25 finally have uploaded the motion to reinstate and also a motion to

1 substitute a proper party.

2 We had asked in the joint report to have the case
3 dismissed in accordance with the order that was entered on June 1st
4 and then to deal with this new motion, if it was ever filed of
5 record. It has now been filed of record, and we would, again, ask
6 that the court enter the order of dismissal and then let us bring
7 up the motion to reinstate on August the 30th

8 THE COURT: All right.

9 MS. WIMBERLY: And then I do have one other matter, but
10 if Ms. Oldfather's wants to address this one.

11 THE COURT: Sure, go ahead.

12 MS. OLDFATHER: Your Honor, we have as liaison counsel
13 been in touch with both of these claimants. I think the court is
14 well familiar with Dennis Harrison, and Mr. Harrison had a
15 principled but misinformed stand about his obligation to comply
16 with PTO 28 that he has now understood and he has definitely gotten
17 on board. He started complying with PTO 28 back in the spring, but
18 he had knee replacement, post knee replacement infection and
19 procedures and ended up in the hospital and the nursing home for
20 most of the May and June. He has been in constant contact with us
21 updating us on his status, I know he sent Dorothy a number of
22 e-mails, and I did see a lot come across yesterday. So I do hope
23 that --

24 He gave a list of all of his doctors, he has given
25 authorizations, he did that months ago, and I do hope that will be

1 moot because it weighs on him that this keeps coming up. He had
2 thought and I had thought that it was just on for discussion today,
3 not for dismissal. So I'll just admit to some misunderstanding of
4 what happened with that.

5 And on the Wodowski matter, Dorothy is correct that it
6 came up for dismissal on June 1st and the court orally granted the
7 motion to dismiss, no one appeared for Wodowski. I then made it a
8 point -- Wodowski was not on my list, Wodowski was on Mr. Herman's
9 list -- and I didn't know whether those counsel had ever been made
10 aware of exactly what was going on, specifically what the court's
11 different requirements were than what they might have been expected
12 and the obligation for substitution.

13 So we got in touch with them. What happened, happened.
14 And they have filed pleadings and this is not a question of
15 somebody who doesn't want their claim to continue, and I know that
16 while procedurally the court could have been much more strict about
17 dismissals long ago, you've laid out your intent that people that
18 want to proceed should be allowed to.

19 So if we need a hearing on Wodowski, fine. I don't
20 really think that we do. I think at this point it would not be
21 correct to enter the dismissal and then deal with the
22 reconsideration because the parties have appeared, they have done
23 substitution, and they have asked leave of court to get the case
24 active.

25 THE COURT: It's going the same way. I'll just rescind

1 my order of dismissal and we'll deal with it as a dismissal rather
2 than dismiss it and then consider a re-admission. I don't want to
3 put any burden on anybody else that's more burdensome than the
4 other. So I'll just set that one for the next time.

5 MS. WIMBERLY: All right. On August the 30th, your
6 Honor?

7 THE COURT: Yes.

8 MS. WIMBERLY: And then finally on page eight of the
9 status report. There were two pending motions for counsel to
10 withdraw from representation in the Kevin Novick and the Richard
11 Garcia matters. At the Juneau 1st conference the court orally
12 granted those motions to withdraw, and then again we did not get
13 the order resetting for today. We would like to have those orders
14 of withdrawn entered, and we would like to reset those motions for
15 August the 30th.

16 THE COURT: Okay. Let's make sure that I get those so I
17 can sign them.

18 MS. OLDFATHER: Your Honor, we have no objection to the
19 withdrawal orders. Both of these gentlemen have contacted us and
20 have asked us to look at it. So the August 30th date is coming up
21 awfully soon after this other withdrawal, so I would prefer that
22 they not be set for August 30th because there isn't actually a
23 motion to dismiss their claim at this point.

24 THE COURT: Well, it's not going to be dismissed, it's
25 just they're withdrawing as attorneys, right?

1 MS. WIMBERLY: No, your Honor. We have pending Lone Pine
2 motions to dismiss that go back to last year that were deferred
3 pending action on the motions to withdraw as counsel. So we do
4 have a pending motion that we are asking to have reset.

