

**MINUTE ENTRY  
FALLON, J.  
OCTOBER 28, 2010**

**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. 87 of Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC). This conference was transcribed by Ms. Jodi Simcox, Official Court Reporter. Counsel may contact Ms. Simcox at (504) 589-7780 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. Three hundred thirty six (336) claims have been submitted to the Medical Panel

for review, of which defendants have treated 285 on an expedited basis (these numbers are current through October 26, 2010). Two claims have been found eligible.

## **II. 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'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 4,217 Tier I, II and III claims to the Medical Panel for review. Of the 4,217 claims the Defendants have treated 3,521 on an expedited basis. Thirty-one (31) of the tiered claims submitted to the Panel have been found eligible by the Panel, and the Special Master has made those awards. Six tiered claims are still in review by the Panel, none of which are considered expedited by the Defendants. (All numbers in this paragraph are current through October 26, 2010).

On July 8, 2009, the Special Master filed a Motion for Order to Aid in the Implementation of the Propulsid Resolution Programs. The parties await further direction from the Court with respect to the motion.

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 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.

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.

On November 30, 2009, the Court issued an Order granting Joint Motion for an Order authorizing Distribution of MDL I Settlement Funds which authorized the transfer of 8.75 million (Canadian) from the Settlement Fund of the MDL I Propulsid Resolution Program Fund to the Propulsid Resolution Program and further authorized a distribution in the same amount for appropriate contributions to charitable organizations (the Order was amended on December 3, 2009). On December 3, 2009, the parties filed a Joint Motion for an Order to Amend the Court's Order dated November 30, 2009. On January 4, 2010, the Court issued an Order appointing a cy pres committee.

On December 23, 2009, the PSC and Defendants jointly filed a Motion and Order for Expediting of Outstanding Claims in Propulsid I Resolution Program. On January 4, 2010, the Court issued an Order granting the motion. The PSC has expressed concern regarding the pace at which Defendant Briefs are being submitted for consideration to the Special Master so that the Propulsid I Resolution Program can be timely completed. In accordance with discussions with the Court and the Special Master, Defendants have begun filing Stipulations of Dismissal as to

claims that have been processed or who failed to submit the proper documentation.

The parties agreed on a select number of cases that were 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.

There are approximately 18 enrolled Tiered Claims yet to be sent to the Panel in Propulsid I, and 90 enrolled Tiered claims in Propulsid II.

### **III. Attorney's Fees Issues**

The PSC will be filing a motion, and the Court will address the attorney fees issue at a later date.

### **IV. Current Propulsid II Timeline Status Report**

1. Claim Forms were due on 12/1/07. The Special Master's Office has received 1,710 claim forms.

2. Medical Records were due on 1/30/08. To date, approximately 97 % of the claimants who have submitted claim forms have submitted medical records.

3. Claimant memorandums were due on 3/30/08. To date, the Special Master's Office has received 9% of these on Tier claims.

4. Administrative claims began being processed on 4/1/08. To date, 312 of these claims have been paid and proceeds forwarded to claimants.

5. The Special Master's Office began clearing claims for defense briefing on 5/31/08. It is anticipated that the final two batches of expedited claims will be cleared by October 29, 2010.

6. The Special Master's Office began receiving defense memorandum on August 22, 2008.

7. Expedited claims began going to medical panels on August 28, 2008.

Disbursements began on December 23, 2008 regarding administrative payments on any of these claims which were declared ineligible. It is anticipated that the next batch will be released to the defense for approval for payment on November 3, 2010.

8. Non-expedited claims began going to medical panels on September 27, 2008 and administrative payments on any of these claims which were declared ineligible began on December 23, 2008. It is anticipated that the next batch will be released to the defense for approval for payment on November 3, 2010.

9. Payment of claims which are declared eligible will begin as soon as they are cleared by the panel and the required documentation has been submitted.

10. Panel review status:

Total to Panel: 336 (of that, 285 expedited; 42 new-expedited process)

Eligible: 2

In review: 42 (of that, 42 are expedited)

Ineligible: 292 (of that, 243 are expedited)

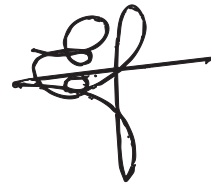
## **V. Next Status Conference**

The next status conference will be held by telephone on December 20, 2010 at 1:30 p.m (CT). Parties may participate by following these steps:

1. Dial 877-336-1839.
2. Once you are connected, enter access code 4227405. You may be put on hold

until the host (the Court activates the call).

3. Once the call is activated, enter participant security code 122010 followed by the pound (#) key.
4. Finally, you will be given the option to accept or re-enter the participant security code before you are entered into the call.

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