

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: PROPULSID PRODUCTS  
LIABILITY LITIGATION

Docket No. MDL 1355  
New Orleans, Louisiana  
Friday, January 30, 2009

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TRANSCRIPT OF STATUS CONFERENCE PROCEEDINGS  
HEARD BEFORE THE HONORABLE ELDON E. FALLON  
UNITED STATES DISTRICT JUDGE  
(BY TELEPHONE)

APPEARANCES:

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ALSO PRESENT:

Marilyn Reynolds  
Ernest L. Ford  
Kimberly West

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P R O C E E D I N G S

(FRIDAY, JANUARY 30, 2009)

(STATUS CONFERENCE)

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5 THE COURT: Good afternoon. This is Judge Fallon. Who do  
6 I have on the line? First from the plaintiffs.

7 MR. DAVIS: Judge, this is Leonard Davis from the  
8 Plaintiffs Steering Committee.

9 THE COURT: Okay.

10 MR. ARSENAULT: This is Richard Arsenault, James Dugan and  
11 Doug Plymale.

12 THE COURT: Any other plaintiffs? Okay. From the  
13 defendants?

14 MR. PREUSS: Chuck Preuss, your Honor.

15 MS. GARSAUD: Monique Garsaud.

16 MS. REYNOLDS: Marilyn Reynolds.

17 MR. FORD: Ernest Ford.

18 MR. CAMPION: Tom Campion in case I did get picked up.

19 MS. WEST: Kimberly West.

20 MR. CAPRETZ: Jim Capretz for the plaintiff.

21 THE COURT: Okay. This is our monthly status conference.  
22 The current matters on the agenda, the State Liaison counsel.  
23 Anything on the Resolution II program?

24 MR. ARSENAULT: That seems to be moving forward according  
25 to plan, we provided numbers yesterday and everything is on target.

1 THE COURT: Anybody from the defendant want to comment on  
2 that?

3 MR. PREUSS: No, your Honor. Things are moving on line  
4 two and we're coordinating with the Special Master's office and  
5 everybody is busy.

6 THE COURT: Either one of you all have any feeling for  
7 time, what we're looking at to totally finish II? Is that too  
8 premature that at this time?

9 MR. PREUSS: I think it is a little premature. It's  
10 certainly months away, your Honor.

11 THE COURT: Okay. Did you get any help from I, Chuck,  
12 Richard, from the standpoint of administering II, is it easier  
13 hopefully with II than it was with I?

14 MR. PREUSS: I think the process steps are easier, people  
15 understand them and know what's involved. So I think there is some  
16 help, but it still does require, you know, a lot of patience and  
17 going through the records and assessing everything.

18 THE COURT: I think we learned from this that we probably  
19 ought to in the future, if it comes about, to have some kind of dry  
20 run first, even on the first one so that we can deal with any  
21 issues that we're dealing with and then learn from them.

22 The MDL Mediation & Resolution Program.

23 MR. DAVIS: Your Honor, the joint report sets forth the  
24 numbers from the Special Master's office. We continue to have our  
25 weekly calls and the program is moving along. We have called

1 recently, yesterday, and addressed two issues which are later in  
2 the report, but I can take them up now. One of them is the 100% of  
3 Awards, that letter agreement has been provided and we expect that  
4 100% of the awards will soon be going to claimants.

5 And the second issue is the issue regarding Destruction  
6 and/or Retrieval of Medical Records and we are continuing  
7 discussions on that.

8 THE COURT: Speaking of medical records, what about the  
9 medical records themselves, has that been coming in in view of the  
10 court's orders?

11 MR. JUNEAU: Judge, I'm Pat Juneau, I just didn't  
12 interrupt you.

13 On the order that you've issued, Judge, I sent you a  
14 spreadsheet, and in essence it purports that everybody that was on  
15 the contempt list is satisfied and we have all of the medical  
16 records. And I provided you with a spreadsheet which showed who  
17 they were, when they were received, et cetera. So all of that data  
18 will be in your chambers.

