

MINUTE ENTRY
FALLON, J.
December 15, 2005

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 on this date in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Russ Herman, Arnold Levin, Charles Zimmerman (by phone), Carroll Ingram, Barry Hill (by phone), Michael Bollinger, Mary Williams, James Dugan, Stephen Murray, Dawn Barrios, and Richard Arsenault (by phone). In attendance for the Defendants were James Irwin, Chuck Preuss, Thomas Champion, and Monique Garsaud. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 44 of Plaintiffs' and Defendants' Liaison Counsel.

I. State Liaison Counsel

Dawn Barrios and Chuck Preuss reported to the Court that State Liaison Counsel and Defendants have reached an agreement for a "Propulsid II" settlement covering the state court cases and remaining federal cases. A Term Sheet has been signed and will be presented to the Court shortly. The settlement program will require the participation of 95% of the remaining personal injury cases and 90% of the remaining wrongful death cases. Parties who did not enroll in the first settlement program are eligible to enroll in Propulsid II. Counsel will propose that Patrick Juneau serve as Special Master for Propulsid II. An announcement of the details of

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Propulsid II will be posted on the Court's Web site shortly.

II. Service List of Attorneys

The parties provided the Court with an updated list of attorneys in the MDL case, as well as related state court cases, and pro se plaintiffs.

III. Trust Account

Since the last status conference, there has been no activity regarding the Trust Account.

IV. Trial Schedule

Currently, one case is set for trial in West Virginia in June 2006: *Gregory A. Gellner v. Johnson & Johnson Co., et al.*

V. Pharmacy Indemnity Agreements

There have been no pharmacy indemnity agreements executed by defendants since the last status conference. This item shall be removed from future agendas.

VI. MDL Mediation and Resolution Program

Today is the deadline for enrollment and submission of claim forms for the Settlement Program. Special Master Patrick Juneau provided a written status report to the Court regarding the Settlement Program. At present, the Claims office has received the following number of claims – 447 Tier I claims, 341 Tier II claims, 1,697 Tier III claims, and 5,098 Administrative claims. 559 administrative claims have been paid, and 1,033 administrative claims are awaiting the Defendant's approval. The Medical Panel has reviewed or is reviewing approximately 16 claims.

The Special Master continues to meet with the government regarding a global resolution of the government's claims. The government now has all of the information it requested

regarding the Settlement Program. The Court shall hold a meeting with the Special Master, attorneys for the government, and liaison counsel in coming weeks.

VII. Motions

Among others, two motions are pending before the Court – the Motion to Dismiss for Lack of Subject Matter Jurisdiction in *William Boyd v. Johnson & Johnson, et al.*, No. 01-9319, and the Motion for Order to Remand to California Superior Court in *Ronald J. Helberg v. Johnson & Johnson, et al.*, No. 01-2510. The Court shall issue separate Orders regarding these motions shortly.

VIII. Pro se Plaintiffs

Liaison counsel have designed a plan for management of cases involving pro se plaintiffs from this point forward. Currently, Defendants believe there are approximately 390 pro se plaintiffs. Defendants have filed a Motion for Proposed Order to Show Cause which would require pro se plaintiffs to report to the Court about their intentions either to enroll in the Settlement Program or to proceed with trial of their cases, after these plaintiffs are properly noticed. In addition, counsel have filed a Joint Motion to Appoint a Curator to assist pro se plaintiffs in reviewing their options. Counsel indicated that they are still conferring regarding what duties the curator would undertake. Both motions shall be heard at the next monthly status conference.

IX. Preservation of Electronic Data

Defendants have filed an unopposed Motion and Order Establishing Defendant's Duty as to the Preservation of Electronic Data. This motion shall be granted in a separate order.

X. Proposed Order to Reflect Dismissal of Certain Tolling Agreement Claimants

Counsel indicated that they are still discussing an appropriate dismissal order for tolling agreement claimants who are not awarded compensation in the Settlement Program, and for persons whose claims are covered by medical records reimbursements. Plaintiffs have no objection to the Defendants' proposed order as it stands. The order has not yet been submitted to the Court.

XI. Motion for Clarification of August 12, 2005 Minute Entry

Carroll Ingram and Defendants continue to confer regarding resolution of the issues raised in this motion. No court action will be taken at this time.

XII. Proposed Order Approving a Wrongful Death Award Made by the Special Master in the MDL 1355 Settlement Program

Plaintiffs have provided Defendants with this proposed order, which would avoid multiple approvals in different states for wrongful death awards under the Settlement Program. The PLC stated that nine wrongful death claims are before the Medical Panel, and that these awards are subject to the Court's approval. These awards are sealed and are non-appealable.

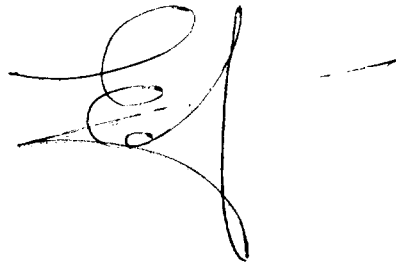
XIII. Emergency Motion for Distribution of Attorney's Fees

The Court issued an Order on November 23, 2005 regarding an interim distribution of attorneys' fees. This distribution was partial, and plaintiffs' counsel reserved all rights to claim any right to common fees and expense reimbursement. On December 7, 2005, a Motion for Reconsideration regarding the November 23 distribution was filed by Daniel Becnel. Because the PLC indicated he needs additional time to respond to Mr. Becnel's motion, IT IS ORDERED that the hearing of the Motion to Reconsider Liaison Counsel's Emergency Motion for

Distribution of Attorney's Fees is hereby CONTINUED to Wednesday, January 25, 2005 at 9:00 a.m.

XIV. Next Pretrial Status Conference

The next status conference shall be held on Wednesday, January 25, 2005, at 9:00 a.m.

A handwritten signature in black ink, consisting of a stylized, cursive 'E' followed by a vertical line and a horizontal dash.