5 MS. OLDFATHER: But, your Honor, the problem is that
6 these two clients never got the order that their counsel had
7 withdrawn, and so they now know that because I communicated with
8 them after June 1, they're moving forward to get new counsel.
9 Putting them on for August 30 for dismissal is just such a short
10 leash.

11 MS. WIMBERLY: We can do September 21st, your Honor.

12 THE COURT: Yes, let's do it the next time. Okay.

13 MS. OLDFATHER: That will help.

14 MR. SOBOL: May I?

15 THE COURT: Sure.

16 MR. SOBOL: Tom Sobol to just briefly address another
17 third party payor matter. The court might recall that there is
18 subject to the motion to substitute certain law firms for certain
19 John Does. Having conferred with Mr. Seeger, while I am not
20 counsel in that matter, I will respectfully suggest that the court
21 perhaps direct the PSC and counsel for the third party payors in
22 that matter to confer to determine whether there's any new issues
23 that have arisen, what their positions are on that.

24 THE COURT: Yes, I would like to have a status conference
25 on that. Let's set up a status conference on that issue, and we'll

1 talk about whether or not any new issues have been raised since
2 that. If not, I'll set it.

3 MR. DAVIS: Yes, your Honor, Leonard Davis --

4 MR. SOBOL: Should that be separate from the 21st, your
5 Honor?

6 THE COURT: Yes, I think so. We ought to do that faster.

7 MR. DAVIS: Leonard Davis for the PSC. Unfortunately
8 Chris couldn't get a later plane, which he tried to get, he had to
9 be home to do something with his dad. But he asked me --

10 THE COURT: Yes, Lenny, you get in touch with those other
11 lawyers and set up a status conference.

12 MR. DAVIS: We will.

13 THE COURT: I can do it even on the phone rather than
14 have them come in just for such a short period of time.

15 MR. SOBOL: Very good, your Honor.

16 MR. DAVIS: Will do.

17 THE COURT: Anything else that we need to talk about?

18 MS. WOODWARD: Just the question about the TPP issue, are
19 you going to set up the status conference on the entire TPP matter
20 or on just some specific issues?

21 THE COURT: I was just looking for the specific issues
22 that you raised.

23 MR. SOBOL: The issue I was trying to address is there is
24 a motion that is pending that is before the court, but because it's
25 been pending for a period of time the affected parties in that

1 matter would confer and report to the court whether there's any new
2 developments.

3 THE COURT: That's right.

4 MR. DAVIS: That's correct. We are going to look at that
5 motion and talk to Tom and then get back to the court.

6 THE COURT: If it's ready, I'll put it on the docket and
7 give a time frame for answering or whatever, argument, and we'll
8 have it in open court.

9 Okay. Anything else?

10 All right. Folks, thank you very much. The next meeting
11 is September 21st is the next meeting. The court will stand in
12 recess. Thank you.

13 THE DEPUTY CLERK: All rise.

14 (WHEREUPON, A RECESS WAS TAKEN.)

15 (OPEN COURT.)

16 THE COURT: Be seated, please. We have two motions
17 before me. One is the Bilal motion and the other is the motion
18 regarding the BrownGreer fee material. Which one do you want to
19 take first?

20 Your Honor, Emily Pistilli from Williams and Connolly
21 representing Merck to address the Bilal motion. This is docket
22 number, Merck's motion is docket number 63115.

23 Your Honor, in this matter Merck is seeking the dismissal
24 of the duplicate claims that appear to have been inadvertently
25 filed by Mr. Bilal in a second lawsuit. Mr. Bilal, who is pro se,

1 initially filed his suit against Merck in March of 2006. That case
2 is docketed as 06-CV-02364. He then enrolled in the Settlement
3 Program, and he ultimately executed a future evidence stipulation
4 and exited the program when his, in spring of 2010 when his claim
5 was termed to be ineligible.

