

FILED  
 U.S. DISTRICT COURT  
 EASTERN DISTRICT OF LA  
 2003 NOV 17 AM 8:28  
 LORETTA G. WHYTE  
 CLERK

**MINUTE ENTRY**  
**FALLON, J.**  
**November 4, 2003**

**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 Thursday, October 23, 2003 at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Russ Herman, Leonard Davis, Charles Zimmerman, Bob Wright, Fred S. Longer, Rebecca Cunard, A. Renee Preston, Daniel E. Becnel, Jr., Stephen B. Murray, Julio Diaz (participating by telephone), and Heather Laborde. In attendance for the Defendants were James Irwin, Thomas Campion, Charles Preuss, and Monique Garsaud. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 26 of Plaintiffs' and Defendants' Liaison Counsel.

1. Update to Rolling Document Production and Electronic Document Production

DLC advised the Court that there is no further scheduled document production. PLC reported that some issues remain regarding certain CDs produced during discovery. DLC stated that corrected CDs would be produced forthwith.

2. State Liaison Counsel

Fee \_\_\_\_\_  
 Process 970  
 X Dktd \_\_\_\_\_  
 CtRmDep \_\_\_\_\_  
 Doc. No. 7406

DATE OF ENTRY  
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There was not a representative from SLC in attendance.

3. Plaintiff Profile Forms and Authorizations

DLC advised the Court that as of October 27, 2003, 2,426 PPFs have been received, 31 are overdue, and 576 will become due in thirty days. The defendants have filed a Motion to Dismiss with Prejudice multiple plaintiffs whom they allege failed to furnish PPFs in violation of Pre-trial Order No. 9. The defendants submitted the attached list to the Court as to plaintiffs for whom they withdraw their motion to dismiss.

Accordingly, as to the plaintiffs contained on the attached list, entitled Plaintiffs who have Complied with PTO No. 9–Motion to be Withdrawn, the defendants' motion to dismiss with prejudice is hereby DENIED AS MOOT.

The defendants also submitted the attached list, entitled, Plaintiffs to be Dismissed for Violating PTO No. 9, as to plaintiffs for whom they do not withdraw the motion and who should be dismissed. As to these plaintiffs, the Court hereby GRANTS defendants' motion and the claims of these plaintiffs are hereby DISMISSED WITH PREJUDICE.

4. 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.

5. Third Party Subpoena Duces Tecum

Pursuant to this Court's Order and Reasons dated September 10, 2003, PLC remitted to Leon Taranto, counsel for the Degge Group, a check in the amount of \$1,283.77 representing full payment. The parties indicated that no issues remain concerning this matter.

6. Motion for Class Certification

The parties reported that they have discussed establishing a procedure for disposing of

the remaining class certification issues. The parties stated that a motion for class certification should be filed with the Court within 60 days from the status conference. The Court indicated that it will meet with liaison counsel concerning this issue after receiving the proposed procedure from the parties.

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

PLC and DLC advised they were working together to resolve any outstanding issues. The Court advised parties to work together on stipulations for depositions and documents and to bring any matters requiring a ruling to the Court's attention.

8. Trust Account

The parties advised that no issues remain concerning the trust account. The Court advised that defendants should deposit settlement funds into the registry of the Court as soon as settlement is negotiated. The Court further advised that the funds would not be dispersed until the parties are satisfied that all logistical and procedural issues have been resolved.

9. Declassified Documents

The parties advised that they had nothing new to report on this issue.

10. Mediation

The parties advised that no additional mediations have occurred since the last status conference.

11. Trial of Louisiana Cases

The parties reported that, pursuant to the Court's Order of October 22, 2003, the following four plaintiffs have been selected for trial beginning on April 19, 2004: Dorita Black (00-2497); Cecilia Bell Overton (00-2497); Kemper Darnell, Sr. (01-0773); Melissa Nettles (02-1866). DLC stated that it would submit a proposed trial schedule to the Court on or before

November 7, 2003.

The Court advised that the remaining Louisiana cases need to be resolved and that the Court would meet with all attorneys involved in these cases to discuss the matter.

12. Pharmacy Indemnity Agreements

DLC advised that it continues to produce copies of all pharmacy indemnity agreements to the PLC.

13. End Game Planning Committee

The End Game Planning Committee indicated that it was meeting and would continue to update the Court on the progress of its discussions.

14. Motions to Enforce Subpoenas

The parties advised that the Motions to Enforce Subpoenas regarding the Social Security Administration relating to claimants Mitchell Williams and Joseph Cangelosi are all moot. Further, the Motion to Enforce Subpoenas against Rite Aid regarding Elman Palao and Mitchell Williams are moot. Accordingly, the parties informed the Court that these matters can be removed from the agenda.

15. Global Application of Daubert

DLC indicated that it had been discussing a process with the PLC for implementation of this Court's *Daubert* ruling in the *Brock* case in other MDL cases. The PLC indicated that it would object to any global application of *Daubert* rulings.

**NEW ITEMS**

16. Motions to Withdraw

PLC advised the Court that it does not wish to pursue this matter at this time.