19 THE COURT: Okay. All right. And then I'll just make a  
20 return on that and remove the contempt.

21 MR. JUNEAU: Right.

22 THE COURT: Pat, do you have any comments on --

23 MR. JUNEAU: Other than Lenny had addressed, Judge, and we  
24 exchanged a draft. I am out of town right now but it's going out  
25 of my office today, a draft on destruction of records. I think in

1 principle we have narrowed what that'll do and that'll give us a  
2 big, big space of relief by just getting the medical records,  
3 because we have tons of that stuff, out of here. But the tracing  
4 documents, the ruling documents we're going to retain that.

5 And then Lenny is proposing, is going to provide in that  
6 draft that I am sending to him a mechanism maybe about a court  
7 hearing that we can set up. And I think Lenny's concern, and  
8 legitimately so, is that we give full due process to anybody who  
9 wants these records to come get them.

10 THE COURT: I think that's what we have to do. We have to  
11 give notice, I have to put it on the web site.

12 MR. JUNEAU: That's in the motion.

13 THE COURT: And then deal with it accordingly.

14 MR. DAVIS: And, Judge, what I thought is that it be set  
15 for a contradictory hearing so that everybody got notice of it.

16 THE COURT: Yes, right, that's my thinking.

17 Next issue was Attorney's Fees Issues.

18 MR. DAVIS: I think we can pass on that at the present  
19 time.

20 THE COURT: All right. I had touched on the 100% award.  
21 I think that's all that I have. There are some folks on the call.  
22 Does anybody else want to make any comment? Give us your name  
23 first, please.

24 MS. REYNOLDS: Marilyn Reynolds.

25 THE COURT: Okay, Ms. Reynolds.

1 MS. REYNOLDS: I am from Pennsylvania, and I was just  
2 wondering how would you notify me as a person that I either gotten  
3 an award or I will be getting one and that particular area?

4 THE COURT: Do you have an attorney?

5 MS. REYNOLDS: No, I don't. In the program that I was in  
6 said that I didn't have to have one.

7 THE COURT: Do you know whether you're in Propulsid I or  
8 Propulsid II?

9 MS. REYNOLDS: I believe it's -- well, I kind of been in  
10 it from the very beginning and I think I was shifted to II, but I  
11 am not certain. I know I filled out a whole bunch of paper and  
12 copies.

13 THE COURT: Who did you send them to?

14 MS. REYNOLDS: I believe Davis.

15 THE COURT: Lenny, do you know anything about this?

16 MR. DAVIS: I'll investigate, your Honor.

17 THE COURT: Would you, please.

18 MS. REYNOLDS: I called numerous times.

19 THE COURT: How can Mr. Davis reach you, ma'am -- Lenny,  
20 why don't you give her your number.

21 MR. DAVIS: It's (504) 581-4892.

22 MS. REYNOLDS: (504) 581-4892. Thank you, Mr. Davis.

23 THE COURT: Would you call after this conference call,  
24 call Mr. Davis and discuss it with him.

25 MS. REYNOLDS: I certainly will. Do I need to make an

1 appointment?

2 MR. DAVIS: No, if you just call, that's sufficient.

3 MS. REYNOLDS: Okay. Thank you.

4 THE COURT: All right. Anybody else on the line?

5 MR. FORD: Ernest L. Ford. I'm calling from Natchez,  
6 Mississippi. And I've been on the Propulsid list or in the  
7 Propulsid lawsuit ever since 1999, and I have a lawyer but we are  
8 not being informed on what is taking place.

9 THE COURT: What's your lawyer's name, Mr. Ford?

10 MR. FORD: Shannon.

11 THE COURT: Any of the plaintiff lawyers know Mr. Shannon?

12 MR. DAVIS: Yes, your Honor, we know him.

13 MR. LEVIN: Arnold Levin. We dealt with him in the  
14 beginning.

15 THE COURT: Lenny, get to Mr. Shannon and tell Mr. Shannon  
16 to call Mr. Ford and discuss his case with him.

17 Mr. Ford, you have an attorney, a Judge can't -- the  
18 first thing I have to do is tell your attorney to contact you.

