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 U.S. DISTRICT COURT  
 EASTERN DISTRICT OF LA  
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 LORETTA G. WHYTE  
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**UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF LOUISIANA**

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

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**JOINT REPORT NO. 47 OF  
 PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 47.

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

The State Liaison Committee continues to communicate with the DLC and PLC regarding the status of the State Settlement Program that was presented to the Court at the December 15, 2005 Monthly Status Conference. The Term Sheet and related enrollment and claim forms are accessible on the Court's website located at <http://propulsid.laed.uscourts.gov>. The enrollment period is open until June 17, 2006.

**II. Trust Account**

Since the last status conference a deposit was made by Defendants on April 4, 2006 into the Trust Account.

\_\_\_ Fee \_\_\_\_\_  
 \_\_\_ Process \_\_\_\_\_  
 X/ Dktd \_\_\_\_\_  
 \_\_\_ CtRmDep \_\_\_\_\_  
 \_\_\_ Doc. No \_\_\_\_\_

On February 16, 2006, the PSC filed a Motion for Release and Disbursement of Funds from Deposits Made to the Registry of the Court Pursuant to Pre-trial Order No. 16. No opposition has been filed. The matter was set for hearing at the March 9, 2006 Monthly Status Conference and the parties are awaiting a ruling from the Court.

**III. Trial Schedule**

The matter of *Gregory A. Gellner v. Johnson & Johnson, et al.* is set for trial on June 26, 2006 in the Circuit Court for Marshall County, West Virginia.

**IV. 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 reports that there are over 20,000 claimants who enrolled, but did not submit claim forms. DLC advises it is preparing a Motion to Dismiss all such claimants, except for those who have been provided extensions by the Special Master's Office.

Since the last Monthly Status Conference, the Special Master's office continues to review those Enrollment and Claims Forms to determine if the Forms meet the qualifying criteria set forth in the Term Sheet. The Special Master continues to communicate with claimants' attorneys to process the submissions and to identify any deficiencies. The Special Master has identified a number of Claim Forms that are ready for further processing and for which there are no deficiencies or the deficiencies have been remedied. Defendants shall have 60 additional days, and such further time as may be approved by the Special Master, to submit their memoranda if additional medical records must be subpoenaed after plaintiffs'/claimants' deadline for submitting all medical records has expired and the Special Master has provided such notice to Defendants. After this process is complete, in turn, the Special Master submits the claims to the

Medical Panel for review. Thus far, the Special Master has submitted 36 claims to the Medical Panel for review. Five have been qualified under the Term Sheet by the Medical Panel as qualifying for compensation consideration by the Special Master. Three of these have award recommendations already made by the Special Master and the Special Master is in the process of making the other two award recommendations. The Special Master advises that additional claims are in the queue for submission and will routinely prepare a report regarding the status of claims to be submitted to the Medical Panel for review. The Special Master will report to the Court at the May 2, 2006 Monthly Status Conference regarding the current status of claim administration.

The parties have reached an agreement with the United States Government regarding its Medicare lien. The Court issued an Order on April 17, 2006 approving the Settlement Agreement and the money has been deposited in the government's account.

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 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.

The parties will be prepared to discuss these issues further at the May 2, 2006 Monthly Status Conference.

**V. Pro se Plaintiffs**

On December 7, 2005, Defendants filed a Motion for Proposed Order to Show Cause to set forth procedures for notice to pro se plaintiffs and suggestions for how their cases should be managed from this point forward. In addition, on December 7, 2005, Defendants filed a Joint

Motion to Appoint a Curator to assist pro se plaintiffs to aid pro se claimants in reviewing their options regarding their prosecution of their Propulsid lawsuits. The parties have chosen a curator and will present the name of their selection to the Court at the May 2, 2006 Monthly Status Conference for the Court's approval.

