

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

RECEIVED
U.S. DISTRICT COURT
EAST DISTRICT OF LA

2003 APR 23 PM 3:53

LORETTA G. WHYTE
CLERK

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

**JOINT REPORT NO. 22 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Report No. 22.

I. Update of Rolling Document Production and Electronic Document Production -

In the April, 2003 production, Defendants produced 143 pages of Belgian documents. On April 23, 2003, DLC advised that there is no further scheduled document production. PLC will communicate with the Plaintiffs' Discovery Team and will discuss this further with DLC.

PLC has advised DLC of additional issues that has come up regarding certain CD's produced during discovery. PLC is awaiting response to these various requests.

II. State Liaison Counsel - (Minute Entry, November 16, 2000)

The State Liaison Committee will report to the Court regarding the efforts of the Committee at the April 25, 2003 monthly status conference.

III. Patient Profile Form and Authorization

As of April 21, 2003, Defendants have received 2015 Patient Profile Forms (PPFs). 189 are

currently overdue, and 80 PPFs will become due within thirty (30) days. PLC and DLC continue to communicate directly with plaintiff counsel whose PPFs are overdue. DLC recently submitted a 54(b) Judgment to the Court as to the plaintiffs the Court ordered dismissed with prejudice at the March 7, 2003 Status Conference.

IV. Service List of Attorneys

The parties will present the Court with the most current Master List of all Counsel, which will contain, where available, e-mail addresses.

V. Third Party Subpoena Duces Tecum

At the March 7, 2003 Status Conference, the Court directed the Defendants to obtain a certification as to the production in connection with the subpoena duces tecum issued to Dr. Zipes. On April 8, DLC provided supplemental information and on April 15, DLC furnished a certification from defendants' attorney, Charles J. Falletta, to PLC regarding the invoices of Dr. Zipes, identified by bates numbers, which were produced to PLC. On April 10, 2003, PLC wrote DLC and advised that it was still awaiting receipt of specific bates numbers before responding in any detail and further requested the corporate documents for Dr. Zipes' corporate entity and a certification from Dr. Zipes that the production is complete. The parties will be prepared to discuss this matter at the April 25, 2003 monthly status conference.

Defendants have provided PLC with a second certification from Sciens.

On April, 9, 2003, in-house counsel for Ingenex, Louise Dobbe sent correspondence to PLC informing that the production of Ingenex materials was available for review at the company's office in Prairie, MN. PLC is sending a representative to Ingenix to review the materials. PLC will be prepared to discuss this at the April 25, 2003 monthly status conference.

On March 14, 2003, counsel for McKinsey & Company wrote PLC and objected to the subpoena duces tecum issued by the PLC. In addition, McKinsey contends that Pretrial Order No. 5 does not apply to third party subpoenas and has advised that upon execution of an appropriate confidentiality stipulation and order, McKinsey is willing to produce some documents. PLC has advised counsel for McKinsey that McKinsey should forward the confidentiality stipulation that McKinsey desires, however, McKinsey has not provided such a stipulation and order. McKinsey was advised by PLC of the status conference and asked to be present. The parties will be prepared to discuss this at the April 25, 2003 monthly status conference.

Medicom has represented in writing to PLC that the company has no documents responsive to the subpoena. On April 4, 2003, Defendants forwarded a certification to Lynn Sturgis of Medicom. Ms. Sturgis has represented to Defendants that prior to executing the document she needs her company's attorney to review the certification. Defendants have contacted Ms. Sturgis on several occasions regarding the status of such certification and are awaiting her response.

The Degge Group has filed objections to PLC's subpoena in the Eastern District of Virginia. Degge was advised by PLC of the status conference and asked to be present. The parties will be prepared to discuss this at the April 25, 2003 monthly status conference.

VI. Motion on Class Certification.

DLC advises that discovery, electronic and otherwise, is nearing completion. On April 1, 2003, PLC advised DLC that PLC was recently advised that the class representative, Virginia Gail Jones, died on March 13, 2003 in a house fire. The parties will be prepared to discuss this at the April 25, 2003 Monthly Status.

VII. Plaintiffs' and Defendants' Respective Requests for Production of Documents

On December 23, 2002, PLC served upon DLC Request for Admissions and Interrogatory regarding business records of Defendants. On April 11, 2003, DLC submitted its first wave of admissions and objections, totaling approximately 1,000 documents. On April 18, 2003, DLC produced its second wave of admissions and objections, totaling approximately another 1,500 documents. DLC will produce the third wave of admissions and objections on April 25, 2003. Such production will complete DLC's responses to PLC's Requests for Admission. The parties will be prepared to discuss this further at the April 25, 2003 Monthly Status Conference.

