



will contain, where available, e-mail addresses.

**V. Motion on Class Certification.**

Defendants are preparing a proposed scheduling Order and will submit it to the PLC shortly. The PLC intends on filing a Motion for Class Certification within the next ten (10) days. The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status.

**VI. 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 reviewed the objections and prepared a narrowed down list of documents which the PLC submitted informally to DLC on October 29, 2003. At the Status Conference on December 4, 2003, PLC advised that it intended to take a 30(B)(6) deposition of the defendants regarding these documents. Following the Status Conference, a deposition notice was filed and the deposition was noticed to proceed on January 7, 2004. DLC advised that it objected to the deposition and contested the need for the deposition, and on January 14, 2004 Johnson & Johnson filed a Motion for the Entry of a Protective Order which is set for hearing on February 4, 2004 at 9:00 a.m. The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status Conference.

On February 17, 2003, PLC served upon DLC a Motion to Compel Production of Documents of Sales Force. The parties have agreed that the production of electronic materials regarding the sales representative information should be addressed in a remand order, which would preserve this issue for the transferor court on an as-needed, case specific basis. DLC forwarded a draft of the Pre-Trial Order providing for the use of electronic data preserved by Janssen Pharmaceutica sales force on December 15, 2003. PLC is reviewing the draft and will be in further communication with DLC.

The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status Conference.

**VII. Trust Account**

Defendants made deposits of additional settlement funds into the Court's Registry on January 16, 2004 and January 20, 2004 since last month's Status Conference.

**VIII. Declassified Documents**

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

**IX. Mediation**

No additional mediations have taken place since the last month's Status Conference. The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status Conference.

**X. Trial Schedule**

On December 16, 2003, PLC wrote DLC and requested a complete list of all trials scheduled through the year 2004, together with the names of the lawyers involved in the particular trials and the courts where the matters are set. DLC will be furnishing the usual list.

**XI. 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.

**XII. 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 January 29, 2004 Monthly Status Conference concerning the status and efforts to reach such an agreement.

**XIII. Global Application of Daubert**

The parties have had no further discussions regarding this matter.

**XIV. Motions to Withdraw as Counsel of Record**

The parties have nothing further to report regarding this matter.

**XV. Stipulation and Pre-Trial Order Providing for the Use at Trial of Depositions in State or Federal Courts**

PLC and DLC have been communicating regarding the preparation of a stipulation for the use of depositions in MDL matters. DLC submitted a draft Pre-Trial Order to PLC, which the parties are discussing.

**XVI. CIS NED-32 Deposition**

PLC issued a Notice of Deposition and scheduled the 30(B)(6) deposition regarding the final version of CIS NED-32 report to occur originally on January 15, 2004. DLC advised that the corporate representative would be Dr. Soons and that the deposition would take place in Europe. The deposition date has been rescheduled to occur on February 19/20, 2004 in Amsterdam.

**XVII. Motion for Summary Judgment**

PLC will be filing with the court a Motion for Summary Judgment regarding Johnson & Johnson's liability. The parties will be prepared to discuss this further at the January 29, 2004 Monthly Status Conference.

**XVIII. Bailey Motion**

PLC and DLC received the court's order entered January 22, 2004. The parties will review

the motion and be prepared to discuss the matter at the January 29, 2004 Monthly Status Conference.

A proposed Agenda for the January 29, 2004 Monthly Status Conference is attached.

Respectfully submitted,

  
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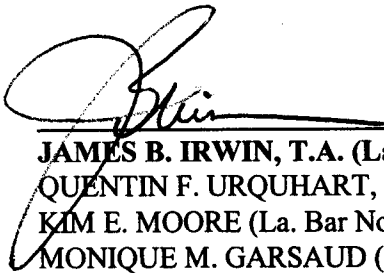
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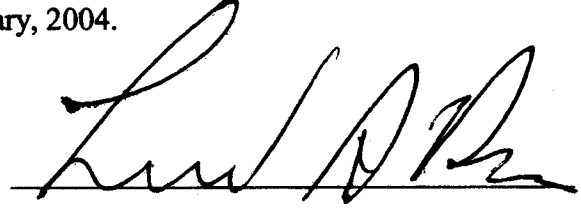
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 28 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 27th of January, 2004.



**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**  
**January 29, 2004 - 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. Motion on Class Certification
6. Plaintiffs' and Defendants' Respective Requests for Production of Documents
7. Trust Account
8. Declassified Documents
9. Mediation



10. Trial Schedule
11. Pharmacy Indemnity Agreements
12. End Game Planning Committee
13. Global Application of Daubert
14. Motions to Withdraw as Counsel of Record
15. Stipulation and Pre-Trial Order Providing for the Use at Trial of Depositions in State or Federal Courts

**NEW ITEMS**

16. CIS NED-32 Deposition
17. Motion for Summary Judgment
18. Bailey Motion