

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: PROPULSID : **MDL NO. 1355**
: **PRODUCTS LIABILITY LITIGATION** : **SECTION: L**
: **JUDGE FALLON**
: **MAG. JUDGE AFRICK**
THIS DOCUMENT RELATES TO ALL CASES :
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**PRETRIAL ORDER NO. 9
(Plaintiff Profile Form/Execution of Authorizations)**

Upon the Joint Motion of the Plaintiffs' Steering Committee ("PSC") and Defendants' Liaison Counsel ("DLC") that the plaintiffs in MDL 1355 shall prepare answers to the Patient Profile Form and execute verified Authorizations (hereinafter "PPF"), thereby providing defendants access to medical and related records, as set forth in the PPF.

IT IS HEREBY ORDERED THAT:

1. As to all cases that are transferred by Order of this Court in MDL 1355 as of January 29, 2001, the PPFs in the form attached shall be answered and the verified authorizations in the form attached shall be provided to the DLC within forty-five (45) days or by March 15, 2001.

2. Plaintiffs whose cases have been transferred after the PPF has been approved and put on-line shall provide completed PPFs and verified authorizations to the DLC within forty-five (45) days of their transfer order.

3. This order shall be posted on the Court's website for MDL 1355 located at <http://propulsid.laed.uscourts.gov>. Counsel unable to access the Court's website for MDL 1355 may contact the Clerk of Court for information on obtaining a copy of this order.

4. If plaintiff indicates in the PPF that he or she is making a wage loss claim, then the defendants may use authorizations to obtain employment records and income tax returns for six years preceding the date of the authorization. In all cases where a wage loss claim is not made, defendants assert their right to obtain discovery of plaintiffs' employment records and will work amicably with plaintiffs' counsel to resolve this issue.

5. Plaintiffs shall identify psychiatric or psychological healthcare providers and all psychotropic medications in the PPF.

6. In all cases asserting any claim for mental and/or emotional damages plaintiff must either provide an authorization for psychiatric and psychological records or dismiss such claims, within 15 days of defendants' request for such authorization. In the event a plaintiff has seen a psychiatrist and chooses to dismiss his or her claim for mental or emotional damages, plaintiff will provide an authorization entitling defendants to receive from the psychiatrist a list of all medications prescribed and the dates thereof for the period of time the plaintiff was taking Propulsid.

7. In the event psychiatric or psychological records are inadvertently obtained or provided by a healthcare provider without proper authorizations, defendants shall return the original records to

counsel for the plaintiff, without retaining any copies and without any prejudice to any parties' further rights. The inadvertent production shall not waive or destroy any rights or privileges of plaintiffs.

8. Upon receipt of medical records, defendants shall immediately mark them as confidential and maintain the confidentiality of such records throughout the pendency of the litigation. Upon the conclusion of the litigation, all medical records shall be returned to the plaintiff and no copies shall be retained.

9. Defendants shall provide notice of the receipt of medical records to plaintiffs' counsel of record every thirty (30) days by uploading the same to Verilaw by case name or by depositing the same in the U.S. Mail.

10. Defendants' use of the PPFs and executed authorizations shall be without prejudice to any defendant's right to serve additional non-duplicative discovery. Plaintiffs reserve the option to object to any such discovery under Fed. Rule Civ. Proc. 26(c).

New Orleans, Louisiana, this 31 day of January, 2001.

/s/ Eldon E. Fallon
JUDGE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE