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EAST DISTRICT OF LA

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

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. 39 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 39.

- I. (Per Court's Minute Entry, this matter should be removed from the Agenda.)
- II. **State Liaison Counsel** (Minute Entry, November 16, 2000)

The State Liaison Committee has continued communications with the DLC and PLC regarding the status of the remaining state court cases and will report to the Court regarding these efforts at the March 24, 2005 Monthly Status Conference.

III. **Service List of Attorneys**

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

IV. Trust Account

Since the last status conference, there has been no activity with respect to the Trust Account.

V. Trial Schedule

There have been no trials or change in the trial schedule since the last Monthly Status Conference.

VI. 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.

VII. 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 concluding 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.

At last month's Status Conference, the Court reviewed a list of the Achord claimants, and their counsel, who had not enrolled in the Settlement Program. PLC has been in communication

with the various attorneys and will report to the Court the status of enrollment for these claimants at the monthly status conference on March 24, 2005.

Further, at the last month's Status Conference, the Court reviewed a list of plaintiff claimants and their counsel who had not enrolled all plaintiffs in the Settlement Program. On February 25, 2005, this Court issued a Minute Entry ordering these claimants to attend this month's Status Conference. Per the Court's Order, the PLC provided a copy of the Minute Entry to all counsel listed on the list of non-enrolled Achord plaintiffs. PLC has received any number of responses from various lawyers with outstanding personal injury claimants who have not yet enrolled in the Settlement Program, and has communicated with several lawyers and will be prepared to discuss the personal injury claimants and their attorneys who have not yet enrolled in the Settlement Program with the Court at the March 24, 2005 monthly Status Conference.

Each week, the Special Master holds a telephone conference with the parties to discuss the administration of the Resolution Program.

The parties will be prepared to discuss these issues further at the March 24, 2005 Monthly Status Conference.

VIII. 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.

IX. Motion for Summary Judgment

PLC has delayed the filing with the court a Motion for Summary Judgment regarding Johnson & Johnson's liability. The parties will be prepared to discuss this further at the March 24, 2005 Monthly Status Conference.

X. Pro se Plaintiffs

DLC will provide to the Court an updated listing of pro se plaintiffs that are active in this litigation at the monthly status conference on March 24, 2005. The parties will be prepared to discuss this further at the March 24, 2005 Monthly Status Conference.

XI. Verilaw/Lexis Propulsid Litigation Migration

The parties have continued discussions with Lexis/Nexis, which purchased Verilaw, regarding the migration of the Propulsid electronic service system from Verilaw to the Lexis/Nexis File & Serve Electronic Service System. The migration is scheduled to occur April 11, 2005. Before the migration date, Lexis/Nexis will be instructing all counsel to subscribe to the system on new procedures and changes in the electronic service system. The parties will be prepared to discuss this at the March 24, 2005 Monthly Status Conference.

XII. Correspondence from Counsel for Walgreen Louisiana Company, Inc. (Margaret Beo, et al v. Walgreen Louisiana, Co., Inc., et al, #01-0600)

On January 26, 2005, counsel for Walgreen's sent the Court correspondence in which he requested that this court rule on its pending Motion for Summary Judgment and dismiss Walgreen. This issue is moot as the plaintiffs in Beo have enrolled in the Settlement Program. This matter may be removed from the agenda.

XIII. Remand Motions

Defendants advised there are 55 cases brought by the firm of Weitz & Luxenberg in this MDL proceeding. That firm has indicated that its clients will not enroll in the settlement program; three of those plaintiffs have filed Motions to Remand their cases to district courts (*Helena Masluk*, Docket No. 04-1278, *Marion Bucaria for the Estate of Thomas Bucaria*,

Docket No. 04-1277 and *Judy Ridgway for the Estate of Kenneth Ridgway*, Docket No. 04-1809.) The defendants request a briefing schedule as to these three cases.

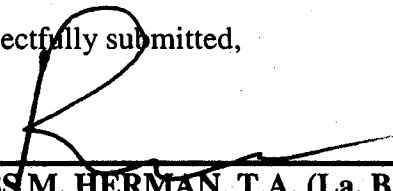
The defendants have reviewed the Weitz & Luxenberg cases and have concluded that they will be filing motions to dismiss in a number of the cases. As to the cases which have not had sufficient case-specific discovery, the defendants request the entry of an order directing that case specific discovery be completed. The parties will be prepared to discuss this at the March 24, 2005 Monthly Status Conference.

NEW ITEMS

XIV. Proposed Remand Order

PLC and DLC have begun discussion about the contents of a proposed Remand Order. Defendants will prepare a draft Remand Order and circulate it to PLC and the PSC for their review.

Respectfully submitted,



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PLAINTIFFS' STEERING COMMITTEE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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Monthly Status Conference
March 24, 2005- 9:00 a.m.

AGENDA

Current Matters:

1. State Liaison Counsel
2. Service List of Attorneys
3. Trust Account
4. Trial Schedule
5. Pharmacy Indemnity Agreements
6. MDL Mediation & Resolution Program
7. Global Application of Daubert
8. Motion For Summary Judgment
9. Pro Se Plaintiffs
10. Verilaw/Lexis Propulsid Litigation Migration

11. Correspondence from counsel for Walgreen Louisiana Company, Inc. Remand motions

NEW ITEM

12. Proposed Remand Order