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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: FEMA TRAILER  
FORMALDEHYDE PRODUCTS  
LIABILITY LITIGATION

DOCKET MDL NO. 1873 "N"  
NEW ORLEANS, LOUISIANA  
FRIDAY, DECEMBER 3, 2010  
10:00 A.M.

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TRANSCRIPT OF STATUS CONFERENCE PROCEEDINGS  
HEARD BEFORE THE HONORABLE KURT D. ENGELHARDT  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

FOR THE PLAINTIFFS:

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EASTERN DISTRICT OF LOUISIANA  
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NEW ORLEANS, LOUISIANA, FRIDAY, DECEMBER 3, 2010

10:00 A.M.

(COURT CALLED TO ORDER)

THE COURT: We are here for our status conference, general status conference in the multi-district litigation MDL No. 1873 in re: FEMA Trailer Formaldehyde Product Liability litigation.

I met earlier this morning with the committees and the liaison counsel for the parties. They have prepared a joint report No. 20, or a draft of joint report No. 20, which we will try to cover today. We'll discuss the issues that are in there.

At the end, we will open the floor for any further discussion about anything that we have already spoken about by way of presentation and also any other issues that are not covered today. If anyone present has any other issues to discuss or questions of a general nature, we can certainly take those as well. And then we will pick a date for our next status conference.

Having said that, if at any point in time we're on a topic that you have a question about for either the Court or for counsel, you can go ahead and raise your hand. And, if you do speak here today, make certain you identify yourself for the court reporter.

But we'll go ahead and proceed. Mr. Woods or Mr. Meunier, do you want to go ahead and begin?

1 MR. WOODS: Yes, Your Honor.

2 THE COURT: If you want to take the podium so we can all  
3 hear.

4 MR. WOODS: Justin Woods for the PSE. Good morning,  
5 Your Honor.

6 THE COURT: Good morning.

7 MR. WOODS: As you said, we have joint report No. 20.  
8 The first section in report No. 20 is the report of claims and  
9 case inventory.

10 And the PLC and MDLC are reporting that there is an  
11 estimated 5,000 actions that have been filed or transferred into  
12 the MDL as of today. However, there are a number of amending  
13 complaints that were filed pursuant to pretrial orders No. 40, 53  
14 and 68 by the Court-imposed deadline of October 15th. A number  
15 of those actions are not reflected on the appendix that will be  
16 attached to the joint report because they are still being  
17 processed by the clerk at this time.

18 Section 2, plaintiff fact sheets. Again, I'd like to  
19 remind all plaintiff counsel that the PSE no longer operates its  
20 central claims office, but that counsel are still required and  
21 obligated to comply with the provisions of pretrial orders No. 2,  
22 which is filed at record document No. 87, and 32, which is found  
23 at record document No. 11A, which sets forth the deadlines for  
24 completing and serving verified plaintiff fact sheets.

25 To date, the plaintiffs have produced 21,002 plaintiff

1 fact sheets to defendants.

2 I'd also like to remind all plaintiff counsel present  
3 that it is necessary to provide plaintiff liaison counsel, either  
4 myself or Gerry Meunier, with a copy of each PFS so that we are  
5 able to maintain a current and correct count of PFSs that are  
6 being provided to defendants.

7 In section No. 3 is the motion practice section. These  
8 are the motions that are currently pending.

9 In this section, there are three motions or three  
10 documents that need to be omitted. The first is record document  
11 No. 13421 which was the contractor defendant's joint motion to  
12 dismiss plaintiff's third and fourth supplemental and amended the  
13 master complaint. The Court issued its order and reasons  
14 yesterday, and that is found at record docket No. 18426. So we  
15 will omit that entry when we submit the final joint report.

16 On page 3, we will also omit record document No. 14197.  
17 The Court has also ruled on that particular motion as well.

18 On page 4, we will omit record document No. 18393, which  
19 was the PSE's ex parte or consent motion to substitute an order  
20 to record document No. 16174. That motion was granted.

21 A motion that is also critical, and all parties should  
22 pay particular attention to, is found at record document No.  
23 18283, and that is the manufacturing defendant's motion in limine  
24 to exclude the expert testimony of Paul Hewitt. There's PSE  
25 opposition due to that motion that's currently set for January 7,

1 2011 and a reply that is due on January 17, 2011. But I believe  
2 that there has been some discussions about extending those dates.