**VI. Proposed Order to Reflect Dismissal of Certain Tolling Agreement Claimants**

On February 16, 2006, Defendants filed a proposed Motion and Order to Reflect the Dismissal of Certain Tolling Agreement Claimants, which this Court granted on March 9, 2006. This item may be removed from the Agenda.

**VII. Proposed Order Approving A Wrongful Death Award Made by the Special Master in the MDL 1355 Settlement Program**

On February 6, 2006, Defendants filed a Joint Petition Approving the Use and Form of a Template Petition for the Approval and Distribution of a Tier I Award From the Special Master, which this Court granted on March 9, 2006. As the Special Master is preparing to make awards in several wrongful death cases, the parties, including plaintiff's counsel who represents such claimants, will be prepared to discuss the approval of the awards and the use of this template at the May 2, 2006 Monthly Status Conference.

**VIII. Emergency Motion for Distribution of Attorney's Fees**

On November 23, 2005, the Court issued an Order and Reasons regarding the Emergency Motion for Distribution of Attorney's Fees with full reservation of rights to all attorneys who may claim any right to common fees and expense reimbursement. On December 5, 2005, Daniel E. Becnel filed a Motion to Reconsider the Motion. Briefing is complete and the motion that was set for hearing has been continued until May 11, 2006. The parties have agreed to further continue this hearing date.

On March 2, 2006 Dumas & Associates Law Corporation filed a Motion for Common Benefit Fees and Expenses Reimbursements. On April 4, 2006, the PLC filed a response to the motion. The parties will be prepared to discuss this at the May 2, 2006 Monthly Status Conference.

**IX. Motion to Strike Class Allegations**

On February 3, 2006, Defendants filed a Motion and Incorporated Memorandum to Strike Class Allegations with a Rule and Order to Show Cause that seeks to have any class allegations remaining in the *Baust, Campbell, Denney, Johnson, Kellar, Ridden* and *Zeno* actions stricken, which this Court granted. This matter may be removed from the Agenda.

NEW ITEMS:

**X. Walgreen and Stephanie Newport's Motion for Reconsideration**

Walgreen Pharmacy and Stephanie Newport have a Motion for Reconsideration pending before this Court regarding the denial of their Motion for Summary Judgment on March 22, 2005. Counsel for Walgreen and Ms. Newport will be in attendance at the May 2, 2006 Monthly Status Conference to argue the Motion.

Respectfully submitted,



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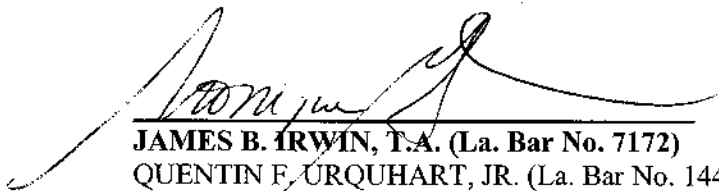
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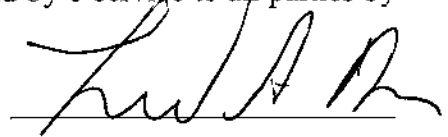
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 47 of Plaintiffs' and Defendants' Liaison Counsel was served on Defendants' Liaison Counsel by e-mail and by e-service to all parties by uploading same to LexisNexis, on this 1<sup>st</sup> day of May, 2006.



A handwritten signature in black ink, appearing to read "L. A. B.", is written over a horizontal line.



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

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**Monthly Status Conference**  
**May 2, 2006- 9:00 a.m.**

**AGENDA**

**Current Matters:**

1. State Liaison Counsel
2. Trust Account
3. Trial Schedule
4. MDL Mediation & Resolution Program
5. Pro Se Plaintiffs
6. Proposed Order to Reflect Dismissal of Certain Tolling Agreement Claimants
7. Proposed Order Approving A Wrongful Death Award Made by the Special Master in the MDL 1355 Settlement Program
8. Emergency Motion for Distribution of Attorney's Fees
9. Motion to Strike Class Allegations
10. Walgreen and Stephanie Newport's Motion for Reconsideration (Beo)