6 And he received notice at that time from the claims
7 administrator that his FES had been accepted by Merck, and the same
8 letter notified him that if he did not have a pending claim,
9 pending lawsuit against Merck, he needed to file one within 60
10 days. Even though he did have a pending lawsuit against Merck at
11 the time, in response to that letter from the claims administrator
12 he filed what was titled a civil rights complaint form on July
13 17th, 2010, which named both Merck and the claims administrator's
14 pro se coordinator in the defendant section. And on that form he
15 referenced his earlier filed lawsuit and he stated that he had been
16 instructed to refile or resubmit the suit after exiting the
17 Settlement Program. And that form was docketed as a new lawsuit in
18 the Middle District of Florida and ultimately transferred to this
19 MDL as a new case.

20 Mr. Bilal has filed a reply to Merck's pending motion in
21 which he concedes that he never intended to maintain more than one
22 suit against Merck, that he clarified that his intent is to
23 maintain one lawsuit against Merck and one lawsuit against the
24 claims administrator's pro se coordinator for the Settlement
25 Program. And Merck's, therefore, requesting that the claims

1 pending in its later filed lawsuit be dismissed as to Merck.

2 THE COURT: Anybody on Mr. Bilal's team?

3 I've looked over this, I am going to dismiss the lawsuit.
4 It's just part of the program, you have a right to take the money
5 or put in for it; and if you don't, if you wish you can exit the
6 program and proceed with your lawsuit after filing the appropriate
7 document and that's what he chose to do. You don't need to file an
8 extra pleading, so I'll dismiss that pleading.

9 MS. HORN: Good morning, your Honor, Elaine Horn here on
10 Merck's motion, it's another motion regarding the Settlement
11 Program. Specifically this one is our motion for an order to show
12 cause why the remaining settlement programs releases and
13 stipulations should not be tendered to Merck, and the record
14 locator number is docket number 63015.

15 And basically, your Honor, as of more than a year ago we
16 had BrownGreer come in and give their final report of the fact that
17 all of the moneys that had been put into the Settlement Program had
18 been allocated. Since that time there have still been some
19 claimants that have not actually been paid because of some
20 unresolved issues with their claim, with their papers; primarily
21 it's estate issues, some of them are lien issues, and some are one
22 off issues.

23 Merck has done everything that it's required to do under
24 the terms of the Settlement Agreement. So at this point what we
25 would like is for the releases and stipulations that are being held

1 by BrownGreer to be tendered to Merck. And that was the intent of
2 our motion. We were envisioning a two-step process, which perhaps
3 needs to be tweaked. The first step, as we had laid this out in
4 our motion, was that BrownGreer would be ordered to tender the
5 documents to Merck, and at some point a date would be set by which
6 any other remaining claim that had not been resolved, any other
7 remaining money that was still being held with BrownGreer would be
8 tendered to the registry of the court.

9 THE COURT: What I see is that -- I'll take your motion
10 and I'll issue a Rule to Show Cause why the motion should not be
11 accepted or signed. I want to give everybody an opportunity to
12 tell me why it shouldn't if they have any reason. I don't see any
13 reason. I frankly think that the money is best in the registry of
14 the court. If it's parked in Merck and something happens to Merck,
15 then that money is going to be dissipated, or potentially
16 dissipated, or potentially threatened. It ought to be out of
17 Merck's hands, into the registry of the court.

18 And when that's done, Merck ought to be absolved or to
19 get whatever documents they're entitled to. They ought to be out
20 of the lawsuit, they've done everything they should do. I don't
21 think they ought to be holding the money. I don't think it's good
22 for the claimants, and I don't think it's good for Merck not to be
23 out of the lawsuit. It just seems to me to be best for both sides.

24 But rather than just act without any input from the other
25 side, I'll at least say that I am going to issue the order, a Rule

1 to Show Cause why your motion should not be granted and the funds
2 deposited in the registry of the court and Merck given the
3 documents.

4 MS. HORN: And, your Honor, we thought that had been part
5 of the motion that was up for today, and there were people who,
6 there are four groups of, excuse me -- five groups of claimants
7 that filed oppositions to that, which --

8 THE COURT: That was set as a motion and Rule to Show
9 Cause?

10 MS. HORN: Yes.

11 THE COURT: Okay. And I did get some opposition, but the
12 oppositions understood or at least they assumed that their case was
13 going to be dismissed. This is not a question of dismissing the
14 case. Okay. I see it. I am mistaken then.

