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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA
NEW ORLEANS, LOUISIANA

IN RE: PROPULSID PRODUCTS * Docket 00-MDL-1355-L
LIABILITY LITIGATION *
* * * * * * August 22, 2012
* * * * *

PROCEEDINGS BEFORE THE
HONORABLE ELDON E. FALLON
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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15 Proceedings recorded by mechanical stenography, transcript
16 produced by computer.

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PROCEEDINGS

(August 22, 2012)

(OPEN COURT)

THE DEPUTY CLERK: All rise.

THE COURT: Be seated, please. Good morning, ladies and gentlemen. I understand we have people on the phone also.

MR. LEVIN: Yes, good morning, Your Honor. It's Arnold Levin and Fred Longer.

THE COURT: All right.

MR. HERMAN: Good morning, Judge Fallon. It's Russ Herman.

THE COURT: All right. First, let's call the case, Dean.

THE DEPUTY CLERK: MDL-1355, *In re: Propulsid Products Liability Litigation*.

THE COURT: Counsel, make their appearances for the record.

MR. DAVIS: Good morning, Your Honor. Leonard Davis on behalf of plaintiffs' steering committee and plaintiffs' liaison counsel.

MS. BARRIOS: Good morning, Your Honor. Dawn Barrios on behalf of the state/federal committee.

THE COURT: Okay.

09:04 1 **MR. ZIMMERMAN:** Good morning, Your Honor. Charles
09:04 2 Zimmerman on behalf of the plaintiffs' steering committee.

09:04 3 **MS. SINGLETARY:** Good morning, Your Honor. Laura
09:04 4 Singletary on behalf of Richard Arsenault.

09:04 5 **THE COURT:** All right.

09:04 6 **MR. DAVIS:** And, Your Honor, my partner, Russ Herman,
09:04 7 is on the phone, participating.

09:04 8 **THE COURT:** I heard that he's on the phone, and
09:04 9 Arnold Levin is also on the phone.

09:04 10 Let me make some background comments first to
09:04 11 put the matter in perspective. Propulsid is the trade name of
09:04 12 a family of prescription drug products which contain the active
09:04 13 pharmaceutical ingredient cisapride. It was approved by the
09:04 14 U.S. Food and Drug Administration in 1993 to be used in
09:04 15 treating symptoms for nocturnal heartburn due to
09:04 16 gastroesophageal reflux disease, GERD, we know it as.

09:04 17 Propulsid is manufactured by Janssen
09:05 18 Pharmaceutica, Inc., which is a wholly-owned subsidiary of
09:05 19 Johnson & Johnson. Janssen's headquarters was, and still is,
09:05 20 in New Jersey.

09:05 21 It's alleged that certain dangerous heartbeat
09:05 22 irregularities developed when Propulsid is consumed by some
09:05 23 individuals in certain circumstances; and, as a result, in
09:05 24 early 1993, the plaintiffs, through adverse drug reports,
09:05 25 became aware of heart problems associated with the ingestion of

09:05 1 Propulsid.

09:05 2 On March the 23rd of 2000, Janssen announced its
09:05 3 decision to end the distribution of Propulsid in the United
09:05 4 States. They took it off the market. Following its removal,
09:05 5 thousands of claimants began filing suit against Johnson &
09:05 6 Johnson in both state and federal courts.

09:06 7 On August the 7th of 2000, the Judicial Panel of
09:06 8 Multi-District Litigation conferred multi-district litigation
09:06 9 status on the Propulsid suits filed in federal court, and
09:06 10 pursuant to 1407, transferred all of the federal Propulsid
09:06 11 cases to this Court to coordinate discovery. Committees were
09:06 12 formed and discovery began. After three bellwether trials, the
09:06 13 parties began negotiating a settlement, and eventually
09:06 14 settlement was reached in February of 2004.

09:06 15 This settlement created certain medical review
09:06 16 panels, and those doctors evaluated the medical documents and
09:06 17 determined causation. A special master applied a certain
09:07 18 agreed upon protocol and set the amounts for recovery.

09:07 19 After this settlement was reached and payouts
09:07 20 started, the parties approached the Court and asked whether the
09:07 21 Court would voluntarily assume some supervisory authority over
09:07 22 a similar program for the cases that were filed in state court.

