

MINUTE ENTRY
FALLON, J.
October 29, 2001

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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

THIS DOCUMENT RELATES TO ALL CASES:

A pretrial status conference was held October 25, 2001 at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Russ Herman, Leonard Davis, Dawn Barrios, Barry Hill, Chris Seeger, Ronald Goldsen, Arnold Levin, William Colvin, David Jacoby, James Renna, Bob Wright, James Dugan, Stephen Murray, Sr., Julie Jacobs, James Capritz, Carlos Prietto, Joseph Arshawsky, and John Kim. In attendance for Defendants were James Irwin, Thomas Champion, Quentin Urquhart, Jr., Charles Preuss, Miriam McMichael, Kim Meaders, Lori Moser, Guice Giambrone, Virginia Trainor, Isaac Ryan, and Chris G'sell. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 11 of Plaintiffs' and Defendants' Liaison Counsel. Toni Tusa served as Court Reporter.

1. Master Complaint/Answer

The Master Complaint was filed on October 5, 2001. Defendants intend to file a Master Answer on November 5, 2001.

2. Update to Rolling Document Production and Electronic Document Production

Defense Liaison Counsel ("DLC") advised the Court of several issues concerning document production. Regarding the production of the Beerse Belgium documents, there is a developing problem of "orphan data" which DLC described as data which is not easily identifiable with the Propulsid product. DLC informed that this data might actually be data connected with other products and, therefore, not subject to disclosure. DLC will confer with PLC and report further on this topic. Secondly, DLC informed the Court that it is prepared to deliver many videotapes to the plaintiffs, but indicated that the cost of production was substantial. Plaintiff Liaison Counsel ("PLC") indicated to the Court that plaintiffs do not intend to pay for the videotapes, but that they would agree to copy the tapes at their expense.

PLC and DLC will resolve these issues by the next meeting or else submit motions to place the issues before the Court for resolution.

3. State Liaison Counsel

PLC informed the Court that there have been several telephone conferences and meetings with attorneys involved in state court litigation regarding the coordination of opposition to the pending Motion for Injunctive Relief.

4. Plaintiff Profile Forms and Authorizations

Defendants Johnson & Johnson and Janssen Pharmaceutica, Inc. filed a Motion to Dismiss with Prejudice the claims of Patty Absheir, Hugh Ford, Irvin Leitz and Gladys Rodriguez for failure to furnish a Patient Profile Form. In addition, Defendants Johnson & Johnson and Janssen Pharmaceutica, Inc. filed several Motions to Dismiss with Prejudice the claims of those plaintiffs identified on the attached

appendix to this Minute Entry for failure to furnish a Patient Profile Form. Plaintiff's opposed any dismissal with prejudice. Additionally, Plaintiff's attorneys Morris Bart and Michael Gallagher filed Motions to Withdraw as Counsel for those plaintiffs listed in the attached appendix (with exception of plaintiff Robert Harris, individually and on behalf of the estate of Pauline Harris, No. 01-1299, for which no Motion to Withdraw was filed) . Defendants Johnson & Johnson and Janssen Pharmaceutica, Inc. opposed the Motions to Withdraw. Following oral argument from John Kim for the Plaintiffs and James Irwin for the Defendants, the Court DENIED the Motions to Withdraw filed by attorneys Morris Bart and Michael Gallagher and GRANTED the Defendants' Motions to Dismiss with Prejudice.

Accordingly, IT IS ORDERED that the claims of Patty Absheir, Hugh Ford, Irvin Leitz, Gladys Rodriguez (No. 00-2737) as well as the claims of those plaintiffs identified on the attached appendix be and hereby are DISMISSED with prejudice.

On request of the parties, the Court will RESERVE RULING on the motions of Defendants Johnson & Johnson and Janssen Pharmaceutica, Inc. to dismiss the claims of Betty Manasco, individually and on behalf of the Estate of Rickey Manasco (No. 01-1300); Lillie Chapman, individually and on behalf of the Estate of Carol Behre (No. 01-1303); Roy Vernon (No. 01-1297); Myra Gill as next friend to Alexa Gill, minor child, (No. 01-1298); Sandra McGowan (No. 01-1298); Vera Starkey (No. 01-1298); George Duet (No. 01-1296); and Rosemary Fredrick (No. 01-1739) until November 30, 2001.