3 THE COURT: And that is also the motion that we refer to  
4 as the statistical model motion.

5 MR. WOODS: Yes, Your Honor.

6 MR. WEINSTOCK: Yes, Your Honor. The format we used for  
7 this process was the docket that you issued a report. The  
8 defendants have prepared a *Daubert* challenge to that report, and  
9 the report is based on a statistical model. Because of the  
10 holidays, it doesn't look like Dr. Mare, the defendant's  
11 countervailing expert, will be deposed until the first or second  
12 week of January. So we anticipate those deadlines being pushed  
13 back somewhat.

14 The only question I have, and I should have raised in the  
15 committee meeting, does the Court anticipate an in-court hearing  
16 with those experts?

17 THE COURT: My feeling on it right now is I want to  
18 reserve a hearing date for an actual hearing, an evidentiary  
19 hearing. Not having received all of the briefing on it, it's  
20 hard for me to say that that's not going to be necessary.  
21 Obviously, I will ask for input from counsel whether they believe  
22 it is necessary. But I think I have to operate on the assumption  
23 that the hearing date will actually be an evidentiary hearing  
24 date in order to calendar it on the Court's calendar. I'll  
25 review the materials when they're complete and confer with you

1 all; and, if you believe that it's something that is evident, or  
2 lack thereof, depends on your particular positions, then the  
3 Court can decide based upon the written submissions along with  
4 the relevant transcripts, then we'll dispense with the  
5 evidentiary hearing and either have oral argument or not. If  
6 it's something that the parties believe can be submitted, that  
7 the submissions are complete, then I can go ahead and handle it  
8 that way as well. So there are three options: No oral argument,  
9 no evidentiary hearing, the matter's submitted; secondly, to have  
10 oral argument but no need for a further evidentiary hearing; and,  
11 third, having both oral argument and an evidentiary hearing. I'm  
12 assuming that it is the last of those three as we sit here today,  
13 but that's based only on the idea that I don't have all the  
14 information in front of me, not any proclivity or desire to have  
15 oral argument and an evidentiary hearing for any other reason.

16 MR. WEINSTOCK: In that case, if we can confer after  
17 this and maybe create a new schedule, and then find out what a  
18 good hearing date would be on your calender.

19 THE COURT: Right.

20 MR. WEINSTOCK: I think that makes the most sense.

21 THE COURT: That's fine. Although we did discuss with  
22 the committees that that hearing is material to one of the  
23 summary jury trials that also is on the near horizon. So that  
24 date will have to be -- those dates will have to be reset for  
25 consideration for that as well, depending on what we do with the

1 summary jury trial date.

2 MR. WOODS: Moving on section 4 entitled Manufactured  
3 Housing Nonlitigation Track. The parties have been working  
4 diligently to present to the Court a joint motion to certify a  
5 settlement class. That deadline has been extended by record  
6 document No. 17926 until January 11, 2011. As I said, both sides  
7 have been working diligently to make sure that we meet that  
8 deadline. And, also, that the motion to certify the class  
9 settlement is scheduled for hearing on January 26, 2011 without  
10 oral argument.

11 Section 5, Matching Plaintiff to Defendant Manufacturer  
12 and FEMA Contractor. Again, throughout this litigation, it's  
13 been an overwhelming task of all plaintiff lawyers, counsel, to  
14 match their individual clients to the proper manufacturer  
15 defendant and contractor. PTO 68 was entitled The Last Chance  
16 Matching Process Order. That order -- that deadline has come and  
17 gone. The Court intends, with the guidance of liaison counsel,  
18 to begin dismissal orders for failure to comply with the  
19 provisions of the Pretrial Order 68. That deadline has gone.  
20 That process could begin on November 15, 2010.

21 However, Your Honor, if you'd turn to section -- the  
22 Miscellaneous section, section 11 of the joint report on page 11,  
23 defendants have informed that they will prepare an omnibus motion  
24 to dismiss all holding actions. It's critically important for  
25 all plaintiff lawyers to pay attention to that omnibus motion



1 when it is circulated by either Gerry Meunier or myself as  
2 liaison counsel because that will be the motion within which  
3 their respective client's claims may be dismissed. And I know  
4 that Andy has further information.

