

MINUTE ENTRY
FALLON, J.
MARCH 9, 2006

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID : MDL NO. 1355
PRODUCTS LIABILITY LITIGATION : SECTION "L"
 : JUDGE FALLON
..... :

THIS DOCUMENT RELATES TO ALL CASES

A pretrial status conference was held on this date in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Leonard Davis, Arnold Levin, Charles Zimmerman, Carroll Ingram, Barry Hill, Dawn Barrios, Richard Arsenault, Daniel Becnel, Walter Dumas, James Capretz, Kevin Kliebert, Matt Moreland, and Stephen Murray. In attendance for the Defendants were James Irwin, Chuck Preuss, Thomas Campion, and Monique Garsaud. Special Master Patrick Juneau also attended the conference. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 46 of Plaintiffs' and Defendants' Liaison Counsel.

I. State Liaison Counsel

The Propulsid II Settlement Program is progressing well. State Liaison Counsel have held two informational meetings for state counsel regarding the program, and both were successful. The Court advised counsel that there could be a potential problem with the Court's jurisdiction over the cases: while in the Consent Order the parties have agreed to the Court's jurisdiction, there may be administrative issues with the Clerk's Office if individual cases need to be transferred here for disposition. It is not clear that transfer will be necessary for the settlement

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program to proceed.

State Liaison Counsel raised the additional issue that tolling agreement deadlines will arrive in late March 2006. However, under Propulsid II, plaintiffs will have until June 2006 to elect to join the settlement. Defense counsel indicated that, for individuals whose tolling agreements have expired, Defendants will waive any potential objections based on the statutes of limitations applicable to the cases if these individuals join the settlement program.

Counsel have also filed a Motion and Order Related to Fees Associated with the Second MDL Program. This motion sets forth a system of assessments for claimants in Propulsid II. IT IS ORDERED that the motion is taken under submission.

II. Trust Account

Since the last status conference, the Defendants have made one deposit into the Trust Account. The PSC has 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. This motion was set for hearing today. IT IS ORDERED that the motion is taken under submission.

IV. Trial Schedule

Currently, one case is set for trial in West Virginia in June 2006: *Gregory A. Gellner v. Johnson & Johnson Co., et al.*

V. MDL Mediation and Resolution Program

The deadline for enrollment in the Propulsid I Settlement Program has now passed. Approximately 28,000 plaintiffs enrolled in the Propulsid I program. The Special Master's office continues to review and process Tier I, II, and III claims, and to pay out administrative claims.

The Special Master and Liaison Counsel have worked out a tentative agreement with the

government regarding potential Medicare liens on any settlement proceeds. The agreement has gone through several drafts, and the agreement is nearing completion. The Court shall meet with liaison counsel on Monday, March 13, 2006 to resolve any remaining issues, and the settlement should be finalized by next week.

VI. Pro se Plaintiffs

Defendants have filed a Motion for Proposed Order to Show Cause which would require pro se plaintiffs to report to the Court about their intentions either to enroll in the Settlement Program or to proceed with trial of their cases, after these plaintiffs are properly noticed. In addition, counsel have filed a Joint Motion to Appoint a Curator to assist pro se plaintiffs in reviewing their options. Counsel have agreed upon a short list of candidates for the Curator position, and they will contact a candidate this week.

VII. Motion for Clarification of August 12, 2005 Minute Entry

Carroll Ingram and Defendants have reached an agreement to settle his firm's administrative claims. Counsel shall file a stipulation regarding their agreement which will moot the pending Motion for Reconsideration filed by Mr. Ingram.

VIII. Proposed Order Approving a Wrongful Death Award Made by the Special Master in the MDL 1355 Settlement Program

This Order is in final form and has been signed.

IX. Emergency Motion for Distribution of Attorney's Fees

After conferring with the parties, the Court believes that the parties are entitled to further discovery before the Court's hearing of Mr. Becnel's Motion for Reconsideration. Counsel are to report to the Court next week regarding their availability for a status conference.


The Court is in receipt of the Motion for Common Benefit Fees and Expenses Reimbursements of Dumas & Associates Law Corporation. In order to give the PSC time to respond, IT IS ORDERED that this motion shall be heard at the next monthly status conference on May 2, 2006.

X. Motion to Strike Class Allegations

Defendants have filed a Motion to Strike Class Allegations in seven pending cases. There is no objection to the motion, and for four of these cases, the lead plaintiffs' attorney has recommended that the cases be dismissed outright. Defendants shall file a revised order to reflect these changes, and the Court will be prepared to review and sign it when it arrives.

XIV. Next Pretrial Status Conference

The next status conference shall be held on Tuesday, May 2, 2006, at 9:00 a.m.

A handwritten signature in black ink, consisting of a large, stylized 'E' followed by a horizontal line extending to the right.