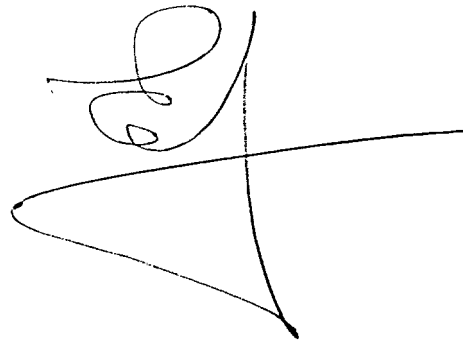
17. Stipulation and Pre-trial Order Providing for Use at Trial of Depositions in State or

Federal Courts

Parties advised the Court that they have been in communication regarding the preparation of a stipulation for use of depositions in MDL matters for use at trial in both state and federal courts.

18. Scheduling of Next Pretrial Status Conference

The next pretrial status conference will be held on Thursday, December 4, 2003 at 9:00 a.m.

A handwritten signature in black ink, consisting of a stylized, cursive 'S' followed by a vertical line and a horizontal line extending to the right.

**PLAINTIFFS WHO HAVE COMPLIED WITH PTO NO. 9 -  
MOTION TO BE WITHDRAWN**

***Mavis Alexander, et al v. Janssen Pharmaceutica, et al***, No. 03-1123  
Carley Lampton

***Robert Beckwith v. Janssen Pharmaceutica, A Division of Johnson & Johnson, et al*** No. 03-1122  
Robert Beckwith

***Barbara Love, et al v. Johnson & Johnson Co., et al***, No. 03-1121  
Mary Blair  
Barbara Love, Individually and on Behalf of All Wrongful Death Beneficiaries of Edgar Love  
Arlyssa and Anthony Woody, Parent and next Friend to Sydney Alexis Woody, a Minor

***Elaine R. Petrini v. Janssen Pharmaceutica, Inc., et al***, No. 02-2238  
Elaine R. Petrini

***Lawrence Mack, et al v. Janssen Pharmaceutica, Inc., et al***, No. 03-1521  
Elizabeth Alexander  
Gloria Bridges  
Carmen Duncan  
Lawrence Mack  
Shannon Peacock  
Tina Reed, next Friend and Mother of Horace Reed, a Minor  
Henri Ola Rodgers

***Elaine Van Norman, et al v. Janssen Pharmaceutica, Inc., et al***, No. 03-1193  
Calvin S. Anderson  
William Appleton  
Erma Beauchamp  
Harold Black  
Sue Bradley  
Lula Bullock  
Alicia Carter  
Willie Jean Ellerby  
Taylor Evans  
Georgia Ford  
Ladana Gray  
Willie Harper  
Jennie Ladner  
Loise L. Levenson  
Ester Lewers  
Junail Love  
Leon Morgan, on Behalf of the Heirs and Wrongful Death Beneficiaries of Adolph Morgan  
Rebecca Piper  
Sylvia Scruggs  
Natasha Turner  
Annie Thompson, on Behalf of the Heirs and Wrongful Death Beneficiaries of Lucinda Wells  
Rebecca Whitehorn

**PLAINTIFFS TO BE DISMISSED FOR VIOLATING PTO NO. 9**

***Mavis Alexander, et al v. Janssen Pharmaceutica, et al, No. 03-1123***

Nell Dillon  
Gloria Knox  
Don Polk  
Thelma Rollins  
Yolanda Smith  
Alice Fleming as Estate Representative of Cola Thomas

***Shanone M. Coleman, et al, v. Janssen Pharmaceutica, Inc., et al, No. 03-0562***

Hannah Brewer  
Thelma Marie Ladner  
Velma Owens  
Ella J. Saddler

***Barbara Love, et al v. Johnson & Johnson Co., et al, No. 03-1121***

Josephine Chambers  
Mary Nell Green  
Sharon G. Lee  
Alton Magee  
Juanita Moore, on Behalf of Herself and All Wrongful Death Beneficiaries of Sarah Moore

***Lawrence Mack, et al v. Janssen Pharmaceutica, Inc., et al, No. 03-1521***

Velma Lee Brown  
Michael Byers  
Lori Springer, next Friend and Mother of Charles Lance Pickle, a Minor  
Kelly Ann Pryor  
Felicia Howard, on Behalf of the Heirs of Howard Veal, Sr., Deceased

***Elaine Van Norman, et al v. Janssen Pharmaceutica, Inc., et al, No. 03-1193***

Michael Hitt  
Beverly Ann Johnson  
Johnnie L. Jones  
Wanda Loyd  
R. Sam Mcallister  
Leland S. Mcallister  
Bernice Silberman  
Sylvia Thompson  
Ruby Lee Yates

***\*\*Dorita Black, et al v. Johnson & Johnson, et al., No. 00-2497***

Gloria Crayton  
Lois Williams

(The Motion to Dismiss these two plaintiffs is moot as Plaintiffs' counsel executed a Motion to Dismiss with Prejudice, which has been signed by the Court.)