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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: PROPULSID : LORETTA G. WHYTE
PRODUCTS LIABILITY LITIGATION : MDL NO. 1355R
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SECTION: L
:
THIS DOCUMENT RELATES TO ALL CASES : JUDGE FALLON
MAG. WELLS ROBY
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**JOINT REPORT NO. 27 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Report No. 27.

I. Update of Rolling Document Production and Electronic Document Production

DLC has advised that there is no further scheduled document production. PLC continues to discuss this with the Plaintiffs' Discovery Team and will be discussing this further with DLC.

II. State Liaison Counsel (Minute Entry, November 16, 2000)

The State Liaison Committee will report to the Court regarding the efforts of the Committee at the December 4, 2003 monthly status conference.

III. Patient Profile Form and Authorization

As of December 1, 2003 defendants have received 2470 PPF's, 525 are overdue, and 569 will become due in thirty days. Defendants will be preparing a Motion to Dismiss with Prejudice as to the 525 PPFs which are overdue to be set for hearing at the next Monthly Status Conference.

IV. Service List of Attorneys

The parties will present the Court with the most current Master List of all Counsel.

Fee _____
X Dktd _____
CtRmDep _____
Doc. No. 1412

will contain, where available, e-mail addresses.

V. Third Party Subpoena Duces Tecum

The parties have nothing to report as to Third Party Subpoena Duces Tecum. This item may be removed from the Agenda.

VI. Motion on Class Certification.

Defendants are preparing a proposed scheduling Order and will submit it to the PLC shortly. The parties will be prepared to discuss this further at the December 4, 2003 Monthly Status.

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

On December 23, 2002, PLC served upon DLC Request for Admissions and Interrogatory regarding business records of Defendants, to which Defendants submitted responses, including objections. PLC reviewed the objections and prepared a narrowed down list of documents which the PLC submitted informally to DLC on October 29, 2003. DLC is finalizing the response and will submit it to PLC prior to the Status Conference. PLC will file a Motion to Traverse those objections which the plaintiffs deem improper. The parties will be prepared to discuss this further at the December 4, 2003 Monthly Status Conference.

On February 17, 2003, PLC served upon DLC a Motion to Compel Production of Documents of Sales Force. The parties have agreed that the production of electronic materials regarding the sales representative information should be addressed in a remand order, which would preserve this issue for the transferor court on an as-needed, case specific basis. DLC is preparing a proposed draft Pre-Trial Order addressing this issue. The parties will be prepared to discuss this further at the December 4, 2003 Monthly Status Conference.

VIII. Trust Account

Defendants made deposits of additional settlement funds into the Court's Registry on November 10, 2003 and November 17, 2003 since last month's Status Conference.

IX. Declassified Documents

The parties have nothing new to report since last month's Status Conference.

X. Mediation

No additional mediations have taken place since the last month's Status Conference. The parties will be prepared to discuss this further at the December 4, 2003 Monthly Status Conference.

XI. Trial Schedule

On November 20, 2003, this Court signed an Order dismissing the claims of trial plaintiff, Cecelia Overton, with prejudice. As to the remaining three trial plaintiffs, the parties are proceeding with discovery in accordance with the deadlines established by this Court's November 19, 2003 Scheduling Order.

XII. Pharmacy Indemnity Agreements

DLC continues to produce copies of all MDL pharmacy indemnity agreements which Defendants have executed to PLC. DLC will continue to furnish such agreements, if any, as they are executed.

XIII. End Game Planning Committee

Counsel for defendants and representatives of the PSC and the Plaintiffs' Settlement Committee have continued to discuss a system to formalize criteria and monetary evaluations for those cases which defendants are prepared to mediate. The parties have met and communicated several times since the last status conference. The parties plan to report to the Court at the

December 4, 2003 Monthly Status Conference concerning the status and efforts to reach such an agreement.

XIV. Global Application of Daubert

DLC and PLC have continued discussions regarding DLC's desire to implement a procedure for the application of the *Daubert* ruling where appropriate. PLC opposes such procedure. The parties will be prepared to discuss this further at the December 4, 2003 Monthly Status Conference.

XV. Motions to Withdraw as Counsel of Record

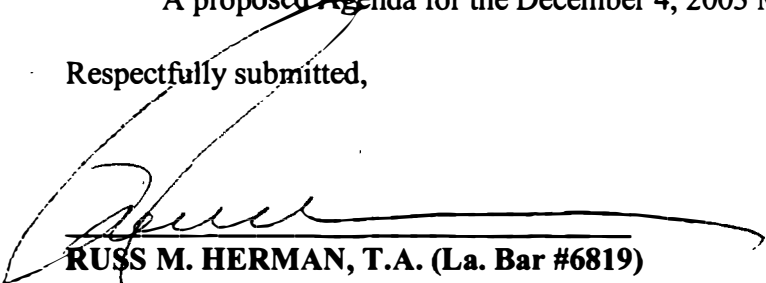
The parties will be prepared to discuss this further at the December 4, 2003 Monthly Status Conference.

XVI. Stipulation and Pre-Trial Order Providing for the Use at Trial of Depositions in State or Federal Courts

PLC and DLC have been communicating regarding the preparation of a stipulation for the use of depositions in MDL matters. DLC submitted a draft Pre-Trial Order to PLC, which the parties are discussing.

A proposed Agenda for the December 4, 2003 Monthly Status Conference is attached.

Respectfully submitted,



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PLAINTIFFS' STEERING COMMITTEE



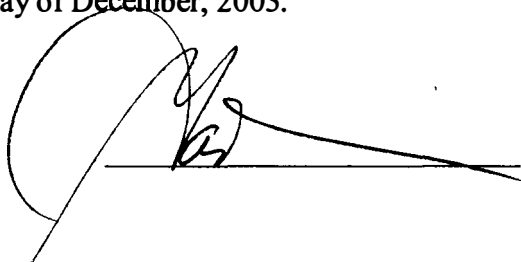
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Report No. 27 of Plaintiffs' and Defendants' Liaison Counsel was served on Plaintiffs' Liaison Counsel by hand and e-mail and by e-service to all parties by uploading same to Verilaw, on this 2nd day of December, 2003.



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

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|---|--|---------------------------------|---|
| IN RE: | PROPULSID PRODUCTS LIABILITY LITIGATION | : : : : : : : | MDL NO. 1335 SECTION: L JUDGE FALLON MAG. WELLS ROBY |
| THIS DOCUMENT RELATES TO ALL CASES | | : : : | |

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**Monthly Status Conference
December 4, 2003 - 9:00 a.m.**

AGENDA

Current Matters:

1. Update of Rolling Document Production and Electronic Document Production
2. State Liaison Counsel
3. Patient Profile Form and Authorization
4. Service List of Attorneys
5. Third Party Subpoena Duces Tecum
6. Motion on Class Certification
7. Plaintiffs' and Defendants' Respective Requests for Production of Documents
8. Trust Account
9. Declassified Documents

10. Mediation
11. Trial Schedule
12. Pharmacy Indemnity Agreements
13. End Game Planning Committee
14. Global Application of Daubert
15. Motions to Withdraw as Counsel of Record
16. Stipulation and Pre-Trial Order Providing for the Use at Trial of Depositions in State or Federal Courts