09:07 23 These were cases that were filed in state court.
09:07 24 They were not removed because there was not true diversity, but
09:07 25 they were similarly based on the ingestion of the drug

09:07 1 Propulsid and the problems that resulted from Propulsid. The
09:07 2 Court agreed, and this program, known as Propulsid II,
09:08 3 commenced. Both programs have about concluded, save some
09:08 4 administrative details of closing files out and dealing with
09:08 5 the paperwork in that process.

09:08 6 We're here today on Propulsid II, that is to
09:08 7 say, the state program, and the cases involving Propulsid that
09:08 8 have been filed in the state court. The plaintiff's steering
09:08 9 committee in Propulsid II have petitioned the Court for
09:08 10 attorney's fees. A fee allocation committee made certain
09:08 11 recommendations regarding these fees and regarding the
09:08 12 distribution of the fees.

09:08 13 The Court posted their recommendations on the
09:08 14 Web site and invited any input, suggestions or objections.
09:08 15 None have been filed thus far. We're here today to give anyone
09:09 16 an opportunity to either make an objection or state whatever
09:09 17 they feel necessary to state.

09:09 18 I'll call upon liaison counsel, Lenny, at this
09:09 19 time.

09:09 20 **MR. HERMAN:** Your Honor --

09:09 21 **THE COURT:** Yes?

09:09 22 **MR. HERMAN:** -- before Lenny speaks, if I could be
09:09 23 heard. I think there are a couple of very important factors
09:09 24 that are in the record, but this case has been going on so
09:09 25 long, I thought that I ought to speak first. That before there

09:09 1 was ever a negotiation for Propulsid I or Propulsid II, there
09:09 2 was a mediation program which set the basis for settlement
09:09 3 discussions in Propulsid I; and, indeed, Propulsid II, in most
09:09 4 respects, was modeled after Propulsid I.

09:09 5 Many of the state cases, for example, in
09:09 6 Mississippi and in Alabama and in Texas were actually -- had
09:10 7 their statute of limitations or prescription interrupted by
09:10 8 mutual consent of filings between Johnson & Johnson and
09:10 9 lawyers -- and among lawyers in those various states.

09:10 10 Johnson & Johnson's express wish was to have all
09:10 11 cases resolved whether they were federal or state. To that
09:10 12 end, the PSC members, as well as some members of your state
09:10 13 liaison committee, conducted seminars, particularly in
09:10 14 Mississippi and Alabama and, in addition, at the American
09:11 15 Association of Justice conventions at three different
09:11 16 conventions. There were more than two-hour presentations made
09:11 17 in order to aggregate or accumulate the consent of lawyers to
09:11 18 file within Propulsid II.

09:11 19 In the negotiation for Propulsid II, there were
09:11 20 certain *quid pro quos* that were not involved in Propulsid I.
09:11 21 One of the issues was that Johnson & Johnson insisted that
09:11 22 unused funds would have 100 percent reversion to J&J, which was
09:11 23 an aspect not contained within Propulsid I.

09:12 24 Secondly, the PSC and the state liaison folks
09:12 25 who negotiated Propulsid II insisted that since thousands of

09:12 1 cases had to be administered in Propulsid II and would need the
09:12 2 continual involvement of the PSC oversight and participation by
09:12 3 some members of the state liaison that J&J should pay a
09:12 4 reasonable attorney's fee, which was agreed to.

09:13 5 And, indeed, for a number of years now, the PSC,
09:13 6 through liaison counsel and others, and the state liaison
09:13 7 folks, particularly Arsenault, Barrios, and to some extent
09:13 8 Zimmerman, continuously were involved in the oversight of
09:13 9 Propulsid II and the facilitating of Propulsid II with numerous
09:13 10 visits to the Propulsid office in the same building as Jim
09:13 11 Irwin, the counsel for J&J.

09:13 12 Secondly, almost on a daily basis, responding to
09:14 13 questions either from attorneys who in Propulsid II whose
09:14 14 claims were being administered or meeting with the special
09:14 15 master on a number of occasions.

09:14 16 And in the last year, to try to accelerate the
09:14 17 closure of this matter, there were also meetings between
09:14 18 liaison counsel and Bob Johnston, who has been appointed for
09:14 19 pro se claimants. I was advised yesterday by Bob Johnston that
09:14 20 his work was done.

