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1 UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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5 IN RE: PROPULSID PRODUCTS DOCKET NO. MDL 1355
6 LIABILITY LITIGATION NEW ORLEANS, LOUISIANA
7 FRIDAY, JANUARY 14, 2005

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11 TRANSCRIPT OF STATUS CONFERENCE PROCEEDINGS
12 HEARD BEFORE THE HONORABLE ELDON E. FALLON
13 UNITED STATES DISTRICT JUDGE

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16 APPEARANCES:

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18 FOR THE PLAINTIFFS: HERMAN, MATHIS, CASEY, KITCHENS &
19 GEREL

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17

DUDLEY JORDAN
5 RITCHIE ROAD
WACO, TX 76712
(BY TELEPHONE)

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19

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FOR THE DEFENDANTS:

IRWIN, FRITCHIE, URQUHART & MOORE
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MONIQUE GARSAUD, ESQ.
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DRINKER, BIDDLE & SHANLEY
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1 APPEARANCES CONTINUED:

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BY: CHARLES F. PREUSS, ESQ.

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OFFICIAL COURT REPORTER:

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PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY, TRANSCRIPT PRODUCED
BY COMPUTER.

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1 P R O C E E D I N G S

2 (JANUARY 14, 2005)

3 (JANUARY MONTHLY STATUS CONFERENCE)

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5 THE COURT: BE SEATED, PLEASE. GOOD MORNING, LADIES AND

6 GENTLEMEN. LET'S CALL THE CASE, PLEASE.

7 THE DEPUTY CLERK: MDL 1355, IN RE: PROPULSID.

8 THE COURT: COUNSEL MAKE THEIR APPEARANCE FOR THE
9 RECORD.

10 MR. JORDAN: THIS IS DUDLEY JORDAN APPEARING ON BEHALF
11 OF MELISSA HAWTHORNE.

12 THE COURT: THANK YOU, MR. JORDAN.

13 MR. IRWIN: GOOD MORNING, YOUR HONOR, JIM IRWIN FOR
14 DEFENDANTS.

15 MR. HERMAN: MAY IT PLEASE THE COURT, GOOD MORNING, YOUR
16 HONOR, RUSS HERMAN WITH HERMAN, MATHIS FOR THE PLAINTIFF'S
17 LEGAL COMMITTEE.

18 THE COURT: THIS IS OUR MONTHLY STATUS CONFERENCE. I
19 RECEIVED A LETTER FROM, AT LEAST IT SAYS THAT IT'S FROM
20 MELISSA HAWTHORNE. SHE IS A CLAIMANT AND SHE INDICATES IN
21 THE LETTER THAT MY ATTORNEYS HAVE NOT PROVIDED ANY
22 INFORMATION ABOUT THE SETTLEMENT PROGRAM SO I HAVE NO WAY OF
23 EVALUATING THE PROGRAM, AND SINCE I CANNOT TRUST MY
24 ATTORNEYS, I AM SUBMITTING MY WITHDRAWAL FROM THE PROGRAM
25 DIRECTLY TO THE COURT. THE LETTER GOES ON TO SAY SHE DOES

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1 NOT WISH TO PARTICIPATE IN THE PROGRAM.

2 I RECEIVED A CALL FROM MR. JORDAN INDICATING THAT
3 HE WANTED TO ADDRESS THE LETTER, SO I HAD HIM PATCHED IN TO
4 THIS CONFERENCE AND I'LL HEAR FROM MR. JORDAN. MR. JORDAN.
5 MR. JORDAN: THANK YOU, YOUR HONOR. FIRST OF ALL, YOUR
6 HONOR, I DO WANT TO THANK YOU FOR ALLOWING ME TO APPEAR BY
7 PHONE AND TO ACCOMMODATE MY SCHEDULE. JUST GIVE YOU A LITTLE
8 BIT OF BACKGROUND ON MS. HAWTHORNE. SHE IS A CLIENT OF OURS,
9 SHE SIGNED A CONTRACT OF REPRESENTATION FOR MY FIRM TO
10 REPRESENT HER BACK IN MARCH OF 2002.