15 I am going to grant the motion and let's get the
16 documents, I'll order BrownGreer to give you the documents, and
17 I'll order you all to put the money in the registry of the court.

18 MS. HORN: Are you setting a date by which the money will
19 be turned over to the registry of the court?

20 THE COURT: It ought to be done as quickly as possible,
21 you ought to get the documents first.

22 MS. HORN: Correct. We can prepare a proposed order. In
23 our reply brief we had actually set out different categories of
24 cases, there were on Exhibit A a list of cases where they've
25 cleaned up all of their problems and so the motion is moot as to

1 those claimants.

2 THE COURT: Why don't you have those documents?

3 MS. HORN: We do, that happened since, subsequent to our
4 filing the motion in the past few weeks.

5 THE COURT: Okay.

6 MS. HORN: And there are more people who since we filed
7 our reply brief also fall into that category, so we would move them
8 off of the motion.

9 THE COURT: As I understand, some of the categories are
10 the documents are pending in state court, so there's a question of
11 getting some state court signatures?

12 MS. HORN: There are some where they're waiting on or
13 they were waiting on an executive order, an administrator to be
14 appointed; there were some where no estate had ever been opened,
15 the proceedings hadn't even started; there is at least one instance
16 where for whatever reason the claimant is abandoning the claim.
17 There are a variety of issues. Some of them are just waiting on
18 signatures from the proper people.

19 THE COURT: Again, my thinking is we have to get Merck
20 out of the picture, but we also have to get the money that Merck
21 has in its possession out of their possession. So I just think we
22 ought to do that as quickly as we can, let's get the documents, get
23 dismissed from the lawsuit, but give up the money to the registry
24 of the court. What's wrong with that?

25 MS. HORN: We're not -- that's what we would like to have

1 happen.

2 THE COURT: Let's do it.

3 MS. HORN: We have no problem with that.

4 THE COURT: You really ought to prepare though a motion
5 in each one of those cases so that I have a separate one.

6 MS. HORN: Okay. Okay. There are a handful of cases for
7 which we were agreeing to defer for some additional time because
8 it's clear they're imminent in terms of getting their papers
9 cleaned up, so we wanted to leave those until the next status
10 conference.

11 THE COURT: Give me the ones that are ready then. I
12 don't want to do a vein and useless thing.

13 My goal is to get Merck out of the lawsuit because
14 they've done everything they can to get the money either to the
15 individuals or to the registry of the court.

16 MS. HORN: And we will prepare something along those
17 lines as you just stated.

18 THE COURT: Okay.

19 MS. HORN: Since it has been stated before, just to
20 clarify, there are some people who are very confused. They think
21 that by going into the registry of the court they'll never be able
22 to see it again, it's being forfeited and that's not the case.

23 THE COURT: That's not the case. And the reason for the
24 registry of the court, I am not saying that Merck's in any trouble
25 or anything of that sort, but it's a better situation to have the

1 money in the registry of the court than the money in the
2 defendant's possession, just is.

3 MS. HORN: We will prepare the orders in accordance with
4 our schedules that are attached to our reply brief.

5 THE COURT: All right. Thank you. Anything, Dorothy?

6 MS. BARRIOS: I'm sorry, your Honor, Dawn Barrios. I'm
7 throwing myself on the mercy of the court because I made a mistake
8 when I said that there was an MDL for Vioxx RICO claims. Opposing
9 counsel told me, friends on my Blackberry sent me a message told
10 me, and others here. So it is not -- we do not have a RICO MDL for
11 Vioxx, but there is one on securities. Thank you.

12 THE COURT: Right. There is a security MDL. What
13 happened with that, I thought it was resolved, it's not?

14 MR. BEISNER: No.

15 THE COURT: It's still going on. It's in New York, isn't
16 it?

17 MR. MARVIN: New Jersey.

18 THE COURT: New Jersey.

19 MR. BEISNER: Yes, your Honor. As you may recall, there
20 was an issue from that case that went up to the U.S. Supreme Court,
21 and so it's taking awhile.

