



which defendants have treated seventy-one on an expedited basis. The parties will be prepared to discuss this further at the November 14, 2008 Monthly Status Conference.

**II. Trust Account**

No deposits have been made into the Trust Account since the last Status Conference.

**III. MDL Mediation and Resolution Program**

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

On October 14, 2008 the Court met with the new doctor panelist member.

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 2,378 Tier I, II and III claims to the Medical Panel for review. Of the 2,378 claims the Defendants have treated 2,047 on an expedited basis. Twenty-two (22) of the tiered claims submitted to the Panel have been found eligible by the Panel, and the Special Master has made those awards. One hundred and sixty-four (164) tiered claims are still in review by the Panel, 137 of which are considered expedited by the Defendants. The Special Master will report to the Court regarding the current status of claim administration.

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 Medical 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. As to all awards made after April 14, 2008, the 50% holdback remains in place.

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.

The parties have agreed on a select number of cases that will be 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.

The parties will be prepared to discuss these issues further at the November 14, 2008 Monthly Status Conference.

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

On November 23, 2005, the Court issued an Order and Reasons regarding the Emergency Motion for Distribution of Attorney's Fees with full reservation of rights to all attorneys who may claim any right to common fees and expense reimbursement. On December 5, 2005, Daniel E. Becnel filed a Motion to Reconsider the Motion. The matter was set for hearing on September 24, 2008 at 9:00 a.m., but has been continued.

On March 2, 2006 Dumas & Associates Law Corporation filed a Motion for Common Benefit Fees and Expenses Reimbursements. On April 4, 2006, the PLC filed a response to the motion. The hearing date has not been set.

On August 5, 2008, Robert J. Caluda and A.J. Rebennack filed a Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee. The PSC filed an opposition to the motion on October 6, 2008. The matter was set for hearing on November 5, 2008 and a resolution was reached.

**New Items**

**V. Plaintiff's Counsels' Request to Receive 100% of Award**

James Dugan and Douglas Plymale have requested that an award made to one of their clients be subject to the April 14, 2008 Order waiving the 50% holdback. The parties will be prepared to discuss this further at the status conference on November 14, 2008.

Respectfully submitted,

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**PLAINTIFFS' STEERING COMMITTEE**

### **CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing Joint Report No. 69 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 12<sup>th</sup> day of November, 2008.

**/s/ Monique M. Garsaud**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID : MDL NO. 1335  
PRODUCTS LIABILITY LITIGATION : SECTION: L  
 : JUDGE FALLON  
 : MAG. WELLS ROBY  
THIS DOCUMENT RELATES TO :  
ALL CASES :  
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**Monthly Status Conference**  
**November 14, 2008 - 9:00 a.m.**

**AGENDA**

Current Matters:

1. State Liaison Counsel
2. Trust Account
3. MDL Mediation & Resolution Program
4. Attorney's Fees Issues
5. Plaintiff's Counsels' Request to Receive 100% of Award