11 WE FILED HER CASE IN STATE COURT IN JONES COUNTY,
12 MISSISSIPPI, IT WAS REMOVED TO THE SOUTHERN DISTRICT OF
13 MISSISSIPPI AND THEN TRANSFERRED TO YOUR COURT THERE AS PART
14 OF THE MDL PROCEEDINGS. AND I WANT TO MAKE IT CLEAR, I DON'T
15 WANT TO SAY ANYTHING TO DISPARAGE MS. HAWTHORNE OR HURT HER
16 CASE IN ANY WAY, BECAUSE I DO REPRESENT HER AND I INTEND TO
17 KEEP REPRESENTING HER FOR AS LONG AS SHE WANTS ME TO.

18 AS YOU CAN TELL BY THE LETTER, I THINK THERE'S BEEN
19 SOME, A BREAKDOWN IN COMMUNICATION AND I THINK I CAN ADDRESS
20 THAT.

21 THE COURT: ALL RIGHT.

22 MR. JORDAN: WE HAD A, I CORRESPONDED AND SPOKEN WITH
23 MS. HAWTHORNE OVER THE LAST SEVERAL YEARS EXTENSIVELY, AND WE
24 HAD A VERY CORDIAL RELATIONSHIP, A GOOD WORKING RELATIONSHIP
25 UNTIL ABOUT AUGUST OF 2004. AND I HAVE NOT SPOKEN TO HER

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1 SINCE THEN. I THINK THE COMMUNICATION BROKE DOWN THERE.
2 AROUND AUGUST OF 2004 WE STARTED RECEIVING REQUESTS
3 FOR INFORMATION ON BEHALF OF MS. HAWTHORNE FROM SEVERAL
4 DIFFERENT INDIVIDUALS BY PHONE AND BY E-MAIL. AT THAT POINT
5 I WAS UNCOMFORTABLE CORRESPONDING WITH HER BY E-MAIL ANYMORE
6 SO I INFORMED HER THAT, YOU KNOW, I WAS AFRAID THAT SOMEONE,
7 NOT HER, WAS TRYING TO ACCESS CONFIDENTIAL INFORMATION ON HER
8 CASE, AND SO I INFORMED HER THAT I NEEDED TO TALK TO HER TO
9 GET STRAIGHT WHO WE ARE AUTHORIZED TO TALK TO ON BEHALF OF
10 HER ABOUT HER CASE.
11 SINCE THEN THE CORRESPONDENCE THAT I HAVE SENT TO
12 HER HAS BEEN RETURNED WITH A NOTE SAYING THAT SHE NO LONGER
13 LIVES AT THE ADDRESS SHE GAVE US, AND MY E-MAIL, I'VE
14 REPEATEDLY ASKED HER TO CALL ME VIA E-MAIL AND I HAVE
15 RECEIVED NO CALL.
16 ON ABOUT THE SAME TIME YOU RECEIVED THE LETTER, I
17 THINK IT WAS JANUARY 5TH, I RECEIVED AN E-MAIL FROM SOMEONE
18 PURPORTING TO BE MS. HAWTHORNE STATING THAT ANOTHER ATTORNEY
19 HAD CONTACTED HER AND SAID THAT THEY HAD ENROLLED HER IN THE
20 SETTLEMENT PROGRAM. NOW, WE SENT ALL OF OUR CLIENTS
21 INFORMATION ON THE SETTLEMENT PROGRAM THERE IN THE MDL AND
22 MADE A RECOMMENDATION TO THEM AND GAVE THEM THE CHOICE OF
23 WHETHER OR NOT TO ENROLL IN THE PROGRAM, AND WE HAVE ENROLLED
24 MANY OF OUR CLIENTS IN THAT PROGRAM.
25 NOW, MS. HAWTHORNE NEVER RETURNED THE INFORMATION

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1 AND WE COULDN'T CONTACT HER. WE DID NOT ENROLL HER IN THE
2 PROGRAM. AND I AM UNAWARE OF ANY OTHER ATTORNEY THAT HAS
3 ENROLLED HER IN THE PROGRAM.
4 SO AT THIS POINT, YOUR HONOR, I AM KIND OF -- I AM
5 KIND OF IN THE DARK AS THE COURT IS ON THE LETTER.
6 THE COURT: I UNDERSTAND THE PROBLEM, MR. JORDAN. I
7 NEED TO KNOW WHO REPRESENTS HER, SO I AM GOING TO ORDER THAT
8 BY NEXT CONFERENCE, WHICH WILL BE IN FEBRUARY ON FEBRUARY
9 25TH, I NEED TO HEAR FROM MS. HAWTHORNE AND I AM GOING TO
10 SEND A MINUTE ENTRY OUT TO YOU. WHAT IS YOUR ADDRESS?
11 MR. JORDAN: IT IS 5 RITCHIE ROAD, WACO, TEXAS 76712.
12 THE COURT: I NEED TO KNOW WHO REPRESENTS HER AND WHAT'S
13 HER POSITION BY THAT TIME. SO I AM GOING TO SEND IT TO HER
14 AT THE POST OFFICE BOX 31, FULTON, ARKANSAS 71838.
15 MR. JORDAN: OKAY.
16 THE COURT: AND I WANT YOU TO E-MAIL HER AT THE E-MAIL,
17 MELISSA@PSYCHOLOGYFAN.COM AS REFERENCED IN THE LETTER THAT I
18 RECEIVED, WHICH I FORWARDED TO YOU.
19 MR. JORDAN: RIGHT, YES, SIR.
20 THE COURT: ALL RIGHT. THANK YOU VERY MUCH. YOU DON'T
21 NEED TO CONTINUE TO PARTICIPATE IN THIS CONFERENCE IF YOU
22 DON'T WISH TO.
23 MR. JORDAN: OKAY. THANK YOU, YOUR HONOR. I THINK I
24 WILL, WITH YOUR PERMISSION I WILL EXCUSE MYSELF.
25 THE COURT: THANK YOU.

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1 MR. JORDAN: THANK YOU, YOUR HONOR.

2 (WHEREUPON, THE MR. JORDAN HUNG UP AND NO LONGER PARTICIPATED
3 IN THE CONFERENCE.)

4 THE COURT: ALL RIGHT. I HAVE THE JOINT REPORT NO. 37
5 FROM PLAINTIFF LIAISON AND DEFENSE LIAISON COUNSEL. I WILL
6 TAKE THE MATTERS UP IN THE ORDER GIVEN TO ME.

7 THE FIRST IS UPDATE OF ROLLING DOCUMENT PRODUCTION
8 AND ELECTRONIC DOCUMENT PRODUCTION.

9 MR. HERMAN: MAY IT PLEASE THE COURT, GOOD MORNING, YOUR
10 HONOR, RUSS HERMAN FOR PLAINTIFF'S LEGAL COMMITTEE. THE
11 STATUS OF DOCUMENT PRODUCTION IS THE SAME AS IT HAS BEEN
12 SINCE SETTLEMENT WAS ANNOUNCED, AND WE ARE ABOUT 80 PERCENT,
13 75 PERCENT THROUGH IN PREPARING THE TRIAL PACKAGE FOR ANY
14 LAWYER THAT DOES NOT ENROLL.

15 THE COURT: NO. 2, STATE LIAISON COUNSEL. ANYTHING FROM
16 STATE LIAISON?

17 MS. BARRIOS: YOUR HONOR, I AM CONTINUING TO GET
18 REQUESTS, PARTICULARLY FROM MISSISSIPPI, ON A STATE PROGRAM,
19 A STATE SETTLEMENT PROGRAM, AND I PASSED THAT ON TO DEFENSE
20 COUNSEL PERIODICALLY.

21 THE COURT: BY NEXT CONFERENCE I'D LIKE SOME CONTACT
22 FROM DEFENSE COUNSEL WITH THE STATE LIAISON AND THE
23 PLAINTIFF'S COMMITTEE. LET'S GET THAT ROLLING SO THAT WE CAN
24 AT LEAST FOCUS ON IT.

25 MR. HERMAN: YOUR HONOR, IF THE STATE LIAISON COMMITTEE

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1 COULD APPOINT ONE PERSON AS A POINT PERSON TO COMMUNICATE
2 WITH JIM AND I LOCALLY.
3 THE COURT: LET'S DO THAT. AND IF THERE'S SOME PROBLEM
4 WITH THAT, LET ME KNOW AND I'LL APPOINT SOMEBODY BUT I'LL LET
5 YOU ALL TAKE IT UP FIRST.
6 MS. BARRIOS: THANK YOU, YOUR HONOR. NEXT ITEM IS
7 PLAINTIFF PROFILE FORM AND AUTHORIZATION.
8 MR. IRWIN: YOUR HONOR, THE STATUS AND NUMBERS ARE AS
9 REPORTED IN THE REPORT, AND WE CONTINUE TO SUGGEST THAT
10 MOTIONS BE SUSPENDED WHILE WE ENDEAVOR TO ACHIEVE THE
11 ENROLLMENT OF THE PROGRAM.
12 THE COURT: I'LL DO THAT. WE DON'T NEED TO PUT THAT ON
13 FUTURE MATTERS, UNLESS IT CHANGES. IF IT CHANGES THEN I'LL
14 RESURRECT IT.
15 MR. IRWIN: YES, SIR.
16 THE COURT: SERVICE LIST OF ATTORNEYS.
17 MR. IRWIN: WE HAVE THE CURRENT SERVICE LIST OF
18 ATTORNEYS --
19 THE COURT: IS IT CHANGING AT ALL?
20 MR. IRWIN: IT IS NOT, YOUR HONOR, EXCEPT FOR AN
21 OCCASIONAL SHIFT TO A PRO SE STATUS, THAT'S ABOUT THE ONLY
22 THING THAT IS HAPPENING AT THIS POINT. IT MAY NOT HAVE EVEN
23 HAPPENED FOR LAST MONTH, BUT IT IS NOT HARD FOR US TO DO
24 THIS.
25 THE COURT: OKAY. FINE. AND THE MOTION FOR CLASS

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1 CERTIFICATION IS NEXT.
2 MR. HERMAN: YOUR HONOR, BY AGREEMENT, THE FILING OF THE
3 MOTION HAS BEEN DEFERRED PENDING THE ENROLLMENT AND EFFECTIVE
4 IMPLEMENTATION OF THE SETTLEMENT.
5 THE COURT: TRUST ACCOUNT IS THE NEXT ITEM.
6 MR. HERMAN: YES, YOUR HONOR, WE HAVE A MOTION THAT'LL
7 BE HEARD ON FEBRUARY 2ND TO WITHDRAW FUNDS THAT HAVE BEEN
8 PLACED IN THE TRUST ACCOUNT IN ORDER TO MEET ONGOING
9 EXPENSES.
10 THE COURT: AND THE TRIAL SCHEDULE, THERE IS A CASE IN
11 NEVADA IS IT? WHAT'S THE REPORT ON THAT ONE?
12 MR. PREUSS: YOUR HONOR, CHUCK PREUSS. THAT MATTER,
13 SUMMARY JUDGMENT WAS GRANTED IN DEFENDANT'S FAVOR AND WE'RE
14 WAITING FURTHER STEPS ON APPEAL, IF ANY, BY THE PLAINTIFF.
15 THE COURT: ANY OTHER CASES IN ANY OTHER AREAS THAT HAVE
16 BEEN TRIED?
17 MR. CAMPION: NO TRIALS ONGOING AT THE PRESENT TIME, ONE
18 OR TWO LISTED FOR LATER THIS YEAR.
19 THE COURT: PHARMACY INDEMNITY AGREEMENTS FOR THE EIGHTH
20 ITEM.
21 MR. IRWIN: YOUR HONOR, THERE IS NOTHING TO REPORT ANY
22 DIFFERENT FROM THE LAST CONFERENCE. WE HAVE NOT HAD ANY
23 DIFFERENT DEVELOPMENT; IN FACT, THE LAST MONTH WE HAVE NOT
24 HAD ANY FURTHER REQUESTS.
25 MR. HERMAN: YOUR HONOR, THERE ARE NO MDL MEDIATIONS;

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1 HOWEVER, MR. PREUSS HAS A REPORT IN TERMS OF ENROLLMENT.
2 THE COURT: OKAY.

3 MR. PREUSS: THANK YOU, YOUR HONOR. ON THE WRONGFUL
4 DEATH CATEGORY, WE'RE STANDING RIGHT NOW AT 232. 242 ARE
5 REQUIRED FOR THE MINIMAL LEVEL UNDER THE AGREEMENT. ON THE
6 ACHORD, THERE ARE 1,797 ACHORD PLAINTIFFS RIGHT NOW. THERE
7 ARE 1,034 THAT HAVE QUALIFIED. WITH RESPECT TO THE PERSONAL
8 INJURY IN THE MDL, THE REQUIREMENT IS 2,653, AND THERE ARE
9 2,774 QUALIFIED THERE, SO WE'RE OVER THE MINIMUM ON THE
10 PERSONAL INJURY. AND THE LAST CATEGORY WOULD BE THE
11 CLAIMANTS, AND WE HAVE A PRELIMINARY QUALIFICATION OF 19,886,
12 WELL OVER THE 12,000 THAT'S REQUIRED UNDER THE AGREEMENT.

13 WE HAVE BEEN WORKING WITH THE PSC AND THEY HAVE
14 BEEN WORKING HARD TO FILL THE GAP ON THE WRONGFUL DEATH AND
15 WE HOPE WE CAN GET THIS FULFILLED.

16 THE COURT: YOU NEED FOUR DEATH CASES IS IT?

17 MR. PREUSS: NO, YOUR HONOR, TEN DEATH CASES. YOUR
18 HONOR, MAYBE I WENT TOO FAST OVER ACHORD, THERE IS A GAP
19 ROUGHLY OF 800 ON ACHORD.

20 THE COURT: WHAT'S THE EXPLANATION OF THAT? ACHORD, AS
21 EVERYBODY KNOWS ARE LOUISIANA CASES. IT WAS MY UNDERSTANDING
22 THAT ALL OF THE LAWYERS IN LOUISIANA CASES ARE ON BOARD?
23 WHAT'S THE PROBLEM, IS THERE JUST --

24 MR. PREUSS: I AM NOT SURE WHAT THE PROBLEM IS. THAT'S
25 A BIT OF A MYSTERY TO ME. THERE HAVE BEEN SOME ACHORDS THAT

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1 HAVE SINCE FILED CASES, BUT MY NUMBER ON THAT IS 56, SO
2 THAT'S NOT EXPLAINING IT.

3 THE COURT: THERE MAY BE SOME DUPLICATION, BUT LET ME
4 HEAR FROM MR. HERMAN ON THAT.

5 MR. HERMAN: I HAVE NO BETTER EXPLANATION THAN CHUCK
6 PREUSS DOES. HOWEVER, I THINK AFTER YESTERDAY'S CONFERENCE
7 CALL, WE ARE GOING TO BE ABLE TO RESOLVE THIS MATTER, BECAUSE
8 WE'RE TO RECEIVE AN E-MAIL SOMETIME TODAY OR OVER THE WEEKEND
9 FROM CHUCK'S OFFICE GIVING US THE NAMES OF THOSE ACHORD
10 CLAIMANTS AND THE ATTORNEYS WHO REPRESENT THEM. AND THAT'LL
11 FACILITATE OUR ABILITY TO FOLLOW-UP.

12 AND FRANKLY WE DON'T ANTICIPATE A PROBLEM. WE HAVE
13 NOT HEARD FROM A SINGLE LOUISIANA ATTORNEY WHO DOESN'T INTEND
14 TO ENROLL ALL OF THEIR CASES. AND INDEED, WHEN THE ACHORD
15 LAWSUIT WAS FILED AND WAS PUT ON YOUR HONOR'S SUSPENSE
16 DOCKET, THOSE ATTORNEYS THAT WE HEARD FROM WERE APPRECIATIVE
17 OF THAT. SO I THINK IT'S A QUESTION OF IDENTIFICATION AND
18 FOLLOW-UP AND WE'RE IN A POSITION TO HANDLE THAT. IF WE NEED
19 SOME ADDITIONAL HELP, WE'LL CALL ON SOME OF THE STATE PEOPLE.
20 BUT I THINK WITHIN THE PLC WE WILL BE ABLE TO DEAL WITH IT.

21 THE COURT: COPY ME ON THAT LIST. IF WE HAVE ANY
22 PROBLEMS I'LL ORDER EVERYBODY FROM LOUISIANA TO COME TO COURT
23 AND WE'LL DEAL WITH IT THAT WAY.

24 MR. PREUSS: YES, YOUR HONOR.

25 THE COURT: I DON'T SEE ANY PROBLEM WITH ACHORD. THE

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1 DEATH CLAIMS, WHAT'S YOUR INPUT ON THE DEATH CLAIMS?
2 MR. HERMAN: WELL, FROM THE PLAINTIFF'S STANDPOINT WE
3 NEED TEN MORE DEATH CLAIMS TO ENROLL. FOUR OF THOSE CLAIMS
4 WE ANTICIPATE WILL BE ENROLLED SOMETIME IN THE NEXT WEEK.
5 THERE IS ONE LAW FIRM IN MISSISSIPPI WHICH IS LISTED AS
6 HAVING TEN DEATH CASES AND THAT FIRM HAS ALREADY ENROLLED
7 MORE THAN TEN, TEN OF ITS DEATH CASES, WE'RE FOLLOWING UP ON
8 THAT. WHAT ARE THERE OUTSTANDING, SOME 70 CASES, 75 CASES?
9 MR. PREUSS: IN THAT?
10 MR. HERMAN: YES. LET ME GIVE IT TO YOU APPROXIMATELY.
11 I BELIEVE THERE WERE AROUND 75 OUTSTANDING CASES, OF THOSE
12 THE ONLY ONES THAT WE ARE AWARE OF THAT WON'T, THAT DON'T
13 INTEND TO ENROLL ARE WITH A NEW YORK FIRM, AND WE BELIEVE WE
14 ARE GOING TO BE ABLE TO REACH THIS NUMBER.
15 FOR EXAMPLE, ONE OF THE ATTORNEYS WITH THE
16 SUBSTANTIAL NUMBER OF CASES WHO INTENDS TO ENROLL THEM
17 MISAPPREHENDED AND THOUGHT THAT THEY HAD A SIX MONTH PERIOD
18 TO ENROLL AND BELIEVED THAT THEY HAD TO HAVE ALL OF THEIR
19 MEDICAL AT THE TIME OF ENROLLMENT, WHICH THE AGREEMENT
20 DOESN'T REQUIRE. SO WE BELIEVE THAT -- WE DON'T ANTICIPATE A
21 PROBLEM WITH THAT.
22 THE COURT: LET'S TRY TO JUST FINISH IT UP BY NEXT TIME.
23 THAT WILL GIVE YOU AN OPPORTUNITY IN THE MEANTIME TO BEGIN
24 TALKING TO THE STATE LIAISON.
25 MR. HERMAN: MR. PREUSS' OFFICE, I MIGHT SAY FOR THE

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1 RECORD, HAS DONE A YEOMAN'S JOB IN FOLLOWING UP ON ALL OF
2 THESE CLAIMS AND IS IN A POSITION NOW WITHIN THE NEXT TWO OR
3 THREE DAYS TO GIVE US SOME ITEMIZED LISTS, WHICH WILL GREATLY
4 FACILITATE THIS PROCESS. AND WE APPRECIATE THE WORK THAT
5 MR. PREUSS' FIRM HAS DONE IN THAT REGARD.
6 THE COURT: I THINK IT'S IMPORTANT FOR THE PLAINTIFFS TO
7 BEGIN RECEIVING FUNDS IN THIS CASE SO THAT ONCE THIS BEGINS
8 TO HAPPEN I THINK WE'LL HAVE A LOT MORE INTEREST IN IT.
9 MR. HILL: YOUR HONOR --
10 THE COURT: WOULD YOU GIVE US YOUR NAME.
11 MR. HILL: BARRY HILL FROM THE PLAINTIFF LIAISON
12 COMMITTEE. BETWEEN NOW AND THE NEXT STATUS CONFERENCE WE ARE
13 GOING TO HAVE THE ATL WINTER CONVENTION AND THERE WILL BE A
14 MEETING OF THE ATL PROPULSID LITIGATION GROUP AT THAT. THIS
15 SETTLEMENT PROGRAM IS THE NUMBER ONE AND ESSENTIALLY THE ONLY
16 THING ON THE AGENDA FOR THAT MEETING. IF I KNOW -- IF I CAN
17 GET A LIST OF THE LAWYERS WITH THE CASES THAT ARE NOT
18 ENROLLED I CAN ALSO WORK WITH SOME OF THOSE PEOPLE TO TRY TO
19 GET THEM MOVED ALONG, AT THAT MEETING AND IN ADVANCE OF THAT
20 MEETING AND BEFORE OUR NEXT CONFERENCE.
21 MR. HERMAN: THAT'S A GREAT HELP, BARRY. I AM LOOKING
22 IN MY BOOK. I THINK THAT MEETING IS THE 31ST, IS THAT RIGHT,
23 IN PALM SPRINGS?
24 MR. HILL: YES.
25 MR. HERMAN: WHICH IS BEFORE OUR NEXT MEETING HERE. BUT

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1 AS SOON AS I HAVE THE LIST WE WILL GET IT TO BARRY AND I WILL
2 SPEAK WITH HIM ABOUT HOW TO FACILITATE THIS.
3 THE COURT: OKAY. THANK YOU, MR. HILL. ALL RIGHT.
4 ANYTHING MORE THAN ON THE RESOLUTION PROGRAM?
5 WHAT'S YOUR REPORT ON THE STAFFING?
6 MR. HERMAN: I THINK WE'RE FUNCTIONING WELL AND WORKING
7 HARD, WE'VE HAD A WEEKLY CONFERENCE CALL. IN ADDITION TO
8 THAT LEONARD DAVIS OF OUR OFFICE AND TWO OF OUR PARALEGALS
9 HAVE BEEN ON THE PHONE ALMOST DAILY IN CONTACT WITH THOSE
10 FOLKS, AND THEY'RE PERFORMING WELL.
11 MR. IRWIN: YOUR HONOR, I CAN ECHO THAT. WE HAVE BEEN
12 HELPING WITH SOME OF THE QUALITY CONTROL EFFORTS AND THERE IS
13 EVERY EXPECTATION THAT THEY'RE GOING TO BE ABLE TO
14 SATISFACTORILY ADMINISTER THIS PROGRAM.
15 THE COURT: I THINK WE OUGHT TO TRY TO GET THE FUNDS
16 SOMETIME BEFORE EASTER ROLLING OUT TO THE PLAINTIFFS, TO THE
17 CLAIMANTS.
18 MR. HERMAN: I MIGHT SUGGEST, YOUR HONOR, TO HAVE THE
19 STAFF FOLKS COME TO OUR NEXT CONFERENCE, JUST TO BE
20 INTRODUCED TO THE COURT SO THAT YOUR HONOR KNOWS A FACE.
21 MR. DAVIS: THEY'RE HERE.
22 MR. HERMAN: WHY DON'T YOU STEP UP, THAT WAY IF THE
23 JUDGE NEED'S TO CONTACT THE STAFF.
24 THE COURT: WHY DON'T YOU TELL US YOUR NAMES SO THE
25 RECORD WILL REFLECT IT.

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1 MS. PATORNO: ANGELA PATORNO.

2 MR. VADELL: JERRY VADELL.

3 THE COURT: THANK YOU FOR BEING HERE.

4 MR. HERMAN: AND THANK YOU FOR BEING HERE. THEY'RE
5 PERFORMING WELL, I STILL SAY THAT EVEN THOUGH I KNOW THEY'RE
6 HERE.

7 THE COURT: OKAY. WHAT ABOUT THE DAUBERT ISSUE, THAT'S
8 THE NEXT ITEM.

9 MR. HERMAN: WE DON'T WANT IT HEARD, YOUR HONOR.

10 THE COURT: I WILL KEEP THAT IN ABEYANCE AND THE SUMMARY
11 JUDGMENT ALSO IN ABEYANCE.

12 AND WHAT ABOUT THE PRO SE PLAINTIFFS?

13 MR. HERMAN: YOUR HONOR, WE ARE GOING TO PROVIDE THE
14 COURT WITH A LIST OF PRO SE PLAINTIFFS, THE PLAINTIFF'S LEGAL
15 COMMITTEE WILL CONTACT THOSE FOLKS DIRECTLY, FIND OUT IF THEY
16 HAVE ATTORNEYS. IF THEY DO, WE WILL CONTACT THE ATTORNEYS;
17 IF THEY DON'T HAVE ATTORNEYS AND THEY WANT ATTORNEYS, WE'LL
18 ADVISE THE COURT OF THAT.

19 WE WILL ALSO PROVIDE THE COURT WITH A STATUS, AND
20 OF COURSE WHATEVER WE DO IN THAT REGARD WE WILL COPY DEFENSE
21 COUNSEL. WE EXPECT TO HAVE THAT LIST ALSO TODAY OR AT SOME
22 POINT OVER THE WEEKEND.

