

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

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

2004 JAN 27 PM 3:45

LORETTA G. WHYTE
CLERK

**IN RE: PROPULSID
PRODUCTS LIABILITY LITIGATION**

MDL NO. 1355

SECTION: L

THIS DOCUMENT RELATES TO ALL CASES

**JUDGE FALLON
MAG. WELLS ROBY**

**JOINT REPORT NO. 28 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Report No. 28.

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 January 29, 2004 monthly status conference.

III. Patient Profile Form and Authorization

As of January 26, 2004 defendants have received 2822 PPF's, 989 are overdue, and 20 will become due in thirty days.

IV. Service List of Attorneys

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

Fee _____
Process _____
X Dktd _____
Ct Rm _____
Doc. No. 1443

will contain, where available, e-mail addresses.

V. Motion on Class Certification.

Defendants are preparing a proposed scheduling Order and will submit it to the PLC shortly. The PLC intends on filing a Motion for Class Certification within the next ten (10) days. The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status.

VI. 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. At the Status Conference on December 4, 2003, PLC advised that it intended to take a 30(B)(6) deposition of the defendants regarding these documents. Following the Status Conference, a deposition notice was filed and the deposition was noticed to proceed on January 7, 2004. DLC advised that it objected to the deposition and contested the need for the deposition, and on January 14, 2004 Johnson & Johnson filed a Motion for the Entry of a Protective Order which is set for hearing on February 4, 2004 at 9:00 a.m. The parties will be prepared to discuss this further at the January 29, 2004 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 forwarded a draft of the Pre-Trial Order providing for the use of electronic data preserved by Janssen Pharmaceutica sales force on December 15, 2003. PLC is reviewing the draft and will be in further communication with DLC.

The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status Conference.

VII. Trust Account

Defendants made deposits of additional settlement funds into the Court's Registry on January 16, 2004 and January 20, 2004 since last month's Status Conference.

VIII. Declassified Documents

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

IX. 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 January 29, 2004 Monthly Status Conference.

X. Trial Schedule

On December 16, 2003, PLC wrote DLC and requested a complete list of all trials scheduled through the year 2004, together with the names of the lawyers involved in the particular trials and the courts where the matters are set. DLC will be furnishing the usual list.

XI. 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.

XII. 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 January 29, 2004 Monthly Status Conference concerning the status and efforts to reach such an agreement.

XIII. Global Application of Daubert

The parties have had no further discussions regarding this matter.

XIV. Motions to Withdraw as Counsel of Record

The parties have nothing further to report regarding this matter.

XV. 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.

XVI. CIS NED-32 Deposition

PLC issued a Notice of Deposition and scheduled the 30(B)(6) deposition regarding the final version of CIS NED-32 report to occur originally on January 15, 2004. DLC advised that the corporate representative would be Dr. Soons and that the deposition would take place in Europe. The deposition date has been rescheduled to occur on February 19/20, 2004 in Amsterdam.

XVII. Motion for Summary Judgment

PLC will be filing with the court a Motion for Summary Judgment regarding Johnson & Johnson's liability. The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status Conference.

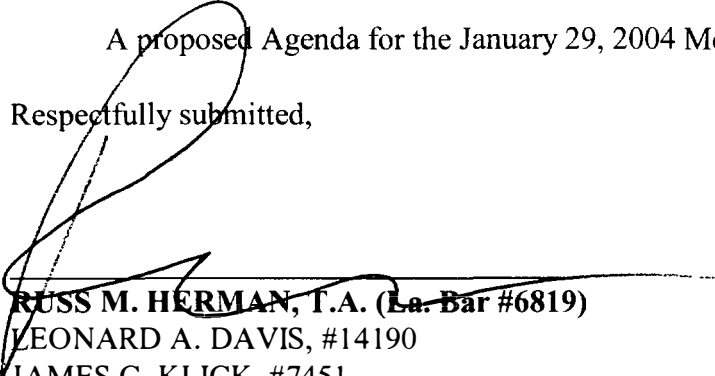
XVIII. Bailey Motion

PLC and DLC received the court's order entered January 22, 2004. The parties will review

the motion and be prepared to discuss the matter at the January 29, 2004 Monthly Status Conference.

A proposed Agenda for the January 29, 2004 Monthly Status Conference is attached.

Respectfully submitted,



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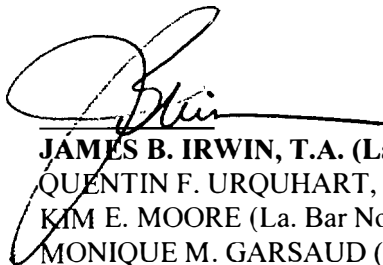
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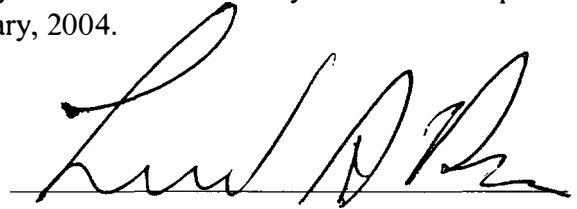
CO-LEAD COUNSEL FOR Defendants,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Report No. 28 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 27th of January, 2004.

A handwritten signature in black ink, appearing to read "L. A. R.", is written over a horizontal line. The signature is cursive and stylized.

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

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		:	JUDGE FALLON
		:	MAG. WELLS ROBY
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**Monthly Status Conference
January 29, 2004 - 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. Motion on Class Certification
6. Plaintiffs' and Defendants' Respective Requests for Production of Documents
7. Trust Account
8. Declassified Documents
9. Mediation

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

NEW ITEMS

16. CIS NED-32 Deposition
17. Motion for Summary Judgment
18. Bailey Motion