09:14 21 In addition to that, because many of the panel
09:14 22 physicians were physicians either -- I called them physicians
09:15 23 earlier in their careers -- most of them cardiologists or
09:15 24 internists employed at Ochsner, they were moving in and out of
09:15 25 the three position panels, and, therefore, new panels had to be

09:15 1 sought, had to be -- there were many meets and confers with Jim
09:15 2 Irwin and Tom Campion in that regard.

09:15 3 And every time a new panelist was chosen, there
09:15 4 had to be a presentation in court by -- with the presence of
09:15 5 Special Master Juneau, a representative of the PSC, and either
09:15 6 Jim Irwin, Tom Campion, or someone that they designated from
09:16 7 J&J. The PSC appointed Fred Longer of Arnold Levin's firm to
09:16 8 continuously make those presentations as he had done after the
09:16 9 initial presentation in Propulsid I. And those presentations
09:16 10 were made for a number of years in Propulsid II.

09:16 11 Last month, Special Master Juneau convened a
09:16 12 meeting at the claims center for the handling of these claims.
09:16 13 At least four personnel from defense counsel, a representative
09:16 14 of J&J, liaison counsel, and Ms. Barrios attended, and a method
09:17 15 was agreed upon to expedite and facilitate an end to the
09:17 16 processing of claims through the -- with a November due date to
09:17 17 complete all processing.

09:17 18 Since that time, thousands of individual
09:17 19 claimants have been listed on motions to dismiss, which are
09:17 20 waiting for the Court's consideration.

09:17 21 Given the fact that, in some ways, Propulsid II
09:18 22 has been more taxing than Propulsid I, basically because there
09:18 23 were thousands of cases that were filed in state court which
09:18 24 had to be collected, aggregated before Your Honor, and in order
09:18 25 to get closure, which J&J had reasonably requested and

09:18 1 asserted, there has been a constant requirement on some PSC
09:18 2 members and some state liaison members to deal with these
09:18 3 issues personally on a daily basis.

09:18 4 I thought that it would be important, given the
09:19 5 fact that there are these recommendations before Your Honor, to
09:19 6 add to that general history.

09:19 7 Lastly, Your Honor, the fee allocation committee
09:19 8 did not meet by phone; it met face-to-face. All of the
09:19 9 activities of Propulsid II by various members were considered.

09:19 10 After Your Honor posted our recommendations, I
09:19 11 did receive a call and had several e-mails with Jim Capretz who
09:19 12 said that he did not protest and would not file an opposition,
09:19 13 but would appreciate it if we reviewed his activities with
09:20 14 regard to Propulsid II, which was done.

09:20 15 After discussions among the various fee
09:20 16 allocation committee folks, it was requested that Mr. Capretz'
09:20 17 fee, should Your Honor award a fee, be increased to \$100,000;
09:20 18 and should Herman Gerel and Arnold Levin be awarded any fees,
09:20 19 that \$35,000 from each of those funds should be deducted and
09:20 20 added to Mr. Capretz' fee allocation, which would bring him to
09:20 21 \$100,000.

09:20 22 The reason for the reallocation was it was felt
09:21 23 that Jim Capretz, along with Barry Hill, had continuous
09:21 24 involvement in Propulsid II, and had not -- and that they were,
09:21 25 other than Ms. Barrios and Mr. Arsenault, were the two folks

09:21 1 that had continued to monitor, assist and be involved in
09:21 2 Propulsid II.

09:21 3 Additionally, I believe that Ms. Barrios and
09:21 4 Mr. Arsenault met and reviewed Barry Hill's activities, and I
09:21 5 will let -- I was advised of their conclusion, and concur in
09:21 6 it, and I will leave that discussion to Ms. Barrios.

09:22 7 This concludes my remarks, with one more detail.
09:22 8 Of course, Lenny Davis, and as my partner, has done a yeoman's
09:22 9 job in this case, and I appreciate Lenny's activities.

09:22 10 From my view as liaison and lead, Propulsid II
09:22 11 could not have been effected as an agreement, nor could it have
09:22 12 been implemented without Arnold Levin's participation. It's
09:22 13 very difficult to explain the amount of difficulty after an
09:22 14 agreement was reached with Johnson & Johnson or issues that had
09:23 15 to be resolved with Johnson & Johnson before Propulsid II could
09:23 16 be implemented.

09:23 17 Now, these were not matters, other than
09:23 18 notifying the Court there was a potential problem, that
09:23 19 required the Court's involvement. Because through a number of
09:23 20 negotiating sessions, we were able to, that is from the
09:23 21 plaintiff's side, to resolve with Johnson & Johnson revisions
09:23 22 to the Propulsid II agreement to submit to Your Honor that both
09:23 23 sides could accommodate. And the result was that only a
09:23 24 partial reversion of funds were to be returned to Johnson &
09:24 25 Johnson, but a portion were left to the PSC to make a

09:24 1 recommendation of a cy pres to Your Honor, and that occurred.

09:24 2 So, all and all, from my point of vantage,
09:24 3 Propulsid I and II were very successful for entitled claimants;
09:24 4 and for those who weren't entitled but asserted claims, reached
09:24 5 a satisfactory result, and that result can be measured by the
09:24 6 lack of three hearings, appeals, internally and also to Your
09:24 7 Honor or to a higher court.

09:24 8 That concludes my remarks regarding the
09:25 9 background that I feel is necessary to place in the record. I
09:25 10 thank Your Honor for the opportunity to appear telephonically.

09:25 11 **THE COURT:** All right. Just one comment, too, before
09:25 12 Mr. Davis gets a chance to speak and tell us what the committee
09:25 13 recommended.

09:25 14 Just for the record, it's interesting that this
09:25 15 case is -- we're talking about Propulsid II, and those are
09:25 16 state cases. Oftentimes in MDLs there are state cases that
09:25 17 cannot be removed, and then there are federal cases, of course,
09:25 18 which then get sent or transferred to the transferee court.

09:25 19 But we dealt with the parties' cooperation and
09:25 20 suggestions. This Court was able to handle all the state cases
09:25 21 by agreement of the parties. So we, in effect, removed the
09:26 22 state cases from the dockets of the state courts or at least
09:26 23 handled those. They may have been dormant in the dockets. But
09:26 24 I mention it because this is a way that the MDL transferee
09:26 25 court can do some work that's of assistance to the state

09:26 1 courts.

09:26 2 This is sort of voluntary on the Court. We
09:26 3 didn't open any cases in our docket here, but the Court was
09:26 4 able to utilize the same program for Propulsid I on
09:26 5 Propulsid II, and the lawyers and the commission was able to --
09:27 6 the special master was able just to simply slide into
09:27 7 Propulsid II. So I mention that as a way that the transferee
09:27 8 court can be active in the state cases with the cooperation of
09:27 9 the lawyers.

09:27 10 Let me hear from Mr. Davis.

09:27 11 **MR. DAVIS:** Thank you, Your Honor.

09:27 12 A motion for distribution of attorney's fees
09:27 13 regarding MDL Settlement Program II was filed with this court
09:27 14 on August 1, 2012. That's Record Document 4540. Together with
09:27 15 that was a memorandum in support. I'm not going to go through
09:27 16 all of the details in the memo, for obvious reasons. However,
09:27 17 I will point out a few things to the Court.

09:27 18 The memorandum sets forth, in detail, the
09:27 19 thousands of claimants that went through the program and gives
09:27 20 the numbers with respect to various payments from the
09:27 21 settlement fund, the administrative fund, and the like. As the
09:27 22 Court just recently mentioned, quite a number of state cases
09:28 23 were processed through the MDL through the coordination efforts
09:28 24 and the work of state liaison counsel, the PSC and others.
09:28 25 That is, to my knowledge, something that is a first, quite

09:28 1 frankly, and something that is quite an accomplishment by this
09:28 2 Court.

09:28 3 The number of states that participated was
09:28 4 tracked by the state liaison counsel. Just to give the Court
09:28 5 an idea of some of the states that we understand participated
09:28 6 through the program, there's claimants that either enrolled or
09:28 7 participated in some way, shape or form from Alaska; Alabama;
09:28 8 Arkansas; California; Washington, D.C.; Florida; Georgia;
09:29 9 Illinois; Indiana; Louisiana; Massachusetts; Minnesota;
09:29 10 Mississippi; New Jersey; New York; Ohio; Oklahoma;
09:29 11 Pennsylvania; Puerto Rico; Texas; Washington; and West
09:29 12 Virginia.

