



be prepared to discuss this at the March 8, 2002 status conference.

PLC and Defendants met on January 22, 2002 regarding production of documents relating to databases and other electronic data. Following, on January 31, 2002, PLC sent Defendants correspondence regarding materials requested at the meeting. PLC is awaiting such materials. DLC and PLC are scheduling a conference call next week regarding all outstanding issues as to databases and electronic data.

In addition, there has been a change of personnel in Defendants' electronic discovery consultants. DLC and PLC are continuing discussions to further electronic productions. A particular concern of DLC is the substitution of a vendor for the remaining production of e-mails and other electronic documents. DLC and PLC will also discuss this in the conference call next week. The parties will be prepared to discuss this at the March 8, 2002 status conference.

In accordance with their agreement, Defendants delivered approximately 565 videotapes to PLC for their inspection and copying.

The parties will report to the Court with respect to the Court's decisions and instructions as to each party's Motions to Compel which were heard on March 01, 2002. PLC delivered to Defendants a proposed Protective Order regarding the confidential nature of the patient-plaintiff names. Defendants have agreed to preserve confidentiality pending the issuance of a protective order. The parties will be prepared to discuss this at the March 8, 2002 status conference.

The parties are continuing discussions regarding a nominee for Special Master as required by Section H(3) of PTO 10.

**II. State Liaison Counsel - (Minute Entry, November 16, 2000)**

The parties will report to the Court regarding scheduling matters of depositions in the MDL and state court litigations.

The State Liaison Counsel Committee will report to the Court regarding the efforts of the Committee to develop a census of categories of cases in the MDL and state court litigations.

**III. Patient Profile Form and Authorization**

As of Wednesday, March 6, 2002, Defendants have received 1,284 Patient Profile Forms (PPFs). 51 are currently overdue, and 55 PPFs will become due within thirty (30) days. PLC and DLC continue to communicate directly with plaintiff counsel whose PPFs are overdue. DLC and PLC will work together to contact counsel for plaintiffs whose PPFs are overdue to obtain the delinquent documents. In the event such efforts are not successful, DLC will prepare a Motion to Dismiss with Prejudice as to these plaintiffs.

At the appropriate time, Defendants will file a Motion for Entry of Judgment under FRCP 54(b) as to all plaintiffs who have been dismissed with prejudice from MDL-1355.

Defendants have drafted a Motion to Enforce Pre-Trial Order No. 9 as to plaintiffs who have submitted restricted medical authorizations. DLC will deliver a copy of the final draft to PLC for review. If the parties are unable to reach an agreement on this issue, Defendants will file the Motion within the

following 60 (sixty ) to 90 (ninety) day and will set the Motion for hearing accordingly.

**IV. Subpoena to FDA**

There remain outstanding issues regarding the production of a privilege log by the FDA and other documents which PLC believes have not been produced. PLC and FDA legal counsel have corresponded regarding these issues. PLC will present to the Court recent correspondence between PLC and FDA addressing these matters. PLC will be prepared to discuss this at the March 8, 2002 status conference.

**V. Service List of Attorneys**

The parties will present the Court with the most current Master List of all Counsel, which will contain, where available, e-mail addresses.

**VI. Ongoing Studies/Subpoena to BevGlen**

PLC believes there are some documents which remain to be produced by BevGlen. As to electronic data, the parties are discussing a Stipulation whereby BevGlen will produce the data under a protective order. In addition, the parties are discussing production of the code for the BevGlen data that the PLC believes may not have been produced. Early next week, DLC, PLC and counsel for BevGlen plan on holding a conference call to discuss the issue. The parties will be prepared to discuss this at the March 8, 2002 status conference.

**VII. Third Party Subpoena Duces Tecum Issued by PSC**

There remain 3 outstanding certifications from third-party advertisers. Defendants have contacted

these entities on several occasions to secure such certifications, and will continue to do so until the documents have been obtained. In addition, PLC has contacted DLC regarding a missing document from the ADIS production. DLC is obtaining this document and will forward it to PLC shortly.

Defendants are coordinating review and will complete production of the Covance documents within two weeks.

PLC will advise the court as to the status of third party subpoena duces tecums as issues arise in the course of discovering information.

**VIII. Motion to Enter Scheduling Order for Motion and Hearing on Class Certification.**

The depositions of Plaintiffs and Plaintiffs' experts have been completed. PLC has noticed the depositions of Defendants' experts and issued subpoenas to the same. The documents responsive to the various SDTs are being delivered on Thursday, March 7, 2002. The depositions begin on March 12, 2002 and conclude on April 8, 2002-April 9, 2002. Because this deposition occurs on the eve of the hearing on Plaintiffs' Motion for Class Certification, Plaintiffs may need additional time for supplemental briefing with respect to that deposition. The parties will be prepared to discuss this further at the March 8, 2002 status conference.

In addition, the parties will be prepared to discuss the appearance of Arnold Levin at the hearing on Plaintiffs' Motion for Class Certification.

**IX. Plaintiffs' and Defendants' Respective Requests for Production of Documents**

Plaintiffs served on Defendants Interrogatories and Request for Production of Documents, Set No.

5. on February 14, 2002. PLC awaits response. In addition, PLC has made an informal request for documents referred to in the deposition of Janice Bush. DLC is obtaining the identity of such documents responsive to the request and will forward the information upon receipt.

PLC has also requested information regarding insurance as to Defendants. The parties are discussing a stipulation as to several issues and will be prepared to discuss the matter with the Court at the status conference.

**X. Motions for Suggestion of Remand**

The parties will be prepared to discuss the hearing schedule of the Motions for Suggestion of Remand filed by J.C. Jackson and Dickie Helberg at the March 8, 2002 status conference.

**NEW ITEMS**

**XI. Trust Account**

The parties have met with representatives of the Whitney Bank regarding the establishment of a trust account.

**XI. Motion to Dismiss filed by Forshag's Pharmacy**

Defendants have discussed the matter with Forshag counsel and will report to the Court at the March 8, 2002 status conference.

**XII. Agenda**

A proposed Agenda for the March 8, 2002 Status Conference is attached.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 14 of Plaintiffs' and Defendants' Liaison Counsel was served on Plaintiffs' Liaison Counsel by hand and e-mail and by e-service to all parties by uploading same to Verilaw, on this 7<sup>th</sup> day of March, 2002.



**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**IN RE: PROPULSID** : **MDL NO. 1355**  
**PRODUCTS LIABILITY LITIGATION** :  
: **SECTION: L**  
:  
: **JUDGE FALLON**  
**THIS DOCUMENT RELATES TO ALL CASES** : **MAG. JUDGE AFRICK**  
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Monthly Status Conference March 8, 2002 9:00 a.m.
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**AGENDA**

**Current Matters:**

1. Update of Rolling Document Production and Electronic Document Production
2. State Liaison Counsel
3. Patient Profile Form and Authorization
4. Subpoena to FDA
5. Service List of Attorneys
6. Ongoing Studies/Subpoena to BevGlen
7. Third Party Subpoena Duces Tecum Issued by PSC
8. Motion to Enter Scheduling Order for Motion and Hearing on Class Certification
9. Plaintiffs' and Defendants' Respective Requests for Production of Documents
10. Motions for Suggestion of Remand - J.C. Jackson and Ronald Helberg matters

**NEW MATTERS**

11. Trust Account
12. Motion to Dismiss filed by Forshag's Pharmacy