5 MR. WEINSTOCK: Your Honor, as we discussed in chambers  
6 today, we have taken the list of 5,000 claims, determined which  
7 of those claims we believe are holding actions, actions filed  
8 against multiple defendants, not matching plaintiffs with a  
9 specific manufacturer. By December 15th, we will file an omnibus  
10 motion to dismiss the holding actions, which we believe will put  
11 in play the plaintiff's obligation to try to preserve anybody  
12 that has not been transferred pursuant to PTO 68 into a viable  
13 action, a matched action.

14 THE COURT: Yeah. By December 15th, as Mr. Weinstock  
15 just said, the defendants are going to file a motion to dismiss  
16 the unmatched actions. This is very important from the  
17 plaintiff's point of view. In fact, it may be the single most  
18 important thing that we cover today. But you really need to go  
19 back and review PTO 68 and what you have done in response to PTO  
20 68.

21 The defendants are going to file a motion to dismiss the  
22 unmatched plaintiff actions, which the Court allowed to be filed.  
23 And anyone, any plaintiff, who has not been matched, is very much  
24 at risk of losing his or her place as a plaintiff in this case.  
25 When I say losing their place, I mean having their claim

1 dismissed with prejudice.

2 So you should have already, on the plaintiff's side, you  
3 should have already moved plaintiffs who have been matched to a  
4 manufacturer into another docket number action that represents  
5 that matching.

6 And you should also have transmitted, not on the record,  
7 but you should have also transmitted either through liaison  
8 counsel or other means to the defense counsel the information  
9 regarding the old docket number and the new docket number.

10 We're trying to avoid -- we're trying to minimize the  
11 confusion of which plaintiff matches which manufacturer and in  
12 what docket number that match has occurred.

13 If a plaintiff has not been matched to any manufacturer  
14 but is still, for the first and only time, a plaintiff in an  
15 unmatched complaint, they are a great risk of having their claim  
16 against whatever manufacturer was involved, which is still  
17 unknown, dismissed with prejudice. So it's critically important  
18 that you understand that process.

19 If you don't understand it or if you have questions  
20 about it today, ask today. You can either ask here in open  
21 court, or if you want to talk to Gerry or Justin or someone else  
22 who is on the committee, please make sure you're clear about  
23 that. Because the ultimate goal of this exercise is to try to  
24 finally determine, as best we can -- I realize it's a lot of  
25 people and a lot of lawyers -- but, as best we can, who all is on

1 the plaintiff's side; and then, more specifically, which  
2 plaintiffs that have filed relate to which manufacturing  
3 defendants.

4 And we've been at this, as counsel said, we've been at  
5 this for quite some time. It's been an enormous task, and a lot  
6 of people have put a lot of effort in to trying to do this. But  
7 we are now to the bitter end, as they say, in terms of that  
8 effort, and it's going to be time to make some hard and fast  
9 decisions for plaintiffs who have not been matched to a  
10 manufacturing defendant. We're at that juncture in the road.

11 So make sure you fully understand what needs to be done  
12 if you are representing plaintiffs and you have made a match.  
13 Or, if you're representing plaintiffs that you have not yet  
14 matched, you really need to focus on that very, very soon. Quite  
15 frankly, as Mr. Woods said, the date has come and gone. So  
16 you're kind of in a pickle if you have not made a match yet.  
17 We'll see where we go with the motions to dismiss that are filed  
18 on the 15th or before. Okay.

19 MR. WOODS: And, again, Your Honor, for all plaintiff  
20 counsel present, as soon as we receive those motions, we will  
21 make sure that they are circulated properly.

22 THE COURT: Yes. Please distribute them far and wide  
23 amongst the bar on the plaintiff's side.

24 MR. WOODS: Yes.

25 Section 6 is entitled Bellwether and Summary Jury

1 Trials. Currently, there are five either bellwether or summary  
2 jury trial matters scheduled to begin for 2011. The first is a  
3 summary jury trial against Dutchman Manufacturing, and that is  
4 scheduled to begin on February 22, 2011. It's a unique type of  
5 summary jury trial as the parties are trying to tie to the claims  
6 of a composite plaintiff. There are certain differences in  
7 matters that need to be discussed and worked out so that we're  
8 able to meet that date, but the parties are also working  
9 diligently to do that.

10 THE COURT: I'm hoping by next week we can have  
11 agreement as to what the composite plaintiff would be. And keep  
12 in mind that these are nonbinding summary jury trials that will  
13 likely be tried by one of the magistrates. But, by next week, we  
14 should have an idea or I should say an agreement as to what the  
15 composite plaintiff would look like.

16 This trial will involve the statistical model, pending  
17 the motion practice, but the Hewitt statistical model, is my  
18 understanding. Simply because it's a composite plaintiff, it  
19 will necessarily involve a statistical model relative to the  
20 manufacturer.

21 MR. WOODS: And, just to clarify, Your Honor, the  
22 parties have agreed as to what the composite plaintiff looks  
23 like. We've agreed on what that plaintiff looks like. It's a  
24 family of three individuals.

25 The disagreement comes as to the procedure and the

1 process of how the summary jury trial will proceed.

2 THE COURT: Okay. I appreciate the clarification.

3 MR. WOODS: The second trial that is scheduled is  
4 against Sun Valley, and that is scheduled for March 28, 2011.  
5 And that is scheduled to be a full-blown bellwether trial,  
6 possibly taking as much as two weeks to try.

7 The footnote to the Sun Valley trial is that there is a  
8 state court action pending in Indiana. In Elkhart County,  
9 Indiana, the declaratory judgment action on insurance coverage,  
10 that is pending in that state court.

11 And there's also pending here in the MDL at record  
12 docket No. 17661 plaintiff's motion to enjoin conflicting state  
13 court proceedings in Elkhart County, Indiana that interferes with  
14 this Court's continuing jurisdiction of this litigation. So I  
15 want to point that out as a footnote to that particular trial  
16 that is currently scheduled for March 28, 2011.

17 The third bellwether trial that is scheduled is the  
18 claims of Melvin Maky vs. KZRV and Flour Enterprises, and that is  
19 also a full-blown bellwether trial that can possibly take up to  
20 two weeks, and it's currently set for May 16, 2011.

21 The fourth trial -- and I'll skip the order in which it  
22 appears in the report -- the fourth trial is a trial against  
23 Coachman Recreational Vehicle Company, and that is currently set  
24 for June 20, 2011.

25 On November 29, the Court selected Anthony Dixon as the

1 bellwether plaintiff. And this also is currently scheduled to be  
2 a full length trial as opposed to a summary jury trial.

3 The fifth trial that is currently scheduled is a trial  
4 against Jayco, Incorporated, and that one is scheduled to begin  
5 on August 1, 2011. The parties are currently working to chose a  
6 suitable trial plaintiff, and possibly under the rules of  
7 procedures for a summary jury trial.

8 THE COURT: So that's five bellwethers, and they will  
9 appear in this report -- well, the pages should not change too  
10 much based on our amendments already -- but they'll appear in  
11 this report on pages 5 and 6 when the report is filed. But those  
12 are the five bellwethers that are set, and we will hopefully  
13 maintain those dates as best we can, pending a few critical  
14 factors such as the Hewitt motion, which we've already discussed,  
15 and the coverage issue relative to Sun Valley.

16 MR. WOODS: Section 7 is entitled Claims Against the  
17 United States. The only remaining claims against the United  
18 States are those claims of Louisiana plaintiffs FTA claims for  
19 gross negligence and willful and wanton misconduct.

20 On May 18, the Court issued an order and reasons which  
21 dismissed all simple negligence claims brought by Louisiana  
22 plaintiffs against the United States. And, since entering that  
23 order, the Court denied PSE's motion seeking an entry of a 54(b)  
24 judgment in favor of the United States and granted PSE's motion  
25 for certification of interlocutory appeal.

1           As a footnote, yesterday, the Fifth Circuit denied the  
2 PSE's motion to appeal.

3           THE COURT: Okay. But you do have the other Mississippi  
4 and Alabama issues?

5           MR. WOODS: Correct. Those matters are still pending in  
6 the Fifth Circuit. Because all of the claims against the federal  
7 government were dismissed as it relates to Mississippi and  
8 Alabama plaintiffs.

9           THE COURT: And, although the statutes are different,  
10 which I think I recognized on the written opinion, perhaps the  
11 Fifth Circuit's ruling -- perhaps it might be illuminating  
12 insofar as the issue that you would have otherwise presented on  
13 the Louisiana issue. Because the statutes are similar, although  
14 the verbiage isn't the same, we did make a distinction, but I'm  
15 hoping that in their treatment of those two issues there might be  
16 some insight in as far as the argument relative to the Louisiana  
17 statute.

18           MR. MEUNIER: May it please the Court, Gerry Meunier,  
19 liaison counsel. That's correct, there is some overlapping in  
20 the legal analysis.

21           I just want to clarify one thing, that we have on behalf  
22 of plaintiffs asked the Fifth Circuit to certify to the  
23 respective state supreme courts of Mississippi and Alabama those  
24 two appeals. So it may not be that we will get guidance from the  
25 Fifth Circuit; it may be, if we're successful in that, we'll get

1 some guidance from the state supreme courts from those two  
2 states.

3 THE COURT: That's a good idea. I appreciate you  
4 pointing that out.

5 It's a very interesting issue. For those of you who  
6 have not looked at it and didn't participate in the briefing of  
7 it, it's a very interesting issue, and I'll certainly be curious  
8 myself to see how it's treated at the circuit level.

9 MR. WOODS: And also, just as a footnote, as it relates  
10 to the remaining claims for Louisiana plaintiffs, I believe that  
11 the federal government issued denial letters to a number of  
12 Louisiana plaintiffs in May, on or about May 25th of this year.  
13 And that there was a six month period within which an individual  
14 would have had to -- was required to file a complaint against the  
15 federal government after dismissal of -- I'm sorry -- after  
16 denial of their FTCA claims and after completing the Form 95.

17 THE COURT: Okay.

18 MR. WOODS: And I just want all plaintiff lawyers to be  
19 aware that that date for a number of Louisiana plaintiffs was May  
20 25th. And that, if that was the date, that the deadline for  
21 filing a complaint against the federal government would have been  
22 on or about November 25th.

23 THE COURT: Okay.

24 MR. MILLER: Your Honor, if I can speak, just expand  
25 upon what Mr. Woods just said. The United States on May 25th



1 issued over 100,000 denial letters to all of Mississippi,  
2 Alabama, Texas and Louisiana plaintiffs. Those letters were all  
3 issued out by certified mail on May 25th.

4 The deadline for filing suit against the United States  
5 for any persons who had filed claims was November 26th under the  
6 61 statute of limitations. Obviously, plaintiffs may take issue  
7 with that, but that's generally the reading of the law.

8 THE COURT: Okay. All right. Thank you, Mr. Miller.

9 MR. WOODS: Moving on, Your Honor, going to section 8,  
10 and this would be just another reminder for plaintiff counsel,  
11 that any defendants in all the bellwether cases request the Court  
12 sever the initial plaintiffs' interest that claim where  
13 necessary, and I think that that's what's been done across the  
14 board for each bellwether trial.

15 THE COURT: Right.

16 MR. WOODS: Section 9 is Master Discovery. We are --  
17 the PSE is continuing to request that certain defendants respond  
18 to discovery. We are issuing discovery requests, and there was a  
19 set of master discovery that was sent out on May 1, 2010, and  
20 there are still some parties that may not have responded to that  
21 discovery, manufacturing.

22 Section 10, settlement claims against Fleetwood  
23 Enterprise, Inc. The update for that particular section is that  
24 the PSE, the parties did file their motion to dismiss pursuant to  
25 the Fleetwood settlement agreement. And that can be found at

1 record document 16174. Dan Balhoff has been approved by the  
2 Court as special master to oversee the allocation process for the  
3 Fleetwood settlement, and I believe that special master has -- he  
4 has already put out a call to all plaintiff counsel to identify  
5 certain information so that their clients could participate in  
6 the Fleetwood settlement. And I believe that is moving along  
7 quite expeditiously.

8 THE COURT: Okay.

9 MR. WOODS: Under section 11, Miscellaneous, again, John  
10 Perry has been appointed as a mediator for purposes of exploring  
11 potential proposed settlements as to any and all  
12 defendants/manufacturers in the MDL.

13 And also under section 11A is that Palm Harbor has  
14 recently filed Chapter 11 bankruptcy. Palm Harbor is a defendant  
15 in the inspector litigation track section of this litigation. We  
16 have just become aware of that, and we're in negotiations and  
17 trying to figure out how that will affect any sort of -- the  
18 non-lit settlement that has been obtained to this point.

19 MR. WEINSTOCK: Your Honor, if I could just chime in on  
20 section 11, subpart A. John Perry is special master. If there  
21 is a defendant or group of defendants that's interested in having  
22 settlement discussions with the plaintiff, they certainly don't  
23 need to come through defense liaison. They can go directly to  
24 John Perry and get to touch with the PSE.

25 THE COURT: In fact, since Mr. Weinstock and Mr. Glass

1 represent Gulf Stream in this case, there may be a need to deal  
2 directly with Mr. Perry. If you represent a manufacturer, there  
3 may be a need to deal directly with Mr. Perry for confidentiality  
4 purposes, and you're certainly free do that. In fact, I  
5 encourage you to do it. Especially if you're in a circumstance  
6 where resources are dictating that conversation to be held sooner  
7 rather than later, you can deal directly with Mr. Perry who'll  
8 deal with Mr. Meunier and Mr. Woods to see if there's a possible  
9 resolution. But please work towards that end. And, as Mr.  
10 Weinstock points out, you need not under those circumstance,  
11 although we always advise you to try to work through the  
12 committee framework and liaison counsel, that would be one  
13 significant exception where I would encourage you to work  
14 directly with Mr. Perry and plaintiff's counsel, as opposed to  
15 through liaison counsel.

16 Anything else on the report that you all need to cover  
17 for the group before we open the floor?

18 MR. WOODS: There's nothing else on the report that the  
19 PSE needs to cover. However, there's just one matter that we'd  
20 like to -- Gerry and I would like to have a personal privilege,  
21 and that is to acknowledge one of the members of the PSE or  
22 former member of the PSE, Linda Nelson, who for personal reasons  
23 withdrew her application to be a member of the PSE. We wanted to  
24 just let the Court know and everybody else here know how much  
25 we're going to miss Linda and her participation in this

1 litigation and how invaluable her experience, her expertise, her  
2 staff, how valuable her participation was to this litigation.  
3 And we just want to make sure that everyone in this courtroom is  
4 aware that she played a critical role, and she will be sorely  
5 missed by the PLS.

6 MR. WEINSTOCK: The Manufacturing defendants would joint  
7 in that, and I'd share those same comments with Linda. She was  
8 absolutely a pleasure to work with, did a tremendous amount of  
9 work facilitating moving things along. And, on a personal and  
10 professional level, I can't say enough great things about her,  
11 and she will be missed in this litigation.

12 THE COURT: Well, at our last status conference here, I  
13 had reopened the process of the committee appointments and asked  
14 for those who wanted to continue to be on the committees to  
15 resubmit applications and for any of you who would like to be on  
16 the committee, either committee, that has not served previously,  
17 to go ahead and submit an application. And we completed that  
18 process and issued an order earlier this week making the  
19 appointments, or reappointments, as the case may be. And I also  
20 am disappointed, but I understand why Ms. Nelson would not be  
21 able to continue to serve even, though she -- it was certainly  
22 her desire to continue to do so.

23 I will tell you that what the Court is looking for in  
24 serving on the committees is counsel who will take personal  
25 responsibility in terms of attending events in the MDL hearings,

1 status conferences, who are willing to contribute work as needed  
2 during the course of the MDL, to contribute to the efforts on the  
3 side that they happen to be participating on and to be very  
4 knowledgeable about what is happening in the MDL. And, in every  
5 respect, Ms. Nelson met what I personally was looking for in  
6 terms of committee membership. I know for a fact that she was  
7 here for -- I can't think of a single time that she was not here  
8 for a conference. She was here I believe for almost every day of  
9 the bellwether trials that I held. So I can certainly  
10 understand, even though I'm obviously not in a position of  
11 working with her as you all are, I can certainly understand how  
12 her presence and her very diligent hard work will be missed. And  
13 I've told her that, in the event that her circumstances dictate,  
14 that she can rejoin the effort. I certainly would welcome her  
15 participation in the future to the extent that she might be able  
16 to assist. So we'll miss her.