On February 17, 2003, PLC served upon DLC a Motion to Compel Production of Documents of Sales Force. On April 15, 2003, DLC confirmed in writing to PLC that the hard copy documents were previously produced. The parties are scheduling a meeting to discuss whether the production of electronic materials should be addressed in a remand order, which would preserve this issue for the transferor court on an as-needed, case specific basis.

PLC previously filed with the Court a Motion to Compel regarding Norcispriide. The parties have been engaged in the additional discovery that was agreed upon. At the present time, there is no action to be taken regarding this motion, and, upon completion of the agreed upon discovery, the parties will advise the Court further.

On January 24, 2003, PLC served upon DCL Plaintiffs' Merit Interrogatories to Defendants, Janssen Pharmaceutica Inc. and Johnson & Johnson - Set No. 7. The First Response was filed by defendants on April 21, and this response will be supplemented within one week and concluded in May. PLC awaits receipt of this information before it can judge the adequacy of any responses. The parties will be prepared to discuss this at the April 25, 2003 monthly status conference.

VIII. 30(b)(6) Deposition of Defendants Regarding Studies

The database has been furnished, and this item may be removed from the Agenda.

IX. Trust Account

In accordance with Pre-Trial No. 16 Defendants continue to deposit settlement funds into the Court's Registry. On April 21, 2003, the PLC filed with the Court the Motion of The Plaintiffs' Steering Committee For Release and Disbursement of Funds from Deposits Made to the Registry of the Court Pursuant to Pretrial Order No. 16. The matter is set for hearing May 5, 2003, at 10:00 a.m.

X. Declassified Documents

The parties have nothing new to report since last month's Status Conference.

XI. Mediation

Various plaintiffs have submitted medical records and related materials to DLC for purposes of settlement or mediation of their claims for wrongful death. The greater majority of those claims are not in litigation but are covered by tolling agreements. DLC advises that as of April 17, 2003, twelve (12) have settled either at or following mediation before Mr. Juneau. Five (5) have been mediated before him without resolution. Two (2) have been voluntarily dismissed. Forty-seven (47) do not meet the defendants' settlement consideration criteria. Fifteen (15) meet the criteria and will be scheduled for mediation. One hundred and twenty-two (122) brochures have been submitted and review has been completed in all but thirty (30). Defendants have requested of plaintiffs' additional records in eleven (11) cases in order to complete that review process. Additional comments about mediation are found in Section XV. PLC has continued to

request mediation dates and the scheduling of additional mediations. No mediations have been scheduled or occurred since the last status conference.

XII. Trial Schedule

The parties have completed the trial of *Patricia Diez, et al.* On March 31, 2003 the Court issued a Minute Entry continuing the trial without date of *Dorita Black, et al v. Johnson & Johnson, et al, and only regarding plaintiff, Ernestine Brock, #00-2497.* The Court set a status conference on May 5, 2003 to discuss new trial dates. There are no other cases set for trial in the United States Court for the Eastern District of Louisiana.

On April 4, 2003, DLC furnished PLC with a list of upcoming trials throughout the country through the end of September, 2003. PLC requested the names of all counsel involved in these cases. PLC believes several of these cases involve counsel who have agreed to discovery coordination and are obtaining information from the Plaintiffs' depository and the PLC pursuant to state coordination agreements.

XIII. Pharmacy Indemnity Agreements

DLC continues to produce copies of all MDL pharmacy indemnity agreements which Defendants have executed to PLC. DLC will continue to furnish such agreements, if any, as they are executed.

XIV. Verilaw

The parties have had no further communication from Verilaw since the last status conference. This item may be removed from the agenda.

XV. End Game Planning Committee

Counsel for defendants and representatives of the PSC and the Plaintiffs' Settlement Committee have been discussing a system to formalize criteria and monetary evaluations for those cases which defendants are prepared to mediate. No formula or plan has been reached. The parties plan to report to the Court at the next Monthly Status Conference concerning the status and efforts to reach such an agreement.

XVI. Patricia Robinson Deposition

The deposition of Patricia Robinson was scheduled for April 28, 2003, in Philadelphia, Pennsylvania. On April 18, 2003, counsel for the Defendants advised that they would not produce Dr. Robinson for a deposition at the scheduled time and refused to produce Dr. Robinson until after the Calvert state trial in California. PLC advised that it was available to take the Robinson deposition at several other times and also suggested May 2, 2003, a date when the Calvert trial will not be in session. Defendants object for these reasons: 1) the April 28, 2003 date was chosen by Defendants as it was expected the Calvert trial would be concluded by then; 2) the trial has not concluded and is going to continue into May; 3) Dr. Robinson is the company representative at the trial, has been throughout the trial, has been working with counsel on defense issues and her presence is needed through the remainder of the trial to assist the defense. The parties will be prepared to discuss this matter at the April 25, 2003 monthly status conference.