09:29 13 All of those in some way, shape or form worked
09:29 14 with state liaison counsel in dealing with state claims that
09:29 15 were touched by this program in some way, and that is something
09:29 16 that is far reaching, Your Honor.

09:29 17 In addition to that, as was previously
09:29 18 mentioned, the original settlement occurred on February 4th,
09:29 19 2004, and the state or Settlement Program II was birthed from
09:29 20 that. So it was created out of that. That's another unique
09:29 21 characteristic of this program in that it really evolved out of
09:29 22 the MDL and reached out to states. Your state liaison counsel
09:30 23 was very active in that, together with members of the PSC.

09:30 24 I don't think I need to go any further other
09:30 25 than what my partner has said. However, there are a few things

09:30 1 that the Court may want to be aware of. This motion was
09:30 2 reviewed and provided to Special Master Juneau in advance. It
09:30 3 was also reviewed and provided to the court-appointed CPA,
09:30 4 Mr. Garrett. And it has been reviewed by the state liaison fee
09:30 5 committee and the like. So I wanted the Court to be aware of
09:30 6 that.

09:30 7 There is attached as Exhibit A to the memorandum
09:30 8 a statement from Deutsche Bank, which is a June -- end of month
09:30 9 June statement showing the balance in the Janssen Propulsid II
09:31 10 settlement attorney's fund. Obviously, Your Honor, that
09:31 11 account has grown a little bit due to interest, although not
09:31 12 much because, as everyone is aware, there's not a lot of
09:31 13 interest being paid.

09:31 14 But the recommendations that were made were
09:31 15 based upon figures at the time, and there has been a little
09:31 16 interest that has accrued in the account. So what I'll do is
09:31 17 I'll let Ms. Barrios, on behalf of the state liaison counsel,
09:31 18 make her comments, and then, if it's okay with Your Honor, I'll
09:31 19 provide a synopsis of the recommendations as to attorney's fees
09:31 20 for the Court to consider.

09:31 21 **THE COURT:** Dawn, do you have any comments?

09:31 22 **MS. BARRIOS:** Yes, Your Honor. Thank you very much.

09:31 23 I first want to begin my comments by thanking
09:31 24 Your Honor for the great privilege to be able to do the state
09:31 25 coordination here. **This was my first MDL.** Richard Arsenault

09:31 1 was the chair of the state liaison committee, and he tapped me
09:31 2 to assist him with the work that needed to be done. Since that
09:32 3 time, I have been privileged to be named state liaison counsel
09:32 4 in several other MDLs. So I thank Your Honor for that initial
09:32 5 privilege.

09:32 6 Thanks also has to go to Mr. Herman and
09:32 7 Mr. Levin because I have used them as my mentors, and I have
09:32 8 learned a great deal from them.

09:32 9 I know Your Honor sees Mr. Herman and Mr. Davis
09:32 10 on almost a daily basis or weekly basis and speaks with them
09:32 11 about Propulsid, so, therefore, I'm not going to go into any
09:32 12 details about what they did. Their work is obvious.

09:32 13 I do want to take a moment just to mention
09:32 14 Mr. Levin because he was the one that I worked more closely
09:32 15 with in the confection of the P-II settlement. Once the P-II
09:32 16 documents were provided by Johnson & Johnson, Mr. Levin asked
09:32 17 me to compare them with P-I in preparation for a meeting in
09:32 18 Houston.

09:32 19 Mr. Levin attended with myself. I apologize if
09:32 20 there were other PSC members there. My recollection is just
09:33 21 Mr. Levin and Johnson & Johnson. Mr. Levin and I huddled, we
09:33 22 compared the provisions, and he went out and negotiated with
09:33 23 Johnson & Johnson, particularly on the reversionary interest.

09:33 24 At a later date, because the document had never
09:33 25 yet been signed, Special Master Juneau arranged for a meeting

09:33 1 in an airport somewhere. Mr. Juneau, Mr. Levin and myself
09:33 2 attended for the plaintiffs and met with Johnson & Johnson to
09:33 3 urge Johnson & Johnson to move on the document, let's get the
09:33 4 state program rolling.

