

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

IN RE: PROPULSID : MDL NO. 1355
PRODUCTS LIABILITY LITIGATION :
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SECTION: L
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THIS DOCUMENT RELATES TO ALL CASES : JUDGE FALLON
MAG. WELLS ROBY
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**JOINT REPORT NO. 67 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 67 in preparation of the September 18, 2008 Monthly Status Conference. To participate via telephone, dial-in information may be accessed on the Court's website at <http://propulsid.laed.uscourts.gov/>.

I. State Liaison Counsel/MDL Resolution Program II

The enrollment requirements have been met for the State Settlement Program (Propulsid II). Escrow Agreements have been executed and Defendants have funded the various funds. The claims, medical records and claimant memoranda deadlines have passed. Administrative claims are being processed and disbursements have begun. The Special Master's Office has begun clearing claims for defense briefing, and the defendants have begun submitting defense memoranda. The parties will be prepared to discuss this further at the September 18, 2008 Monthly Status Conference.

II. Trust Account

No deposits have been made into the Trust Account since the last Status Conference.

III. 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 11,000 claimants who enrolled, but did not submit claim forms. The Special Master filed a Motion to Dismiss such claimants. Following discussions with the parties and after further consultation with the Court, the Special Master, on August 1, 2008, filed an Amended Motion for Order Dismissing, With Prejudice, All Plaintiffs in First MDL Resolution Program who have not submitted claim forms. Previously, on June 18, 2008, the PSC forwarded a draft of the Motion to plaintiffs' counsel whose clients were subject to the Motion and advised counsel that they had two weeks to contact the Special Master if they had any issue with the lists of plaintiffs/claimants subject to the Motion. The Amended Motion requested that once the Court enters an Order dismissing the plaintiffs listed on Exhibit A to the motion, the time limitation to seek removal from the Order shall be thirty (30) days. On August 15, 2008, the Court granted the Motion and ordered the claimants dismissed with prejudice. This matter may be removed from the Joint Report.

The Special Master's office continues to review Claims Forms to determine if the Forms meet the qualifying criteria for submission to the Medical Panel set forth in the Term Sheet. The Special Master's office advises that it will be submitting a Status Report to the Court in advance of the monthly status conference. The Special Master continues to notify the attorneys for the claimants that have deficiencies. Thus far, in Propulsid I, the Special Master has submitted 2,254 Tier I, II and III claims to the Medical Panel for review. Of the 2,254 claims the Defendants have treated 1,955 on an expedited basis. Twenty-one (21) of the tiered claims submitted to the Panel have been found eligible by the Panel, and the Special Master has made those awards. Two hundred and sixty-one (261) tiered claims are still in review by the Panel, 246

of which are considered expedited by the Defendants. The Special Master will report to the Court regarding the current status of claim administration.

On April 29, 2008 the Court entered an Order regarding the waiver of the 6% MDL assessment fee as to those claimants found eligible by the Medial Panel. As for those claimants who have already received awards as of April 14, 2008 and whose awards were subject to the 6% assessment, the Clerk of the Court remitted a check to the Special Master to reimburse those claimants for such assessment and further, the balance of the awards, the holdback 50% of the award, was paid out from the Settlement Fund to each claimant that was found eligible for an award, and who had previously received 50% of their award. As to all awards made after April 14, 2008, the 50% holdback remains in place.

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 parties have agreed on a select number of cases that will be subject to a second review, 9 of which have been deemed eligible for awards.

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 September 18, 2008 Monthly Status Conference.

IV. 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. The matter has been reset for hearing on September 24, 2008 at 9:00 a.m.

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 hearing date has not been set.

V. **Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee**

On August 5, 2008, Robert J. Caluda and A.J. Rebennack filed a Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee. The matter has been requested to be set for hearing on September 24, 2008 at 9:00 o'clock a.m. The PSC just received this motion and is in the process of reviewing same. The PSC will be prepared to discuss a briefing schedule on the motion at the monthly status conference on September 18, 2008.

Respectfully submitted,

/s/ MONIQUE M. GARSAUD

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PLAINTIFFS' STEERING COMMITTEE

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Joint Report No. 67 of Plaintiffs' and Defendants' Liaison Counsel has been served upon all parties by electronically uploading the same to LexisNexis File & Serve, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing on this 16th day of September 2008.

/s/ MONIQUE M. GARSAUD

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

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**Monthly Status Conference
September 18, 2008- 9:00 a.m.**

AGENDA

Current Matters:

1. State Liaison Counsel
2. Trust Account
3. MDL Mediation & Resolution Program
4. Emergency Motion for Distribution of Attorney's Fees
5. Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee