

**MINUTE ENTRY
FALLON, J.
MAY 2, 2006**

**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 Leonard Davis, Arnold Levin, Charles Zimmerman, Carroll Ingram, Barry Hill, Dawn Barrios, Richard Arsenault, Daniel Becnel, Walter Dumas, James Capretz, Patti Durio Hatch, and Stephen Murray. In attendance for the Defendants were James Irwin, Chuck Preuss, Thomas Campion, and Monique Garsaud. Bobby Truitt attended on behalf of defendants Walgreens and Stephanie Newport. Special Master Patrick Juneau also attended the conference. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 47 of Plaintiffs' and Defendants' Liaison Counsel.

I. State Liaison Counsel

The Propulsid II Settlement Program is progressing well. State Liaison Counsel have held two informational meetings for state counsel regarding the program, and both were successful. State Liaison Counsel have also sent out several newsletters advising state counsel of the settlement and upcoming deadlines. The Special Master reports that approximately 2,200 plaintiffs have joined Propulsid II thus far.

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 CtRmDep _____
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II. Trust Account

Since the last status conference, the Defendants have made one deposit into the Trust Account. The PSC has filed a Motion for Release and Disbursement of Funds from Deposits Made to the Registry of the Court Pursuant to Pre-Trial Order No. 16. The PSC seeks release of funds in order to reimburse Daniel Becnel for certain expenses which were inadvertently omitted from the emergency distribution that occurred in November 2005. The motion will be granted in a separate order. However, the Court reserves ruling upon whether the PSC or any counsel are entitled to the 6% assessments provided for in Pre-Trial Order No. 16.

III. Trial Schedule

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

IV. MDL Mediation and Resolution Program

Special Master Patrick Juneau provided the Court with a status report on the processing of claims in the Propulsid I Settlement Program. Exhibit SM1 is attached to this Minute Entry and summarizes the Special Master's report. At present, the Special Master has submitted thirty-six claims to the Medical Panel for review. Five have qualified for compensation.

The parties have reached an agreement with the United States regarding potential Medicare liens on settlement proceeds. The Court signed an order approving this settlement on April 17, 2006.

V. Pro se Plaintiffs

Defendant's Liaison Counsel announced that Robert Johnston has accepted the appointment as Curator for Pro Se Plaintiffs. Counsel are in the process of preparing his

appointment papers for submission to the Court for approval. Mr. Johnston will also receive orientation regarding the nature of the Propulsid litigation prior to assuming this position.

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

This order has been signed, and the item is removed from the agenda.

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

On March 9, 2006, the Court approved the template agreed upon by counsel for approval of wrongful death awards. Now that two awards have been made, the template is to be used for the first time. After conferring with the parties, IT IS ORDERED that all awards shall remain confidential under the Propulsid I and II Settlement Programs. The orders approving the awards and related documents shall be filed with the Court under seal.

VIII. Emergency Motion for Distribution of Attorney's Fees

After conferring with the PSC and Daniel Becnel, the Court continued Mr. Becnel's Motion for Reconsideration of the Court's ruling on emergency distribution of attorney's fees to June 21, 2006. Counsel indicated that they are reviewing the relevant CPA documents and are working to resolve the issues raised in the motion.

The Court is in receipt of the Motion for Common Benefit Fees and Expenses Reimbursements of Dumas & Associates Law Corporation. The motion shall be filed today. IT IS ORDERED that the motion is DENIED as premature, reserving Mr. Dumas' right to re-file such motion at the appropriate time.

IX. Motion to Strike Class Allegations

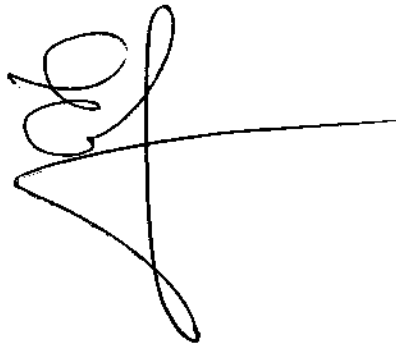
This motion has been granted, and the item shall be removed from the agenda.

X. Walgreens and Stephanie Newport's Motion for Reconsideration

Defendants Walgreens and Stephanie Newport have filed a Motion for Reconsideration of the Court's ruling on their Motion for Summary Judgment in the *Beo* case, Civil Action No. 01-600 (Rec. Doc. No. 1945). The Court denied summary judgment for the defendants in March 2005, finding that because the *Beo* plaintiffs intended to enter the Settlement Program the defendants' motion was moot (Rec. Doc. Nos. 1479 and 1720). The Court still believes that the defendants' motion is moot because the *Beo* plaintiffs have entered the Settlement Program and signed a stipulation of dismissal against the defendants in their case. While the dismissal will not be submitted to the Court until the end of the Settlement Program, it is simply a matter of time until all defendants are dismissed from the *Beo* case. The Court believes that any motion for reconsideration of this issue is premature. Accordingly, IT IS ORDERED that the Motion for Reconsideration is DENIED as premature, reserving the rights of Walgreens and Stephanie Newport to re-file at the appropriate time.

XI. Next Pretrial Status Conference

The next status conference shall be held on Tuesday, June 13, 2006, at 1:30 p.m. This conference shall be held via telephone. The Court shall establish a toll-free number for dial-in by the parties, and the number shall be distributed and posted on the Court's Web site.

A handwritten signature in black ink, consisting of a series of loops and a long horizontal line extending to the right.

Special Master's Office
 Propulsid MDL1355 Resolution Program

5/1/2006

Total Claims Recorded as Received in SM Office		11,955	
<i>Breakdown:</i>			
Death Claims - Tier 1		<u>601</u>	
Personal Injury - Tier 2 / 3		<u>3,986</u>	
Tier 2	541		
Tier 3	2,336		
Tier 2 / 3, Not Specified	1,109		
Administrative Claims		<u>7,368</u>	
Tier Cases Submitted to Medical Panel		36	
Cases Determined Eligible	5		
Cases Determined Not Eligible	29		
Cases In Medical Review	2		
Administrative Claims, PAID		2,307	\$576,750.00
Administrative Claims in Approval for Payment		706 =	\$176,500.00

SMI