22 THE COURT: It's in-between, okay, right. Anything else
23 that we need to deal with before we have the meeting?

24 Okay. All right. Thank you.

25 THE DEPUTY CLERK: All rise.

1 (WHEREUPON, THE FOLLOWING MATTERS WERE HELD IN CHAMBERS.)

2 THE COURT: Hello, this is Judge Fallon, who is on the
3 line?

4 MR. COLLINS: Good morning, Judge, Chris Collins for
5 Santa Clara County.

6 THE COURT: Anyone else?

7 MR. YOUNG: Good morning, Judge, James Young for Florida.

8 MS. ARTHURS: And Elizabeth Arthurs for Florida.

9 MS. SANFORD: Shelly Sanford for the state of Oklahoma.
10 Good morning, your Honor.

11 MR. ROTH: Harry Roth and Mike Coren for the commonwealth
12 of Pennsylvania.

13 MR. SPEIGEL: Good morning, your Honor, Craig Speigel for
14 New York.

15 MS. WINKLER: Susan Winkler for the United States.

16 MR. PATTON: Bob Patton for the commonwealth of
17 Massachusetts.

18 MR. KEENAN: Ted Keenan for Illinois with the NAMFCU
19 team.

20 MR. GUTHRIE: John Guthrie with the NAMFCU team.

21 THE COURT: Anyone else?

22 MR. LESSER: Seth Lesser from Santa Clara.

23 THE COURT: Anyone else? Okay. I have everybody else in
24 the conference room.

25 The point of meeting is just to follow-up on the status

1 report and see where we are with it. I know you all came to New
2 Orleans, and you need to know I appreciate that, I think to the
3 extent of trying to see what we could do to resolve the matter.
4 But I also know that the time limitation for accepting NAMFCU has
5 not been met yet, and so I don't know what we can accomplish. But
6 I did want to get with you all and get some input. John.

7 MR. BEISNER: Well, your Honor, I guess the main point I
8 would make is that we continue to be willing to speak with any of
9 the states. We have had follow-up conversations with a few
10 jurisdictions. I do think that there are some differences in views
11 on valuation of the cases, as I think we shared during the sessions
12 with the states. We view that the proposal that has been made
13 through NAMFCU is quite generous, as some states have acknowledged.

14 And we think that this is a -- there are a lot of
15 challenges in this case going forward with the states, and
16 therefore, we're hopeful that people will give a serious
17 consideration to the offer. I mean, we think that these claims are
18 foreclosed and the individualized proof rule that this court has
19 embraced as well as all of the other federal courts who have looked
20 at this, we think that applies to the penalty claims as well.
21 Judge Weinstein finding that in Zyprexa.

22 And so we think that the proposals that have been made
23 out there are generous and we're hoping that the states will, the
24 litigating states will consider them. I think that the one
25 direction we understood some of the states were turning into this

1 notion of sampling under the *Hilao* case in the Ninth Circuit, the
2 Supreme Court has now addressed and found an invalid approach we
3 think in this context that's a part of the *Dukes* decision in which
4 the court was unanimous.

5 So again, I don't want to get into a long discussion of
6 the merits, but we do think that there are challenges in this case,
7 and we hope that the proposals that are out there will be
8 considered.

9 But I do think there are some serious differences in the
10 end views on this. The one sort of evaluation that we got back
11 from one of the states during the mediation process proposed four
12 times pill cost resolution, which is way beyond what I think is
13 ever occurred in these cases, and as another state acknowledged we
14 think the sort of 40 percent level that we're at we feel is
15 extremely generous compared to what's been done in other cases.

16 But I won't belabor that point, I'll just say that we're
17 hoping that the various litigating states will consider this
18 proposal carefully. We are open to further conversation.

19 I think there are other issues that some states have
20 raised about terms of the agreement and structure of the agreement,
21 so on, that we're also open to discussing.

