

**MINUTE ENTRY
FALLON, J.
MAY 21, 2009**

**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 monthly status conference was held on this date by telephone in the Chambers of Judge Eldon E. Fallon. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 74 of Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC). This conference was transcribed by Ms. Karen Anderson Ibos, Official Court Reporter. Counsel may contact Ms. Anderson Ibos at (504) 589-7776 to request a copy of the transcript. A summary of the monthly status conference follows.

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. One hundred twenty-five (125) claims have been submitted to the Medical Panel for review, of which defendants have treated 122 on an expedited basis (these numbers are current through May 7, 2009). No claim has been found eligible.

II. MDL Mediation and Resolution Program

The deadline for enrollment and the submission of claims forms for the First MDL Resolution Program has expired.

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 continues to notify the attorneys for the claimants that have deficiencies. Thus far, in Propulsid I, the Special Master has submitted 2,986 Tier I, II, and III claims to the Medical Panel for review. Of the 2,986 claims the Defendants have treated 2,585 on an expedited basis. Twenty-four (24) 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 ninety-three (293) tiered claims are still in review by the Panel, 276 of which are considered expedited by the Defendants. (All numbers in this paragraph are current through May 7, 2009). The Defendant and PSC have agreed upon a Medical Panel Replacement member and the parties will coordinate a training session with the Special Master and the Court. The Courtroom shall be reserved on July 16, 2009 at 3:00 p.m. for this meeting.

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 Medical 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 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.

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 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.

Betty Alexander and Marilyn Reynolds called to inquire about the status of their awards.

III. Attorney's Fees Issues

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 was set for hearing on September 24, 2008 at 9:00 a.m., but has been continued.

The Dumas & Associates Law Corporation's Motion for Common Benefit Fees and Expenses Reimbursements and the Robert J. Caluda and A.J. Rebenack's Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee matters have been resolved and the matters shall be removed from future reports.

On April 3, 2009, the PLC filed a Motion for Distribution of Specific Attorney's Fees Awards and for Expenses and Reimbursement (re: MDL Settlement Program I). The Court issued an Order on April 27, 2009.

IV. Medical Records from Medical Records Providers

On December 4, 2008, the Court issued an Order requiring certain medical providers who

have failed to comply with or even respond to legal requests made by Propulsid claimants for the production of their medical records to appear in Court on December 22, 2008 to show cause why they should not be held in contempt of court and why they should not also be fined \$1,000 per day for every day thereafter until such records are produced. The Order provided that the medical records providers can satisfy the records request by submitting the information to Special Master Patrick Juneau in the Special Master's Office, 400 Poydras Street, Suite 2820, New Orleans, Louisiana 70130-6901, prior to Thursday, December 18, 2008, so that they will no longer be subject to the Order and no longer required to appear in Court.

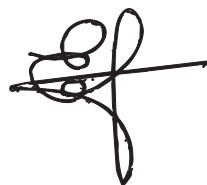
V. Destruction and/or Retrieval of Medical Records

On March 5, 2009, the Special Master, filed a Motion Seeking Authorization for Destruction of Medical Records Pertaining to Propulsid I which seeks to establish a process for the destruction and/or the retrieval of medical records that the Special Master has collected for the claims in the Settlement Programs. On March 6, 2009, the Court issued an Order requiring that any claimant, whose claim has had a determination on eligibility for payment under the terms and provisions of the Resolution Program I, who objects to his/her medical records in the possession of the Special Master being destroyed, must file a written objection with the Court no later than Wednesday, April 15, 2009, and show cause on Wednesday, April 22, 2009, at 9:00 a.m. why such records should not be destroyed. The Court issued an Order on April 24, 2009 providing that all medical records on claimants, who have a determination on eligibility for payment under the terms and provisions of the Resolution Program I, shall be destroyed at the direction of the Special Master. This item shall be removed from future agendas.

VI. Next Status Conference

The next status conference will be held by telephone on June 26, 2009 at 1:30 p.m. The

dial-in is 1-866-213-7163 and the conference ID is 11697952.

A handwritten signature in black ink, consisting of several loops and a horizontal line extending to the right.