23 THE COURT: IT'S IMPORTANT THAT THEY KNOW THAT THE COURT
24 HAS ASKED YOU TO CONTACT THEM AND TO ASCERTAIN THAT, SO
25 DETERMINE WHETHER OR NOT THEY HAVE COUNSEL, WHETHER OR NOT

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1 THEY WISH COUNSEL; IF THEY DON'T HAVE COUNSEL OR WISH COUNSEL
2 ASK THEM TO GET COUNSEL OF THEIR CHOOSING. IF THEY DON'T GET
3 COUNSEL OF THEIR CHOOSING, I WILL APPOINT SOMEONE TO
4 REPRESENT THEM OR SOMEONE TO AT LEAST STANDBY TO ASSIST THEM
5 OR TO HAVE SOMEBODY AT LEAST TO DISCUSS THINGS WITH OR AT
6 LEAST TALK WITH.

7 MR. HERMAN: IN THAT REGARD WE WILL ASK THAT IF THEY
8 INTEND TO ENGAGE COUNSEL THAT THEY DO SO BEFORE THE NEXT
9 MEETING.

10 THE COURT: RIGHT. AND HAVE THE COUNSEL CONTACT YOU.

11 MR. HERMAN: IT'S THE PLC'S POSITION, I AM GOING TO ASK
12 THAT ARNOLD LEVIN AND BUCKY ZIMMERMAN AND STEVE MURRAY TO
13 HELP IN CONTACTING THESE PRO SE PEOPLE.

14 THE COURT: AND THE LAST ITEM WAS THE PLAINTIFF MELISSA
15 HAWTHORNE, WE TOOK THAT UP FIRST AND THE RESOLUTION OF IT HAS
16 BEEN MENTIONED BY THE COURT EARLIER.

17 ANYTHING FURTHER FROM ANYONE?

18 MR. IRWIN: YES, YOUR HONOR. IN THE FIVE OR SO YEARS
19 THAT WE'VE BEEN TOGETHER IN THIS VERY I THINK WORTHY EFFORT,
20 WE'VE HAD SOME DELIGHTFUL TRANSACTIONS AND ANNOUNCEMENTS THAT
21 WE HAVE ALL SHARED TOGETHER. BIRTHS OF CHILDREN AND
22 GRANDCHILDREN, WEDDINGS, AND IT'S MY PLEASURE TO ANNOUNCE AND
23 INTRODUCE TO THE COURT MY NEWEST LAW PARTNER MONIQUE GARSAUD.

24 THE COURT: CONGRATULATIONS. DELIGHTED AND
25 CONGRATULATIONS TO YOU, MS. GARSAUD.

00018

1 MR. IRWIN: THANK YOU.

2 THE COURT: ANYTHING FROM THE STATE LIAISON? ANYTHING
3 FURTHER?

4 MR. HERMAN: YOUR HONOR, WE NOTE THAT MR. IRWIN'S FIRM
5 HAS NOW RECOGNIZED THE REAL DRIVING FORCE AND INTELLIGENCE
6 WITHIN THAT COMMUNITY OF LAWYERS.

7 THE COURT: OKAY. THE NEXT TIME I DO WANT TO BE ABLE TO
8 GET SOME SENSE OF WHERE THE STATE SITUATION IS, WHETHER OR
9 NOT THERE IS A PLAN IN ACTION AND WHAT'S THE SCOPE OF THE
10 PLAN OR WHETHER YOU'RE WORKING ON IT OR WHAT THAT IS SO WE
11 CAN MOVE INTO THAT AREA.

12 ANYTHING FURTHER? THE NEXT MEETING WILL BE
13 FEBRUARY THE 25TH, SAME TIME, SAME PLACE. THANK YOU VERY
14 MUCH. THE COURT WILL STAND IN RECESS.

15 THE DEPUTY CLERK: EVERYONE RISE.

16 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

17 * * * * *

18

19 REPORTER'S CERTIFICATE

20

21 I, KAREN A. IBOS, CCR, OFFICIAL COURT REPORTER, UNITED
22 STATES DISTRICT COURT, EASTERN DISTRICT OF LOUISIANA, DO HEREBY
23 CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT TRANSCRIPT, TO THE
24 BEST OF MY ABILITY AND UNDERSTANDING, FROM THE RECORD OF THE
25 PROCEEDINGS IN THE ABOVE-ENTITLED AND NUMBERED MATTER.

23

24

25

KAREN A. IBOS, CCR, RPR
OFFICIAL COURT REPORTER