22 THE COURT: I think structure and terms are going to be
23 something that each state is going to have to look at. And I don't
24 know whether uniformity is going to be as helpful there other than as
25 a kick off to tweak it to make certain that the structure is

1 consistent with your needs and requirements. I think some
2 uniformity in other areas, evaluation can be helpful; but the
3 structure, I think each state is going to have to just meet with
4 Merck and make sure it's consistent with their rules and
5 regulations.

6 MS. BARRIOS: Your Honor, for the AG's, I would like to
7 first tell them how much we appreciate them all coming down because
8 I know that each one of you made a concerted effort to get
9 authority, spent a lot of money, even brought some of your AG's
10 down here and we were very disappointed. We want to move this
11 case, your Honor. These AG's are pressing, they want their remand
12 motions heard, that's a jurisdictional issue, it should come before
13 any substantive issue, and we're just again met with delay on top
14 of delay.

15 The stay has been in effect since November, now we're
16 going out to September 15th, that's ten months that we haven't done
17 anything. So I am expressing this on behalf of the states. But I
18 know that Kentucky has a separate position that they would like to
19 advance.

20 MR. COLLINS: Chris Collins for Santa Clara County.
21 Santa Clara is in a unique position, your Honor, in that we do not
22 have any Medicaid claims so we are not part of the NAMFCU
23 settlement. And unfortunately we've been dragged along as if we
24 were part of that group. In our discussions with Merck in New
25 Orleans they were somewhat enlightening to me, but it just seems

1 that, you know, our claims are being pushed aside waiting for the
2 September date to roll around before any type of discussions with
3 Santa Clara will take part.

4 So on behalf of Santa Clara County I would just be
5 looking for some instructions on how we can proceed. We don't have
6 to sign off on anything regarding NAMFCU, we don't have to deal
7 with any of those issues. So that's where Santa Clara County
8 stands.

9 THE COURT: Let me ask John to respond to that, I think
10 it's a legitimate point.

11 MR. BEISNER: Chris, first of all, let me apologize to
12 you. One of the things that you asked me to do during the
13 mediation session was to send you a letter asking for the county's
14 position on damages in the case because you said that was a problem
15 that you were experiencing, I believe, in getting those numbers
16 from your client. And I acknowledged that I have failed to get you
17 that letter, and I will take care of that today so that there is
18 something concrete to discuss.

19 You're absolutely right. The proposal that is out there
20 at the moment does not cover Santa Clara County, but we also need
21 to know what numbers you have in mind before we have any basis for
22 discussion. So I will take care of that today and you have my
23 apologies for not getting that letter to you.

24 THE COURT: Let me get back with you all though soon like
25 in two weeks, get me on the phone, Chris, you and John, and let's

1 see where we are with it because you might be in a different
2 position.

3 MR. COLLINS: Thank you, sir.

4 THE COURT: All right. Kentucky.

5 MR. McKENNA: Tom McKenna for Kentucky. As the court has
6 acknowledged, Kentucky is sort of different in many ways. On June
7 the 22nd -- to explain how we got where we are today -- you asked
8 us to come up with a schedule with Merck for Kentucky specific
9 discovery. We had two meet and confers on that. It was supposed
10 to take roughly two weeks, we found at the mediation that it was
11 intentionally delayed to let the mediation happen, which there was
12 no offer other than NAMFCU.

13 And in both meet and confers we offered to discuss the
14 scope of discovery and were met with, no, we don't want to put that
15 in the proposed order, we want to file a motion for protective
16 order. And that motion for protective order, and I know your Honor
17 has read Merck's letter, they brief it in that letter, is a
18 dispositive motion. What Merck says is you get no more discovery
19 because you lose on the statute of limitations, which is a Kentucky
20 state law issue.

21 And before Merck has that issue decided, they need to
22 prove that there is federal jurisdiction. They've improvidently
23 removed the case, we would really like to have the motion for
24 remand considered as a jurisdictional matter before the merits of a
25 statute of limitations claim are heard.

1 THE COURT: Do you need any further discovery from the
2 MDL, because that's something that you need to think about before
3 you go back. If you've got any requirements, if you need anything,
4 this is the place to get it, I think.

