



current through September 22, 2009). No claim has been found eligible. The SLC will submit a detailed report to the Court prior to the Status Conference. The parties will be prepared to discuss this further at the September 24, 2009 Monthly Status Conference.

## **II. MDL Mediation and Resolution Program**

The deadline for enrollment and the submission of Claim Forms for the First MDL Resolution Program has expired.

The Special Master's office continues to review Claims Forms to determine if the Forms meet the qualifying criteria for submission to the Medical Panel set forth in the Term Sheet. The Special Master's office advises that it will be submitting a Status Report to the Court in advance of the monthly status conference. The Special Master continues to notify the attorneys for the claimants that have deficiencies. Thus far, in Propulsid I, the Special Master has submitted 3,270 Tier I, II and III claims to the Medical Panel for review. Of the 3,270 claims the Defendants have treated 2,820 on an expedited basis. Twenty-five (25) of the tiered claims submitted to the Panel have been found eligible by the Panel, and the Special Master has made those awards. Thirty-four (34) tiered claims are still in review by the Panel, 22 of which are considered expedited by the Defendants. (All numbers in this paragraph are current through September 22, 2009.)

A training session for the newly agreed upon Medical Panel member is to take place with the Special Master and the Court on September 29, 2009 at 3:00 p.m.

On July 8, 2009, the Special Master filed a Motion for Order to Aid in the Implementation of the Propulsid Resolution Programs. The parties await further direction from the Court with respect to the motion.

On April 29, 2008 the Court entered an Order regarding the waiver of the 6% MDL assessment fee as to those claimants found eligible by the Medial Panel. As for those claimants who have already received awards as of April 14, 2008 and whose awards were subject to the 6% assessment, the Clerk of the Court remitted a check to the Special Master to reimburse those claimants for such assessment and further, the balance of the awards, the holdback 50% of the award, was paid out from the Settlement Fund to each claimant that was found eligible for an award, and who had previously received 50% of their award.

Defendants continue to submit a list of plaintiffs/claimants whose records have already been obtained by defendants in whole or in part, so when necessary, the parties, the Special Master and the attorneys for these plaintiffs/claimants can expedite the submission and review of the Claim Forms for these individuals.

The Special Master is evaluating the Tiered Claims and has preliminarily concluded that a significant number of them are essentially Administrative Claims. They will be processed as such after they have been reviewed.

The parties have agreed on a select number of cases that will be subject to a second review, 9 of which have been deemed eligible for awards.

The weekly telephone conference with the Special Master, PLC, DLC and SLC continues to take place to discuss a number of administrative issues germane to the Resolution Program.

There are approximately 1,412 enrolled Tiered Claims yet to be sent to the Panel in Propulsid I, and 416 enrolled Tiered claims in Propulsid II. The parties will be prepared to discuss these issues further at the September 24, 2009 Monthly Status Conference.

**III. Attorney's Fees Issues**

The PSC will be filing a motion and the Court will address the attorney fees issue at a later date.

Respectfully submitted,

*/s/ Monique M. Garsaud*

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**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Joint Report No. 78 of Plaintiffs' and Defendants' Liaison Counsel has been served upon all parties by electronically uploading the same to LexisNexis File & Serve, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing on this 22<sup>nd</sup> day of September, 2009.

**/s/ Leonard A. Davis**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID : MDL NO. 1335  
PRODUCTS LIABILITY LITIGATION : SECTION: L  
 : JUDGE FALLON  
 : MAG. WELLS ROBY  
THIS DOCUMENT RELATES TO :  
ALL CASES :  
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Monthly Status Conference  
September 24, 2009 – 2:00 p.m.

AGENDA

Current Matters:

1. State Liaison Counsel
2. MDL Mediation & Resolution Program
3. Attorney's Fees Issues