

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

	:	MDL NO. 1355
	:	
IN RE: PROPULSID	:	SECTION: L
PRODUCTS LIABILITY LITIGATION	:	
	:	JUDGE FALLON
	:	MAG. JUDGE AFRICK
THIS DOCUMENT RELATES TO ALL CASES	:	
_____	:	

**JOINT REPORT NO. 3 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Report No. 3. The Court has requested that PLC and DLC “meet and confer” on several issues addressed in this report.

I. Virtual Document Depository - (Minute Entry, November 16, 2000)

The parties are continuing discussions with respect to the virtual document depository. Security issues are of paramount concern. The parties will be prepared to discuss these issues at the January 18, 2001 conference.

II. Plaintiff Profile Forms/Authorizations - (PTO 2 - X(E))

DLC and PLC have agreed on the plaintiff profile forms. The parties will submit an order to the Court providing for the use of plaintiff profile forms and authorizations.

III. Master Complaint/Answer - (PTO 2 - VI(B))

In light of *Lexecon, Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 118 S.Ct. 956 (1998), the plaintiffs believe that further discussion concerning the master complaint and answer would be helpful, and will be prepared to discuss this issue with the Court on January 18, 2001.

IV. Update of Rolling Document Production - (PTO 2 - IX)

Defendants' initial document production took place on December 15, 2000. At that time, defendants produced approximately 290,000 to 300,000 pages of NDA materials on CD-ROM. On January 5, 2001 defendants provided plaintiffs with a duplicated, adjusted production (to address problems of technical nature in the initial CD production of NDA documents), a CD-ROM containing a data file of objective coding, and a separate cross-reference file for the images. The defendants also recently produced organizational charts for Janssen. On January 8, 2001, defendants produced two CD-ROMs containing OCR text files of non-redacted documents for Janssen's adjusted production of NDA documents. Additionally, Defendants will be producing approximately 180,000 pages of clinical trial and other documents the week of January 15, 2001 and are producing documents subpoenaed for the New Jersey MIS depositions and the Texas depositions noticed for January 30 and 31, 2001.

V. Electronic Service/Verilaw - (PTO 2- IV(C)(C))

The parties will submit to the Court a supplemental order requiring all counsel to have access to e-mail and accept service of MDL 1355 filings on e-mail.

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

State Liaison Counsel will be introduced to the Court at the January 18, 2001 status conference. In preparation for the conference, the State Liaison Counsel Committee and the PSC met

in New Orleans on January 12, 2001. In further consideration of MDL/State coordination, the PLC recommends that Dawn Barrios be added as a member of the State Liaison Committee.

VII. Cross-Noticed MIS Depositions

On January 8, 2001, defendants cross-noticed the following depositions in the New Jersey Mass Tort Case No. 247: (a) Janssen Pharmaceutica Inc. (Janssen) Records Management Designated Representative(s); (b) a Janssen Safety Department Information Management Designated Representative(s); and, (c) Janssen MIS/IT Designated Representative(s). These depositions are scheduled to begin on January 23, 2001. DLC has produced in excess of 5,000 documents in connection with the New Jersey MIS depositions. Additional documents will be produced prior to these depositions.

Russ Herman is advising Michael Coren, counsel for plaintiffs in the New Jersey Mass Tort Case No. 247, that Leonard Davis, David Buchanan and an MIS consultant will be attending the New Jersey MIS depositions on behalf of PSC. Plaintiffs have reserved all rights to further MIS depositions. PSC will not be prejudiced by MDL participation in the New Jersey depositions. Russ Herman is attempting to schedule a meeting January 20, 21 or 22, 2001 with Chris Placitella, New Jersey State Liaison Counsel, and with Kip Petroff, Texas State Counsel, on January 22 or 23, to coordinate various activities including depositions currently scheduled. Further, the PSC agrees with the New Jersey State Liaison Counsel that the PSC will not charge any fees or costs to State Counsel for the use or participation in these scheduled MIS depositions.

VIII. Electronic Document Production Motion/Briefing/Hearing Status - (PTO 2 - XI)

The plaintiffs have filed a motion on the electronic document production. The hearing on the motion is noticed for the next status conference scheduled on February 15, 2001 at 2:00 p.m., and

at that time, oral argument and testimony by experts is anticipated. Plaintiffs suggest that defendants response to the motion be filed by February 5, 2001, and any reply by plaintiffs will be filed by February 12, 2001. However, defendants believe the New Jersey MIS depositions are highly relevant to these issues and are concerned that a hearing date of February 15, 2001 and a reply deadline of February 12, 2001, will not give them adequate time to prepare witnesses and brief these issues. Accordingly, the parties will be prepared to discuss these issues at the January 18, 2001 conference.

IX. 30(b)(6) Deposition Regarding Corporate Organization

PLCI has provided DLC with a courtesy copy of a 30(b)(6) deposition notice relating to Janssen and Johnson & Johnson organizational issues in advance. The parties are discussing the scope and timing of the 30(b)(6) depositions. Defendants provided PLC with many organizational charts for Janssen on January 5, 2001. Plaintiffs will schedule corporate depositions directed at discovery of the organizational structures and procedures of defendants in February, 2001. The parties will meet and confer in order to select mutually acceptable dates, times and places for these depositions. The defendants would like to discuss an acceptable alternative to organizational depositions.

X. Status of Response/Objections to Document Request to Defendants

DLC is preparing appropriate objections, if any, and responses to plaintiffs' Request for Production of Documents. These responses and objections are presently due by January 31, 2001. PLC has indicated that it will consent to an extension if needed.

XI. Proposal to Court on MDL/State Court Coordination

In an attempt to coordinate MDL/State Court proceedings, the parties are discussing submitting a proposal to the Court whereby the Court will be notified if counsel for a plaintiff in a State Court action does not agree to coordinate discovery in his or her action with that taken or to be taken in this action. The PLC and the DLC request an opportunity to meet with the Court in chambers to discuss MDL/State Coordination. Attached hereto as Exhibit "A," is a list of State Court actions and counsel.

XII. Document Production Protocol - (PTO 2 - XI)

Since the December 20, 2000 monthly status conference, the Motion and Pre-trial Order (Production of Hard Copy Documents by Defendants) has undergone further revisions necessitated by technical formatting requirements. These issues have been concluded satisfactorily, and the final Motion and Pre-trial Order for the production of hard copy documents will be submitted to the Court.

XIII. Proposed Agenda - (PTO 2 - XV)

A proposed Agenda for the January 18, 2001 Status Conference is attached hereto and identified as Exhibit "B."

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PLAINTIFFS' STEERING COMMITTEE

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Report 3 of Plaintiffs' and Defendants' Liaison Counsel was served on all parties by placing same in the United States Mail, first class postage prepaid, addressed to Liaison Counsel, and by e-mailing same to Liaison Counsel, on this ___ day of January, 2001.