5 MR. MCKENNA: We think --

6 UNIDENTIFIED SPEAKER: Excuse me, your Honor, and
7 everyone, I apologize for breaking in. I can hear your Honor
8 clearly, the other person speaking we're having difficulty.

9 THE COURT: Let's get him closer to the phone. This is
10 Kentucky speaking.

11 MR. MCKENNA: With regard to whether we have adequate
12 discovery from the MDL process, having reached a tentative
13 agreement with the PSC, having seen the trial package, having been
14 through the depository and gotten documents from there, we believe
15 we have gotten what your Honor talked about in February of 2010.
16 When we have gotten all of the joint discovery that can be had, we
17 are at a point -- and resolution is not a possibility, we're at a
18 point to consider the motions to remand.

19 And Kentucky has formally rejected in it writing the
20 NAMFCU, so resolution is not going to be a possibility. The only
21 thing left is Kentucky specific discovery that is outlined in our
22 letter. And frankly, if the case goes back to a state court judge,
23 it might help that judge to familiarize him or herself with the
24 case to deal with the Kentucky specific discovery requests before
25 they have to try the case.

1 THE COURT: All right. Anything on the other side?

2 MR. BEISNER: Well, your Honor, I think as I said, we're
3 I think happy to proceed with discovery here, we think it probably
4 makes sense to be doing that in tandem with any other jurisdiction
5 that includes not to resolve.

6 THE COURT: He says he doesn't need anymore discovery as
7 I hear him.

8 MR. MCKENNA: Not anymore joint discovery. Anything
9 would be Kentucky specific.

10 THE COURT: I'll set the motion for remand, I'll give you
11 all an opportunity to brief it. Let's do that before the next
12 status conference, maybe in two, three weeks, something like that,
13 give everybody an opportunity to brief it and then I'll deal with
14 it.

15 MR. MCKENNA: Thank you.

16 MR. BIRCHFIELD: Your Honor, just to reiterate. We do
17 have an agreement for the trial package and that includes
18 assistance with the -- from the PSC and the discovery issues that
19 are needed.

20 THE COURT: That's important from the other Attorney
21 Generals to kind of recognize. As I said before, it's kind of the
22 story of the wolf, the strength of the wolf is generally in a pack.
23 While you've got the pack together, you've got to make sure you've
24 got everything. There's no sense in going back to a state court
25 and then the state court having the burden of getting material that

1 you could have gotten immediately from the MDL court, it just
2 doesn't make any sense to do it that way. So that's important to
3 think about.

4 Also with this NAMFCU, you've got to take a look at that
5 because that's a significant, that's a significant issue that
6 presents itself. The cases are not the easiest case in the world,
7 I've looked at one in my jurisdiction, so that's something that
8 everybody has to treat seriously in any event.

9 I really need to meet with you all or talk with you after
10 the time frame to see where we are. We've got the next status
11 conference on the 21st, but I think it's helpful, Dawn, if your
12 group could get together and just by yourselves perhaps and think
13 out loud a bit about the pros and cons.

14 MS. BARRIOS: Your Honor, we do that once a week, we have
15 a weekly call, so we will continue to do that.

16 THE COURT: I know it's like jumping in the cold water,
17 you want your buddy to go first, so let's see how that works. But
18 everybody ought to take a look at that.

19 MS. BARRIOS: Yes, your Honor. And we will have a
20 special AG status conference following the regular one on September
21 21st.

22 THE COURT: And I will be hearing from Santa Clara,
23 Chris, you and John sometime get something to me.

24 Okay. All right. Thank you very much.

25 MR. DUGAN: Thank you, your Honor.

1 MS. BARRIOS: Thank you, your Honor.

2 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

3
4 * * * * *

5
6 REPORTER'S CERTIFICATE

7
8 I, Karen A. Ibos, CCR, Official Court Reporter, United
9 States District Court, Eastern District of Louisiana, do hereby
10 certify that the foregoing is a true and correct transcript, to the
11 best of my ability and understanding, from the record of the
12 proceedings in the above-entitled and numbered matter.

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16 Karen A. Ibos, CCR, RPR, CRR
17 Official Court Reporter
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