



**III. Patient Profile Form and Authorization**

As of August 6, 2003 defendants have received 2308 PPF's, 208 are overdue, and 5 will become due in thirty days. Defendants are preparing a Motion to Dismiss with Prejudice as to these delinquent plaintiffs. As in the past, PLC opposes the Motion to Dismiss.

**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**

Defendants produced the Medicom certificate, executed by Lynn Sturgis, to PLC on July 14, 2003.

On July 17, 2003, counsel for the Degge Group submitted a letter to this Court requesting reimbursement for the costs the company incurred producing documents responsive to the PSC's subpoena. In a July 23, 2003 Minute Entry, this Court construed the letter as a Rule 45 Motion for Reimbursement. The PLC has opposed this Motion. This matter has not been set for hearing.

**VI. Motion on Class Certification.**

Defendants have discussed with PLC establishing a procedure for disposing of the remaining class certification issues. PLC and DLC have communicated regarding this issue over the past month and Defendants will be delivering to PLC a memorandum and draft of a Pre-Trial Order for employment of this procedure so that PLC and DLC can discuss this further. The parties will be prepared to discuss this further at the August 14, 2003 Monthly Status Conference.

**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, to which Defendants submitted responses, including objections. PLC is reviewing the objections and will prepare a Motion to Traverse those objections which the plaintiffs deem improper. The parties have communicated with one another regarding the submission of a database spreadsheet and the documents at issue and the parties will be prepared to discuss this further at the August 14, 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.

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, 2003, a supplemental response was received on April 30, 2003, and a second supplemental response was received on June 10, 2003. DLC advises that it has prepared the final supplemental response and is reviewing this response for final quality control. Defendants anticipate production of this response to PLC no later than Friday, August 22, 2003. The parties will be prepared to discuss this at the August 14, 2003 Monthly Status Conference.

#### **VIII. Trust Account**

Defendants have not deposited any settlement funds into the Court's Registry since last month's Status Conference on June 26, 2003. Further, PLC and representatives of the State Liaison Counsel will be prepared to discuss the recent motion to withdraw funds from deposit from the Trust Account that has not yet been ruled upon by the Court.

**IX. Declassified Documents**

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

**X. Mediation**

On August 6-7, 2003 the parties mediated 13 cases, of which 1 was settled successfully. Defendants continue to review the settlement brochures submitted by plaintiffs to determine which plaintiffs, if any, meet Defendants mediation criteria. The parties will be prepared to discuss this at the August 14, 2003 Monthly Status Conference.

**XI. Trial Schedule**

The following 7 plaintiffs claims have been selected for trial:

Joseph Cangelosi	#01-0316 (Cangelosi)
Ford Jefferson Millican	#00-2774 (Millican)
Elman Palao	#00-2497 (Black)
Janice Vicknair	#02-1866 (Alvarez)
Helen Washington	#00-2577 (Diez)
Mitchell Williams	#00-2375 (Williams)
Mabel Woolledge	#00-2497 (Black)

At the August 14, 2003 Status Conference, Defendants will be prepared to discuss the selection of trial dates and the implementation of a scheduling order.

**XII. 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.

**XIII. End Game Planning Committee**

Counsel for defendants and representatives of the PSC and the Plaintiffs' Settlement Committee have continued to discuss a system to formalize criteria and monetary evaluations for those cases which defendants are prepared to mediate. The parties have met and communicated several times since the last status conference. The parties plan to report to the Court at the August 14, 2003 Monthly Status Conference concerning the status and efforts to reach such an agreement.

**XIV. Motions to Withdraw**

No new Motions to Withdraw as Counsel have been filed since the June 26, 2003 status conference. This item may be removed from the agenda.

**XV. Donald and Loretta Anderson**

This item should be removed from the agenda.

**NEW ITEMS**

**XVI. Motions to Enforce Subpoenas**

On July 22, 2003, Defendants served a SDT upon the Social Security Administration ("SSA") for records of trial plaintiff, Mitchell Williams. The return date on the subpoena was July 30, 2003. In response, the SSA refused to produce the documents without written consent of Mr. Williams. Defendants have filed a Motion to Enforce Subpoena which is set for expedited hearing at the August 14, 2003 Monthly Status Conference. To date, the SSA has not produced these records.