09:33 5 The last meeting that we had, which actually
09:33 6 confected the exact numbers of the settlement, as well as the
09:33 7 attorney's fees, occurred in yet another airport, with
09:33 8 Mr. Levin and myself being present. Mr. Capretz was present,
09:33 9 Mr. Arsenault, Mr. Zimmerman were on the phone, and I believe
09:33 10 it was Mr. Campion and one other attorney for Johnson &
09:34 11 Johnson, where we had a very heated debate on the numbers; and
09:34 12 after the number was agreed to that would be available to the
09:34 13 plaintiff, Mr. Levin and Mr. Campion arrived at an agreement on
09:34 14 the attorney's fees.

09:34 15 So I mention that to bring to Your Honor's
09:34 16 attention the additional work that Mr. Levin did that hadn't
09:34 17 been mentioned by Mr. Herman and Mr. Davis, and just because
09:34 18 you don't see him as often as you see Mr. Herman.

09:34 19 I would like to say that I have used your model
09:34 20 of folding the state courts in in every MDL that I possibly
09:34 21 can. Your Honor has gotten the highest praise from other
09:34 22 transferee courts, and I thank you for blazing the trail with
09:34 23 that model.

09:34 24 Thank you, Your Honor.

09:34 25 **THE COURT:** All right. Bucky, do you have any

09:34 1 comments?

09:34 2 **MR. ZIMMERMAN:** Your Honor, I really don't other than
09:34 3 to thank the Court and counsel for a very creative solution to
09:35 4 a very complicated problem. It has been something we had to
09:35 5 wrap our minds around, and how do you get people to
09:35 6 participate. This idea of getting your case evaluated and then
09:35 7 put into a compensation model was very creative, and I think
09:35 8 done at a time when it was really needed.

09:35 9 I commend the Court for helping us model that
09:35 10 together, for everybody who participated, and, of course, the
09:35 11 leadership of this case for getting it done. It was quite an
09:35 12 effort, and it worked, and I'm proud to be a part of it. And I
09:35 13 thank the Court for its guiding hand.

09:35 14 **MR. DAVIS:** Your Honor, this was my first MDL to be
09:35 15 involved with, and my partner and mentor, Russ, obviously
09:35 16 taught me a huge amount, and I appreciate it greatly, and he
09:35 17 continues to teach me daily. I thank him very much for the
09:35 18 comment he made before, as well as his continued teaching me.

09:35 19 I also really thank Arnold and Fred because they
09:36 20 really have taught me quite a lot in these MDLs. But the Court
09:36 21 has taught me a huge amount, and it's a pleasure to come before
09:36 22 this Court and be able to really to close an MDL. I saw it
09:36 23 from the beginning, and I've seen it at the end. I've seen
09:36 24 your staff work tirelessly. I also know Marianna's last day is
09:36 25 Friday, and I thank her --

09:36 1 **THE COURT:** Yes.

09:36 2 **THE DEFENDANT:** -- and I know that my partner joins
09:36 3 me, and so does everyone else.

09:36 4 The work of this Court is phenomenal, and it
09:36 5 shows in being able to handle the MDLs, to deal with us lawyers
09:36 6 on this side and guide us through the process. This is really
09:36 7 one that was quite a lot of time, effort, through Katrina,
09:36 8 everything else, but it was a lot of work, and I just point
09:36 9 that out to Your Honor.

09:36 10 **THE COURT:** Let me just respond to some of that.
09:36 11 These MDLs are daunting cases. You have thousands of
09:37 12 claimants, and some of the ones that I have now, I have not
09:37 13 only thousands of claimants, but I have thousands of
09:37 14 defendants, and then I have at least 1400 or 1500 lawyers in
09:37 15 some of the cases.

09:37 16 But they're able to be handled, frankly, because
09:37 17 of the skill and the experience of the lawyers. It's been my
09:37 18 experience that these cases bring in the best of the best, and
09:37 19 with that, these tremendously difficult, complex number of
09:37 20 cases are able to be resolved. So I recognize that.

09:37 21 I have been a practicing lawyer longer than I
09:37 22 have been a judge, and I understand the importance of the
09:37 23 lawyers in the case. They are the ones that really do the
09:38 24 yeoman work, and I just try to keep them focused on the various
09:38 25 issues that I think are germane. So I do recognize that, and I

09:38 1 appreciate the lawyers in the case.

