

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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U.S. DISTRICT COURT
EAST DISTRICT OF LA
2004 DEC 14 PM 2:43
LORETTA G. WHYTE
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IN RE: PROPULSID : MDL NO. 1355
 PRODUCTS LIABILITY LITIGATION :
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 : SECTION: L
 :
 THIS DOCUMENT RELATES TO ALL CASES: JUDGE FALLON
 : MAG. WELLS ROBY

JOINT REPORT NO. 36 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Report No. 36.

I. Update of Rolling Document Production and Electronic Document Production

DLC has advised that there is no further scheduled document production. PLC continues to discuss this with the Plaintiffs' Discovery Team and will be discussing this further with DLC.

The PLC and DLC continue communication regarding a proposed Motion and Order regarding the relief from electronic document preservation. The parties will be prepared to discuss this further at the December 16, 2004 Monthly Status Conference.

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

The State Liaison Committee will report to the Court regarding the efforts of the Committee at the December 16, 2004 Monthly Status Conference.

III. Patient Profile Form and Authorization

As of December 13, 2004, defendants have received 3096 PPFs, 2350 are overdue, and 19 will become due in thirty days.

DLC has agreed to PLC's request that motions to dismiss for failure to provide a PPF be halted during the period in which claimants may opt in to the MDL 1355 settlement.

IV. 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.

V. Motion on Class Certification.

The PLC has not yet filed the revised Motion for Class Certification. The filing has been deferred.

VI. Trust Account

No additional deposits have been made since last month's Status Conference.

VII. Trial Schedule

On November 17, 2004, DLC produced an updated trial schedule to PLC, and will continue to do so as the schedule is revised.

IX. Pharmacy Indemnity Agreements

There have been no pharmacy indemnity agreements executed by defendants since the last Status Conference. DLC will continue to furnish copies of all MDL pharmacy indemnity agreements if and when they are executed.

X. MDL Mediation and Resolution Program

The enrollment process has proceeded since the last Monthly Status Conference. Approximately 28,000 plaintiffs and claimants have served enrollment forms. The defendants, the PLC and the Special Master are continuing the process of reviewing the enrollment forms to confirm eligibility, absence of duplicative enrollments and compliance with Term Sheet enrollment guidelines. The PLC and defendants continue to discuss a number of issues that have arisen during the course of the enrollment process, such as pro se plaintiffs, plaintiffs/claimants whose location is now unknown and plaintiffs/claimants who desire to participate in the MDL Program but may not qualify under the Term Sheet. The parties are targeting the resolution of these issues and completion of the enrollment eligibility and confirmation of the numbers of enrollees in the categories defined in the Term Sheet by mid-January 2005.

Since the last status conference, the parties have had several telephone conferences with the Special Master, Deutsche Bank and the Claims Disbursing Agent to discuss the administration of the Resolution Program. Issues are being addressed on an ongoing basis.

The parties are preparing a Motion and Order regarding the administration of the settlement funds in the Program as a Qualified Settlement Fund (QSF).

The parties will be prepared to discuss these issues further at the December 16, 2004 Monthly Status Conference.

XI. Global Application of Daubert

The parties have had no further discussions regarding this matter and the matter is on hold pending the outcome of the MDL's Settlement Program.

XII. Stipulation and Pre-Trial Order Providing for the Use at Trial of Depositions in State or Federal Courts

The Court executed Pre-Trial Order No. 19 on November 8, 2004, which will govern the use of depositions. This item may be removed from the Agenda.

XIII. Motion for Summary Judgment

PLC has delayed the filing with the court of a Motion for Summary Judgment regarding Johnson & Johnson's liability. The parties will be prepared to discuss this further at the December 16, 2004 Monthly Status Conference.

XIV. Pro se Plaintiffs

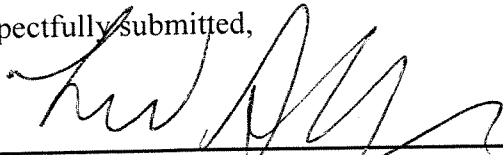
This is an on-going issue that the parties are discussing. As plaintiffs become pro se, Defendants are updating their service list to reflect this change in representation. The parties will be prepared to discuss this issue further at the December 16, 2004 Status Conference.

NEW ITEMS:

XV. MOTIONS TO REMAND (Marion T. Bucaria, Individually and as the Administrator of the Estate of Thomas Bucaria, #04-1277; Helena Masluk and Jerzy Masluk, #04-1278; Judy L. Ridgway, Individually and as Personal Representative of the Estate of Kenneth Ridgway, #04-1809).

The law firm of Weitz & Luxenberg has filed Motions to Remand in the above named cases that seek to have this Court transfer these cases to the respective federal district courts. Plaintiffs' counsel has noticed these Motions for hearing on January 5, 2005, a date that conflicts with DLC's schedule. The parties will be prepared to discuss this issue further at the December 16, 2004 Monthly Status Conference.

Respectfully submitted,



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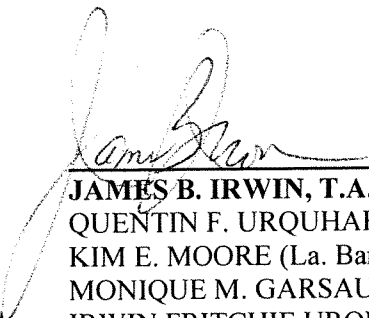
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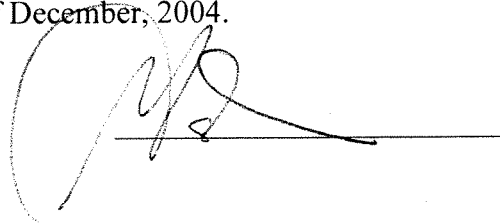
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Report No. 36 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 17th day of December, 2004.



A handwritten signature in black ink, appearing to be 'C. Preuss', is written over a horizontal line. The signature is fluid and cursive.

UNITED STATES DISTRICT COURT
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 : JUDGE FALLON
 : MAG. WELLS ROBY
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Monthly Status Conference
December 16, 2004- 9:00 a.m.

AGENDA

Current Matters:

1. Update of Rolling Document Production and Electronic Document Production
2. State Liaison Counsel
3. Patient Profile Form and Authorization
4. Service List of Attorneys
5. Motion on Class Certification
6. Trust Account
7. Trial Schedule
8. Pharmacy Indemnity Agreements
9. MDL Mediation & Resolution Program

10. Global Application of Daubert
11. Stipulation and Pre-Trial Order Providing for the Use at Trial of Depositions in State or Federal Courts
12. Motion For Summary Judgment
13. Pro Se Plaintiffs
14. Motions to Remand