On July 28, 2003, Defendants served a similar SDT upon the SSA seeking disability records for trial plaintiff, Joseph Cangelosi. The return date on the subpoena was August 8,

2003. Again, the SSA refused to produce the records without written consent by the plaintiff. Defendants filed a Motion to Enforce Subpoena which is set for expedited hearing at the August 14, 2003 Monthly Status Conference. To date, the SSA has not produced these records.

Defendants have filed Motions to Enforce Subpoenas against the Social Security Administration (SSA) for records in the matters of Joseph Cangelosi and Mitchell Williams Palao which the SSA has refused to produce. The Motions were set for hearing on Thursday, August 14, 2003, but the parties have agreed to a continuance to a new date to be set by this Court. The SSA has contacted counsel for these plaintiffs for their approval to release the requested records. The parties hope to resolve the matter before the new hearing date.

Defendants have also filed Motions to Enforce Subpoenas against Rite Aid in the matters of Elman Palao and Mitchell Williams for Rite Aid's failure to produce pharmacy records. Defendants have requested and expedited hearing of these Motions.

#### **XVII. Global Application of Daubert**

DLC has discussed with PLC a desire to implement a procedure for the application of the *Daubert* ruling where appropriate. Defendants advise that they are preparing a draft of a Pre-Trial Order for employment of this procedure together with a memorandum to outline Defendants' position. Upon receipt of all of the information, PLC will communicate further with DLC. The parties will be prepared to discuss this further at the August 14, 2003 Monthly Status.

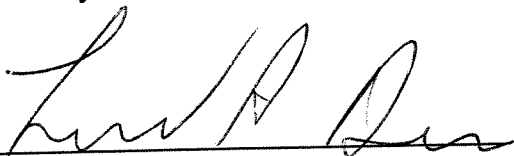
#### **XVIII. Bobby Joe Walton**

PLC was contacted by Bobby Joe Walton regarding the status of his claim. PLC wrote DLC on July 29, 2003 and inquired about his claimant. DLC responded to PLC and did not have information concerning the claim. The parties will be prepared to discuss this further at the

August 14, 2003 Monthly Status.

A proposed Agenda for the August 14, 2003 Monthly Status Conference is attached.

Respectfully submitted,



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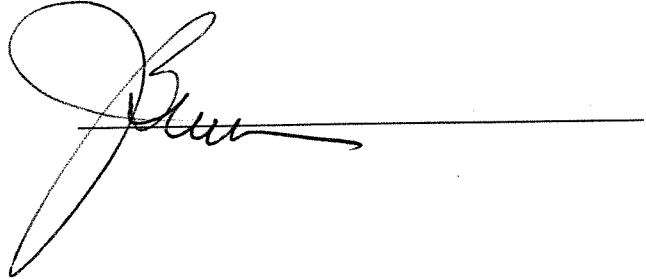
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 25 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 12<sup>th</sup> day of August, 2003.

A handwritten signature in black ink, consisting of a large, stylized initial 'J' followed by a series of loops and a long horizontal stroke extending to the right.

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

<b>IN RE:</b>	<b>PROPULSID</b>	:	<b>MDL NO. 1335</b>
	<b>PRODUCTS LIABILITY LITIGATION</b>	:	<b>SECTION: L</b>
		:	
		:	<b>JUDGE FALLON</b>
		:	<b>MAG. WELLS ROBY</b>
<b>THIS DOCUMENT RELATES TO ALL CASES</b>		:	
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**Monthly Status Conference**  
**August 14, 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. Trust Account
9. Declassified Documents
10. Mediation

11. Trial Schedule
12. Pharmacy Indemnity Agreements
13. End Game Planning Committee
14. Motions to Withdraw
15. Donald and Loretta Anderson

NEW ITEMS

16. Motions to Enforce Subpoenas
17. Application of *Daubert* Ruling
18. Bobby Joe Walton

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