09:38 2 All right. Let me hear more from you, Lenny.

09:38 3 **MR. DAVIS:** Your Honor, there was attached as
09:38 4 Exhibit B to the memo a suggestion for a distribution. I'm
09:38 5 going to modify that in some respects and make a recommendation
09:38 6 to the Court based upon the discussions that it had with a
09:38 7 number of counsel and what you've heard earlier today.

09:38 8 I'll go through the list in the order in which
09:38 9 they are on Exhibit B. If Your Honor would like us to submit
09:38 10 something additional to the Court, we're happy to do that.

09:38 11 To the Herman Gerel firm, the recommendation is
09:38 12 \$978,576.78. To the Levin Fishbein firm, the same amount,
09:38 13 \$978,576.78. To the Zimmerman Reed firm, \$300,000. To the
09:39 14 Seeger Weiss firm, \$30,000. To the Murry Law Firm, \$30,000.
09:39 15 To the Gauthier Downing firm, \$30,000. And I do point out that
09:39 16 Jim Dugan is not at that firm at the present time, and I know
09:39 17 that the Court has dealt with issues in the past with respect
09:39 18 to Jim Dugan, and that may be coming back to the Court.

09:39 19 To the Law Offices of Daniel Becnel, \$30,000 is
09:39 20 the recommendation. To the Domengeaux Wright firm, the
09:39 21 recommendation is \$30,000. The Neblett Beard Arsenault firm,
09:39 22 the recommendation is \$775,717.85. To the Barry Hill firm, and
09:40 23 again, that's another firm where the Court has had experience
09:40 24 where there was a change in the name of the firm, but that
09:40 25 recommendation is \$70,000. To the Barrios Kingsdorf Casteix

09:40 1 firm, the recommendation is \$775,717.85. And to Jim Capretz'
09:40 2 firm, the recommendation is \$100,000.

09:40 3 The total being recommended, \$4,128,589.26.

09:40 4 And, Your Honor, I mentioned to you earlier that
09:40 5 there is a few dollars of interest that continues to accrue,
09:40 6 and I know that the Court would like to close the account. So
09:40 7 the recommendation would be that the interest be provided to
09:40 8 Dawn Barrios' firm.

09:40 9 THE COURT: All right. The total amounts for the
09:41 10 litigants in both of these cases were in excess of \$20 million
09:41 11 that they have received, as I understand the figures.

09:41 12 MR. DAVIS: I'm sorry?

09:41 13 THE COURT: The total amount that the litigants
09:41 14 received in all of the Propulsid matters is in excess of
09:41 15 \$20 million.

09:41 16 MR. HERMAN: I believe that's correct, Your Honor.

09:41 17 THE COURT: Okay. Does that meet with the approval
09:41 18 of you, Dawn?

09:41 19 MS. BARRIOS: Yes, Your Honor, it does.

09:41 20 THE COURT: And you, Bucky?

09:41 21 MR. ZIMMERMAN: Yes it does, Your Honor. Thank you.

09:41 22 THE COURT: All right. I'm advised that everybody
09:41 23 else has also agreed to it.

09:41 24 MS. SINGLETARY: Yes, Your Honor, Mr. Arsenault
09:41 25 agrees.

09:41 1 **THE COURT:** All right. Lenny, just submit it as
09:41 2 Exhibit B-1 or something like that.

09:41 3 **MR. DAVIS:** Yes, Your Honor.

09:42 4 **THE COURT:** Thank you very much. I appreciate all
09:42 5 your work. Court will stand in recess.

09:42 6 **THE DEPUTY CLERK:** All rise.

09:42 7 (WHEREUPON, the proceedings were concluded.)

09:42 8 *****

09:42 9 **CERTIFICATE**

09:42 10 I, Jodi Simcox, RMR, FCRR, Official Court Reporter
09:42 11 for the United States District Court, Eastern District of
09:42 12 Louisiana, do hereby certify that the foregoing is a true and
09:42 13 correct transcript, to the best of my ability and
09:42 14 understanding, from the record of the proceedings in the
09:42 15 above-entitled and numbered matter.

09:42 16
09:42 17
09:42 18 s/Jodi Simcox, RMR, FCRR
09:42 19 Jodi Simcox, RMR, FCRR
09:42 20 Official Court Reporter
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