17 I did add some people to the committees who quite  
18 honestly were almost de facto members, and that was Joe Glass who  
19 has been working with Andy Weinstock as co-liaison counsel,  
20 although I had appointed Justin as co-liaison counsel to work  
21 with Gerry. Joe Glass was appearing as an assistant to Andy, and  
22 so I went ahead and put him on the committee. Although not  
23 technically designated co-liaison committee in the record, he is  
24 now a committee member.

25 Karen Whitfield also with Mr. Kurtz, she is now on the

1 committee for the contractors.

2 And I think Mr. Hilliard on the plaintiff's side I added  
3 to the committee, had not served on the committee before, was  
4 involved in the first bellwether trial and several other -- he's  
5 been participating quite a bit, and he filed for committee  
6 membership.

7 There might have been one or two others. I think that's  
8 it, but there might have been one or two others.

9 But, largely, the committees are unchanged. But I think  
10 it's healthy to go through and periodically ask for  
11 re-applications to the committees, because things change with you  
12 all, things change with me.

13 My priority in appointing the committees is always the  
14 same that I just outlined with regard to Ms. Nelson. I'm looking  
15 for people who are going to be personally involved in the MDL and  
16 responsive to the Court and responsive to opposing counsel and  
17 who are willing to contribute the substantial effort to making  
18 the MDL work.

19 So we'll, depending on how long we're doing this, there  
20 will be a time where we will again reopen the application  
21 process. It won't be on a regular basis, but sort of on an  
22 as-needed basis. So if any of you would like to serve on the  
23 committee in the future, there will be a time where the process  
24 is reopened, and we'll certainly welcome any other participation.  
25 But we will get to that when we get to it.

1 All right. Are there any questions from anybody about  
2 anything we have covered in the report? That is, anything that  
3 Mr. Woods, Mr. Weinstock, Mr. Miller or Mr. Meunier has stated  
4 here already? Anybody have any questions about any of those  
5 topics?

6 Anybody have any questions about PTO No. 68 and the  
7 soon-to-be-filed motions to dismiss?

8 And, lastly, are there any questions at all, the floor  
9 is now open for discussion, for anything that's not been covered  
10 this morning? If anybody has anything they need to say or ask,  
11 they can certainly approach the podium, and we'll try to answer  
12 them.

13 Okay. The last piece of business, as always, is the  
14 selection of the next date. And, despite the fact that we will  
15 have the holidays in between this meeting and the next one, there  
16 will be some significant action I think along the lines of items  
17 we've talked about here, the motions to dismiss, the state court  
18 dec actions, we've got some decisions to make with regard to the  
19 expert issue, the statistical model Hewitt motion, and we will  
20 certainly update any changes in the bellwether status. So the  
21 next meeting is, even though we will not have a bellwether  
22 between now and then, there will be some noteworthy events I  
23 would think happening in between.

24 How would Friday -- seems to be the best day -- Friday,  
25 February 4th, or Friday, February -- is it the 28th?

1           February 4th or January 28th? Is there a preference  
2 between those two? January 28th or February 4th? I suggested  
3 the 4th

4           MR. KURTZ: Your Honor, I have a conflict on the 28th.  
5 I'm in Judge Zaney's court in a trial that day.

6           MR. MILLER: Both Donnie and myself have a conflict on  
7 the 28th, but the 4th would be fine.

8           THE COURT: Sounds like the 4th would be best, unless  
9 anybody wants to protest that now.

10           Why don't we set it the same schedule, 8:30 for the  
11 committees and liaison counsel, 10 o'clock here for the general  
12 status conference on Friday, February 4th.

13           We'll reiterate what I said earlier this morning about  
14 the committee meeting, that the attendance at the committee  
15 meetings will be for committee members only. We will have a  
16 sign-in list, and we will meet at 10 o'clock here. And I'm sure  
17 we will have, along the lines of the issues I just discussed and  
18 other issues that I'm sure will pop up between now and then, we  
19 will have a lot to report for you on the 4th, even though the  
20 bellwether isn't until later that month, the currently scheduled  
21 bellwether.

22           Thank you all very much for being here and being on  
23 time.

24           (10:45 a.m., Proceedings Concluded.)

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CERTIFICATE

I, Susan A. Zielie, Official Court Reporter, do hereby  
certify that the foregoing transcript is correct.

/S/ SUSAN A. ZIELIE, RPR, FCRR

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Susan A. Zielie, RPR, FCRR