5. Subpoena to FDA

PLC and DLC informed the Court that PLC has received the balance of all documents responsive to the FDA subpoena. However, PLC noted that there are problems with collation of data

and Bates numbers. PLC reports that he has been in contact with FDA concerning these problems and that FDA is trying to resolve them. PLC anticipates receipt of certification of complete production from FDA in short order. At the next monthly status conference, counsel will update the Court on this issue.

6. Service List of Attorneys

DLC provided the Court with an updated list of attorneys in the MDL case as well as related state court cases.

7. Ongoing Studies

On October 10, 2001 PLC filed a Motion to Compel against BevGlen claiming failure to respond to PLC's subpoena duces tecum. PLC advised the Court that since that time, BevGlen has agreed to permit Defendants to assist in the collection of the documents responsive to the subpoena.

On request of PLC, the hearing on the Motion to Compel was continued until the next monthly status conference.

8. Third Party Subpoena Duces Tecum Issued by PSC

DLC informed the Court that he has provided to PLC a list of all the entities from which Defendant has requested certifications of completeness. If certifications are not made by the next monthly status conference, DLC will move to compel.

9. Motion to Enter Scheduling Order for Motion and Hearing on Class Certification

DLC and PLC will continue to work on a schedule order containing various cut-off dates which will be presented to the Court.

10. Plaintiffs' and Defendants' Respective Requests for Production of Documents

On May 22, 2001, Defendants served a Request for Production of Documents Propounded to

Plaintiffs - Set No. One: Ongoing Studies. DLC informed the Court that the majority of plaintiffs have furnished Defendants with their responses; however, there remain approximately 24 plaintiffs' responses that remain outstanding. On June 5, 2001, Defendants served their Request for Production of Documents Propounded to Plaintiffs - Set No. Two. Defendants are awaiting a response.

11. Briefing on Injunction

PLC will provide the Court with a list of those attorneys who will participate in oral argument concerning the Motion for Injunctive Relief filed by Defendants which is set for hearing on November 15, 2001. The Court reminded PLC that every effort to coordinate the arguments of individual counsel should be made to avoid redundancy.

DLC and PLC indicated concerns over the dates on which both would be served with the memorandums in opposition to the Motion for Injunctive Relief and Defendants' reply to memorandums in opposition. Accordingly, all parties were directed to ensure that their memoranda are actually served on opposing counsel on the date on which the memoranda are due to this Court. This is necessary to ensure all counsel have maximum opportunity to review the documentation and to prepare for arguments.

12. Settlement Negotiations

Parties should designate a person on each side whose job is to consider settlement of the case. In the near future the Court will meet with the settlement teams to discuss how settlement negotiations should progress.

13. Scheduling of Next Pretrial Status Conference

The next pretrial status conference will be held on Friday, November 30, 2001 at 9:00 a.m.

APPENDIX: CLAIMS OF PLAINTIFFS DISMISSED WITH PREJUDICE

LEAD CASE

PLAINTIFF NAME

Yvonne Adams #01-1300

Eva Beavers

Camelia Bychurch

Marguerite Cothorn

Maudie Curney

Samella Addison #01-1303

Julia Agoff

Demetta Alexis

Marion Olsen, individually, and on behalf of the

Estate of Carol Behre

Lillie Rose Chapman

Florence Cheatham

Rose Douglas

Oretha Fluker

Thomas Gordon

Venus Green

Jeanette Forsythe, as next friend to Sydni Henke,

minor child

Annette Irvin

Harold Ishee

Gail Lenormand

Rosemary Macaluso

Elizabeth Miguez

Carmenzette Moten

Stephanie Payne, as next friend to Jasmine Payne, minor child

Evelyn Portier

Tanya Sandras

Katherine Simon

Beverly Territo

Katherine Verrette

Charles Williams, Sr.