19 MR. FORD: Okay.

20 THE COURT: And then I am going to have him contact you.  
21 If you have anymore issues then you can get back to me on that.

22 MR. DAVIS: Mr. Ford, what is your full name?

23 MR. FORD: Ernest, E-R-N-E-S-T, my middle initial L, last  
24 name Ford, F-O-R-D.

25 MR. DAVIS: Okay. We'll contact Mr. Shannon and let him



1 know that you asked questions.

2 THE COURT: And, Mr. Ford, do you have Mr. Davis' number?

3 MR. FORD: No, I do not, sir.

4 THE COURT: Lenny, give it again.

5 MR. DAVIS: (504) 581 -- (504) 581-4892.

6 MR. FORD: You're Mr. Davis?

7 MR. DAVIS: Yes, sir.

8 THE COURT: Okay. Mr. Ford, anything else you need to  
9 say?

10 MR. FORD: No, sir. Mr. Davis, what position do you hold?

11 THE COURT: Mr. Davis is the liaison counsel, he  
12 coordinates everything from the plaintiffs standpoint.

13 MR. FORD: Okay. Okay. Thank you, sir.

14 THE COURT: Sure. Anybody else on the line that needs to  
15 say something?

16 MS. WEST: Kimberly West. And for sometime now I have  
17 represented some Blue Cross plaintiffs as to their subrogation  
18 claims in this matter. We've been in discussions off and on, not  
19 recently but intermittently, with the plaintiffs counsel. At some  
20 point the defense -- I know your Honor had mentioned at one hearing  
21 that our concerns would be addressed at the end of the day, and I  
22 think we're getting there.

23 I am going to speak again with Mr. Davis, but we may be  
24 back with some sessions with your Honor.

25 THE COURT: We had some issues of that sort in the Vioxx

1 case. I posted the matters on the Vioxx web site, you might get  
2 some information there, it's public.

3 MS. WEST: Thank you, your Honor.

4 MR. DAVIS: Your Honor, just so the record is clear, I  
5 know Mr. Irwin's office has been in a number of discussions with  
6 Ms. West, we've been addressing these, and that after the  
7 government issues are addressed in Propulsid II, they'll be taken  
8 care of in like fashion.

9 THE COURT: Ms. West, you have to keep in touch with  
10 Mr. Davis on that.

11 MS. WEST: I will, your Honor. And Mr. Davis has always  
12 been a pleasure to work with.

13 THE COURT: Anyone else?

14 MR. LONGER: Your Honor, we got started early, I just  
15 wanted to note my appearance, Fred Longer, just to note my  
16 appearance.

17 THE COURT: Sure, Fred, okay.

18 MR. DAVIS: Judge, I would suggest since we have Mardi  
19 Gras at the end of February maybe we look later into March.

20 THE COURT: Okay. How about March the 12th?

21 MR. DAVIS: Works on this end.

22 THE COURT: How about 3:30? Tom, is that too late for you  
23 all?

24 MR. CAMPION: That's okay from my end.

25 THE COURT: Chuck, that's okay with you?

1 MR. PREUSS: Yes.

2 THE COURT: All right. I've been trying to set them sort  
3 of in the afternoon because my meetings generally are 8 and 8:30  
4 here, but that's about six o'clock your time. So it's probably a  
5 little early for you.

6 Okay. Everybody else know that it's March the 12th and  
7 at 3:30? Okay. Thank you very much.

8 MR. DAVIS: Thank you, your Honor.

9 THE COURT: Bye-bye.

10 (WHEREUPON, THE PROCEEDINGS WERE CONCLUDED.)

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REPORTER'S CERTIFICATE

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16 I, Karen A. Ibos, CCR, Official Court Reporter, United States  
17 District Court, Eastern District of Louisiana, do hereby certify  
18 that the foregoing is a true and correct transcript, to the best of  
19 my ability and understanding, from the record of the proceedings in  
20 the above-entitled and numbered matter.

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Karen A. Ibos, CCR, RPR, CRR

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Official Court Reporter