XVII. Agenda

A proposed Agenda for the April 25, 2003 Monthly Status Conference is attached.

Respectfully submitted,



RUSS M. HERMAN, T.A. (La. Bar #6819)

LEONARD A. DAVIS, #14190

JAMES C. KLICK, #7451

HERMAN, MATHIS, CASEY, KITCHENS & GEREL, LLP

820 O'Keefe Avenue

New Orleans, Louisiana 70113

Phone: (504) 581-4892; Fax: (504) 561-6024

LIAISON COUNSEL FOR PLAINTIFFS

DANIEL BECNEL, JR.

106 W. Seventh Street

Reserve, LA 70084-0508

Phone: (504) 536-1186

Fax: (504) 536-6445

JAMES DUGAN

3600 North Hullen Street

Metairie, LA 70002

Phone: (504) 456-8600

Fax: (504) 456-8624

ARNOLD LEVIN

510 Walnut Street, Suite 500

Philadelphia, PA 19106-3875

Phone: (215) 592-1500

Fax: (215) 592-4663

STEPHEN B. MURRAY

909 Poydras Street, Suite 2550

New Orleans, LA 70112

Phone: (504) 525-8100

Fax: (504) 584-5249

J. MICHAEL PAPANTONIO

316 S. Baylen Street, Suite 600

P.O. Box 12308

Pensacola, FL 32581

Phone: (850) 435-7000

Fax: (850) 435-7020

CHRISTOPHER A. SEEGER

One William Street

New York, NY 10004

Phone: (212) 584-0700

Fax: (212) 584-0799

BOB F. WRIGHT

556 Jefferson Street, Suite 500

Lafayette, LA 70502-3668

Phone: (337) 233-3033

Fax: (337) 232-8213

CHARLES S. ZIMMERMAN

651 Nicollet Mall

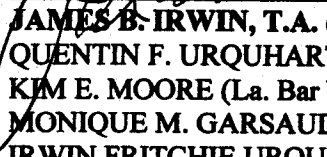
Suite 501

Minneapolis, MN 55402

Phone: (612) 341-0400

Fax: (612) 341-0844

PLAINTIFFS' STEERING COMMITTEE



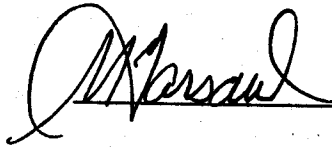
JAMES B. IRWIN, T.A. (La. Bar No. 7172)
QUENTIN F. URQUHART, JR. (La. Bar No. 14475)
KIM E. MOORE (La. Bar No. 18653)
MONIQUE M. GARSAUD (La. Bar. No. 25393)
IRWIN FRITCHIE URQUHART & MOORE, LLC
400 Poydras Street, Suite 2700
New Orleans, Louisiana 70130
Phone: (504) 310-2100
Fax: (504) 310-2101
LIAISON COUNSEL FOR Defendants,
JANSSEN PHARMACEUTICA INC. AND JOHNSON & JOHNSON

DRINKER, BIDDLE & REATH LLP
THOMAS F. CAMPION
SUSAN M. SHARKO
500 Campus Drive
Florham Park, NJ 07932-1047
Phone: (973) 549-7300
Fax: (973) 360-9831
-and-

DRINKER, BIDDLE & REATH, LLP
CHARLES F. PREUSS
DONALD F. ZIMMER, JR.
225 Bush Street, 15th Floor
San Francisco, CA 94104-4207
Phone: (415) 397-1730
Fax: (415) 397-1735
CO-LEAD COUNSEL FOR Defendants,
JANSSEN PHARMACEUTICA INC. AND
JOHNSON & JOHNSON

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Report No. 22 of Plaintiffs' and Defendants' Liaison Counsel was served on Plaintiffs' Liaison Counsel by hand and e-mail and by e-service to all parties by uploading same to Verilaw, on this 23 day of April, 2003.



A handwritten signature in cursive script, appearing to read "M. B. ...", is written over a solid horizontal line.

**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			:
			:

.....

Monthly Status Conference
April 25, 2003 - 9:00 a.m.

AGENDA

Current Matters:

1. Update of Rolling Document Production and Electronic Document Production
2. State Liaison Counsel
3. Patient Profile Form and Authorization
4. Service List of Attorneys
5. Third Party Subpoena Duces Tecum
6. Motion on Class Certification
7. Plaintiffs' and Defendants' Respective Requests for Production of Documents
8. 30(b)(6) Deposition of Defendants Regarding Studies
9. Trust Account

10. Declassified Documents
11. Mediation
12. Trial Schedule
13. Pharmacy Indemnity Agreements
14. Verilaw
15. End Game Planning Committee

New Matters:

16. Patricia Robinson Deposition

Joint Report No. 22 - Final.wpd