

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

<b>IN RE:</b>	<b>PROPULSID PRODUCTS LIABILITY LITIGATION</b>	:	<b>MDL NO. 1355</b>
		:	
		:	<b>SECTION: L</b>
		:	
<b>THIS DOCUMENT RELATES TO ALL CASES</b>		:	<b>JUDGE FALLON</b>
		:	<b>MAG. WELLS ROBY</b>

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**JOINT REPORT NO. 86 OF PLAINTIFFS'  
AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 86 in preparation of the August 24, 2010 Monthly Status Conference. To participate via telephone, dial-in information may be accessed on the Court's website at <http://propulsid.laed.uscourts.gov/>.

**I. State Liaison Counsel/MDL Resolution Program II**

The enrollment requirements have been met for the State Settlement Program (Propulsid II). Escrow Agreements have been executed and Defendants have funded the various funds. The claims, medical records and claimant memoranda deadlines have passed. Administrative claims are being processed and disbursements have begun. The Special Master's Office has begun clearing claims for defense briefing, and the defendants have begun submitting defense memoranda. Two hundred twenty-three (223) claims have been submitted to the Medical Panel for review, of which defendants have treated 192 on an expedited basis (these numbers are

current through August 19, 2010). One (1) claim has been found eligible. The SLC will submit a detailed report to the Court prior to the Status Conference. The parties will be prepared to discuss this further at the August 24, 2010 Monthly Status Conference.

## **II. MDL Mediation and Resolution Program**

The deadline for enrollment and the submission of Claim Forms for the First MDL Resolution Program has expired.

The Special Master's office continues to review Claims Forms to determine if the Forms meet the qualifying criteria for submission to the Medical Panel set forth in the Term Sheet. The Special Master's office advises that it will be submitting a Status Report to the Court in advance of the monthly status conference. The Special Master continues to notify the attorneys for the claimants that have deficiencies. Thus far, in Propulsid I, the Special Master has submitted 4,170 (there was an error in the number reported in Joint Report No. 85, the number should have been 4,148 not 4,245) Tier I, II and III claims to the Medical Panel for review. Of the 4,170 claims the Defendants have treated 3,521 on an expedited basis. Twenty-eight (28) of the tiered claims submitted to the Panel have been found eligible by the Panel, and the Special Master has made those awards. Ten (10) tiered claims are still in review by the Panel, none of which are considered expedited by the Defendants. (All numbers in this paragraph are current through August 19, 2010).

On July 8, 2009, the Special Master filed a Motion for Order to Aid in the Implementation of the Propulsid Resolution Programs. The parties await further direction from the Court with respect to the motion.

On April 29, 2008 the Court entered an Order regarding the waiver of the 6% MDL assessment fee as to those claimants found eligible by the Medial Panel. As for those claimants who have already received awards as of April 14, 2008 and whose awards were subject to the 6% assessment, the Clerk of the Court remitted a check to the Special Master to reimburse those claimants for such assessment and further, the balance of the awards, the holdback 50% of the award, was paid out from the Settlement Fund to each claimant that was found eligible for an award, and who had previously received 50% of their award.

Defendants continue to submit a list of plaintiffs/claimants whose records have already been obtained by defendants in whole or in part, so when necessary, the parties, the Special Master and the attorneys for these plaintiffs/claimants can expedite the submission and review of the Claim Forms for these individuals.

On November 30, 2009, the Court issued an Order granting Joint Motion for an Order authorizing Distribution of MDL I Settlement Funds which authorized the transfer of 8.75 million (Canadian) from the Settlement Fund of the MDL I Propulsid Resolution Program Fund to the Propulsid Resolution Program and further authorized a distribution in the same amount for appropriate contributions to charitable organizations (the Order was amended on December 3, 2009). On December 3, 2009, the parties filed a Joint Motion for an Order to Amend the Court's Order dated November 30, 2009. On January 4, 2010, the Court issued an Order appointing a cy pres committee.

On December 23, 2009, the PSC and Defendants jointly filed a Motion and Order for Expediting of Outstanding Claims in Propulsid I Resolution Program. On January 4, 2010, the Court issued an Order granting the motion. The Special Master has advised that one of the doctor panel members will need to be replaced and the parties are attempting to find a

replacement doctor panel member. Additionally, the PSC has expressed concern regarding the pace at which Defendant Briefs are being submitted for consideration to the Special Master so that the Propulsid I Resolution Program can be timely completed. The parties will be prepared to discuss this with the Court at the August 24, 2010 Monthly Status Conference.

The parties agreed on a select number of cases that were subject to a second review, 9 of which have been deemed eligible for awards.

The weekly telephone conference with the Special Master, PLC, DLC and SLC continues to take place to discuss a number of administrative issues germane to the Resolution Program.

There are approximately 68 enrolled Tiered Claims yet to be sent to the Panel in Propulsid I, and 204 enrolled Tiered claims in Propulsid II. The parties will be prepared to discuss these issues further at the August 24, 2010 Monthly Status Conference.

### **III. Attorney's Fees Issues**

The PSC will be filing a motion and the Court will address the attorney fees issue at a later date.

Respectfully submitted,

/s/ Monique M. Garsaud

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**PLAINTIFFS' STEERING COMMITTEE**

### **CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Joint Report No. 86 of Plaintiffs' and Defendants' Liaison Counsel has been served upon all parties by electronically uploading the same to LexisNexis File & Serve, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing on this 20<sup>th</sup> day of August, 2010.

*/s/ Leonard A. Davis*

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

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**Monthly Status Conference**  
**August 24, 2010**  
**1:30 p.m.**

**AGENDA**

**Current Matters:**

1. State Liaison Counsel
2. MDL Mediation & Resolution Program
3. Attorney's Fees Issues