Wayne Conley Alford #01-1297

Wayne Conley Alford, individually and on behalf of the
Estate of Mattie Alford

Elizabeth Ballard

Bette D. Brown

Rosalie Burkhamer

Robert Ebersole, Sr.

Linda Foster

Annie Lloyd

Irene Mabry

Theresa Newman

Audrey Sauls

Gail Alix #01-1304

Orelia Anderson

Alanna Bailey

Gloria Butler

Betty Cardwell

Steven Clark

Joann Cyres

Rosalyn Davis

Josephine Ebbs

Harry Encalade, Jr.

Sheryl Freeman

Stacey Jackson

Lisa S. Johnson

Beverly King

Quinsonna Lucas

Raymond Manson

Toni Marshall

Ritamae Martinez

Qiana Mitchell, as next friend to Damon Mitchell, minor child

Ellawean Owens

Shirley Paul

Frances Penn

Sarah Pennwright, as next friend to Charles Pennwright, minor
child

Sheila Pierre

Deneen Quinn

Georgia Shelmire

Karen Small

Cynthia Songy

Ardis Stewart

Nietra Stroman

Joann Strong

Meri Taylor

Firmen Thomas

Linda S. Thomas

Bennette Williams, Jr.

Pearline Anderson #01-1298

R. C. Armstrong

Blanche Barbato

Geraldine Berggren

Janet Bodden

Raymond Boykin

Mona Burke, as next friend to Zachary Burke, minor child

Catrice Burrell

Stephanie Champagne, as next friend to Melissa Champagne,
minor child

Taylor Champagne

James Coleman

Dawn Constanzi, as next friend to Darrin Constanzi, Jr., minor
child

Helen Ducayag

Brett Fredenburg

Tonia Garner

Angela Germany

Brenda K. Griffin

William D. Harris

Lena Hendrix, as next friend to Raymond Hendrix, minor child

Alannah Hiller

Paulina Johnson

Dorothy Jones

Dorothy Lane

Leslie Mabry, Jr.

Gordon Martine

Constance Dunbar, as next friend to Carnell McLendon, Jr.,

minor child

Gerald Melerine

Zena Munster, as next friend to Austin Munster, minor child

James Panter

Jacqueline Parker, as next friend to Jaycob Parker, minor child

Gilda Rachel

Toyah Reddix, as next friend to Tyrianna Reddix, minor child

Robert Robertson

Joseph Robinson, III

Pat Sanford, Jr.

Doris Scott

Debra Skipper

Shealyn Starks, as next friend to Deondre Starks, minor child

Tammy Armone, as next friend to Samantha Stoetzner, minor

child

Larry Stogner

Noland Thibodeaux

Lucille Thompson, as next friend to Ra'neke Thompson,
minor child

Lori Treither, as next friend to Carl Treither, III, minor
child

Melodie Villemarette

Cynthia Washington

Golda Williams

Linda Dufrene, as next friend to Lauren Zehr

Elise Ansardi #01-1294

Elise Ansardi

Anthony Domino

Timothy Hellers

Carolyn Lindsey

Betty North

Junius Banks #01-1476

Brenda Marshall

Gregory Batiste #01-1299

Lorraine Blake

William Boni, as next friend to Blain Boni, minor child

Shirley Dailey

Helen Ehrlicher

Barbara Foret

Kurt Gibbe, Jr.

Robert Harris, individually and on behalf of the estate of

Pauline Harris

Yvonne Kirk

Irwin Leitz

Mark Lemus

Annie Nevis

Melvyn Oalman

Anthony Palermo

Elaine Randazzo

Johnnie Thomas

Ronald Blanchard #01-1296

Ronald Blanchard

Odessena Brown

Laura Gravois

Agnes Puebla, as next friend to Don Ray Puebla, minor
child

Theodora Simoneaux

Audrey Turner

Valerie Boudreaux #01-1292

Valarie Boudreaux

Christine Collins

Aaron Dark, Sr.

Linwood Dupre

Frances Farrington

Jerri Chesteen #01-1738

Treasure Armond

Martha Ford

Linda Dufrene #01-1295

Danielle Jarrow

Wilfred Vosberg, III

Michael Harris #01-1302

Michael Harris

Judy Lipscomb