

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: PROPULSID PRODUCTS : MDL NO. 1355  
LIABILITY LITIGATION : SECTION: L  
: JUDGE FALLON  
: MAG. JUDGE AFRICK  
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**PRETRIAL ORDER NO. 15**

**(Motion and Hearing for Class Certification - This order supersedes and replaces PTO No.15 signed November 30, 2001)**

On October 5, 2001, as per Order previously issued by this Court, the Plaintiffs' Steering Committee filed a Master Class Action Complaint to address the various class action complaints subject to transfer to this Court. Pursuant to the authority granted in *In re Propulsid Prods. Liab. Lit.*, MDL 1355 (J.D.P.M.L. 8/7/2000), this Order establishes a schedule for the conduct of discovery related to the issue of class certification, the briefing of limited *Daubert* issues related to class certification and the final briefing and hearing of Plaintiffs' Motion to Certify Class Action.

ACCORDINGLY, THE COURT ENTERS THE FOLLOWING ORDER:

1. **Master Answer.** Defendants shall file a Master Answer by November 12, 2001.
2. **Completion of Document Production.** Defendants will complete the production of domestic documents responsive to Plaintiffs Merits Request for Production of Documents Propounded to

Defendants - Set No. One by October 31, 2001. Defendants shall cooperate and coordinate with Plaintiffs in the sequencing and prompt production of electronic data and foreign documents to allow availability of as much of this material as is practicable prior to the April 10, 2002, hearing on class certification.

3. **Motion to Certify Class Action.** Plaintiffs shall file their Motion to Certify Class Action together with supporting Memorandum, exhibits, and affidavits by January 3, 2002. The Memorandum shall be limited to twenty - five (25) pages exclusive of attachments.

4. **Plaintiffs' Fact Witnesses.** Plaintiffs shall make an initial designation of known fact witnesses who may be called to testify at the class certification hearing (whether live or by deposition) by November 15, 2001 and shall supplement such listing, if necessary, at the time the Motion to Certify Class Action is filed on January 3, 2002.

5. **Discovery to Class Representatives.** Commencing as of the date this Order is entered, Defendants shall be entitled to propound additional written discovery upon the designated class representatives. This discovery shall not be duplicative of information previously provided in the Plaintiff Profile Form provided by the class representative. Further, Defendants shall be entitled to take depositions of the designated class representatives with respect to class certification issues. The depositions shall be limited to one day per class representative. Depositions of class representatives shall be completed by January 30, 2002.

6. **Disclosure/Discovery of Plaintiffs' Experts.** Plaintiffs shall furnish to Defendants expert reports in accordance with Fed.R.Civ.P. 26(a)(2)(B) and dates of availability of their experts for depositions by December 26, 2001. Defendants shall complete the depositions of Plaintiffs' experts by February 6, 2002.

7. **Trial Plan.** Plaintiffs shall submit a proposed Trial Plan and outline for all class-wide relief at the time the Motion for Class Certification is filed on January 3, 2002. Defendants shall submit a Response to the proposed Trial Plan at the time the Opposition to Motion to Certify Class Action is filed on March 4, 2002.

8. **Defendants' Fact Witnesses.** Defendants shall designate fact witnesses who may be called to testify at the class certification hearing (whether live or by deposition) by February 1, 2002.

9. **Fact Discovery Deadline.** The parties shall complete the depositions of all fact witnesses (other than class representatives) by February 20, 2002. If additional fact witnesses are disclosed by either party, such disclosure shall be made in sufficient time prior to the class certification hearing so that a reasonable opportunity to take discovery is provided to the other side, without prejudice to any party.

10. **Disclosure/Discovery of Defendants' Experts.** Defendants shall furnish to plaintiffs expert reports in accordance with F.R.C.P. 26(a)(2)(B) and dates of availability of their experts for depositions by February 25, 2002. The Plaintiffs shall complete the depositions of the Defendants experts by March 18, 2002.

11. **Opposition to Motion to Certify Class Action.** Defendants shall file their Memorandum in Opposition to Motion to Certify Class Action together with exhibits, affidavits and depositions by March 4, 2002. The Memorandum shall be limited to twenty - five (25) pages exclusive of attachments.

12. **Plaintiffs' Memorandum in Reply.** By April 1, 2002, plaintiffs shall file their Memorandum in Reply to the Defendants' Memorandum in Opposition to Motion to Certify Class Action. The Reply Memorandum shall be limited to twenty - five (25) pages exclusive of attachments. Supporting

affidavits or depositions may be referenced and/or attached only if the affiants/deponents were timely designated in accordance with this Order.

13. **Presentation of Limited *Daubert* Issues.** The parties shall meet and confer in advance of the January monthly status conference to discuss the presentation of limited *Daubert* issues, in accordance with this Court's Minute Entry of August 27, 2001, at the class certification hearing on April 10, 2002.

14. **Agenda and Procedure for Class Certification Hearing.** By April 1, 2002 the parties shall file with the Court an agenda and proposed procedure for the class certification hearing. The agenda shall include a listing of all witnesses, an identification of all documents or things to be used at the hearing, an indication of any objections to evidence and the reason or basis for such objections, and any time limits for oral argument. The parties shall meet and confer in sufficient time prior to April 1, 2002 to confect the submission. A pre-hearing conference will be held by the Court on April 3, 2002 at 1:30 p.m. to finalize the agenda and the procedures to be followed at the class certification hearing.

15. **Hearing.** The hearing on the Motion to Certify Class Action shall be on Wednesday, April 10, 2002, at 9:00 a.m.

NEW ORLEANS, LOUISIANA, this 11th day of January, 2002.

/s/ Eldon E. Fallon  
UNITED STATES DISTRICT COURT JUDGE