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EAST DISTRICT OF LA

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

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

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**JOINT REPORT NO. 44 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 44.

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

The State Liaison Committee continues to communicate with the DLC and PLC regarding the status of the remaining state court cases. The PSC, SLC and defendants continue to discuss a State Settlement Program and will be prepared to report to the Court further at the December 15, 2005 Monthly Status Conference.

II. Service List of Attorneys

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

III. Trust Account

Since the last status conference, there has been no activity with respect to the Trust Account.

IV. Trial Schedule

The matter of *Gregory A. Gellner v. Johnson & Johnson, et al.* is set for trial on June 26, 2006 in the Circuit Court for Marshall County, West Virginia.

V. Pharmacy Indemnity Agreements

There have been no pharmacy indemnity agreements executed by defendants since the last Status Conference. This matter may be removed from the Agenda.

VI. MDL Mediation and Resolution Program

The deadline for enrollment and the submission of Claim Forms was extended jointly by the parties to December 15, 2005. Since the last Monthly Status Conference, the Special Master's office continues to review those Enrollment and Claims Forms that have been submitted to determine if the Forms meet the qualifying criteria set forth in the Term Sheet. The Special Master has been communicating consistently with claimants' attorneys to process the submissions and to identify any deficiencies. The Special Master has identified a number of Claim Forms that are ready for further processing and which there are no deficiencies or the deficiencies have been remedied. As to these Claim Forms, the Special Master provides notice to Defendants so that Defendants can exercise their right under the Term Sheet to collect outstanding medical records and submit memoranda to the Special Master within 60 days of such notice. After this process is complete, in turn, the Special Master will submit the claims to the Medical Panel for review. Thus far, the Special Master has submitted nine claims to the Medical

Panel for review. Of the nine, one was determined to be eligible for a settlement award, the other eight were not. Defendants will file Stipulations of Dismissal as to these eight claims.

The Special Master advises that additional claims are in the queue for submission and will routinely prepare a report regarding the status of claims to be submitted to the Medical Panel for review. The Special Master will report to the Court at the December 15, 2005 Monthly Status Conference regarding the current status of claim administration.

Defendants continue to submit a list of plaintiffs/claimants whose records have already been obtained by defendants in whole or in part, so that the PSC, the Special Master and the attorneys for these plaintiffs/claimants can prioritize the submission and review of the Claim Forms for these individuals. Defendants have advised that this will enable defendants to speed up their preparation of the eligibility memos because of defendants' prior knowledge of the medical records in these cases.

The weekly telephone conference with the Special Master, PLC and DLC continues to take place. The PLC and Defendants continue to discuss a number of administrative issues germane to the Resolution Program.

The parties will be prepared to discuss these issues further at the December 15, 2005 Monthly Status Conference.

VII. Motions

On November 29, 2005, Defendants filed a Motion to Dismiss for Lack of Subject Matter Jurisdiction in the matter of *William Boyd v. Johnson & Johnson, et al*, #01-9319, which is set for hearing without opposition at the December 15, 2005 Monthly Status Conference.

Plaintiffs in the matter of *Ronald J. Helberg, et al. v. Johnson & Johnson, et al.*, 01-2510 filed a Motion to Remand to State Court, which is set for hearing on December 14, 2005 or soon

after, with opposition by Defendants. Defendants request that this Motion be heard at the December 15, 2005 Monthly Status Conference.

VIII. Pro se Plaintiffs

On December 7, 2005, Defendants filed a Motion for Proposed Order to Show Cause to set forth procedures for notice to pro se plaintiffs and suggestions for how their cases should be managed from this point forward. The parties are filing a Joint Motion to Appoint a Curator to assist pro se plaintiffs in reviewing their options regarding their prosecution of their Propulsid lawsuits. The parties will be prepared to discuss this at the December 15, 2005 Monthly Status Conference.

IX. Preservation of Electronic Data

On November 8, 2005, defendants filed a Motion and Order Establishing Defendants' duty as to the Preservation of Electronic Data. The Motion is set for hearing at the December 15, 2005 Monthly Status Conference without opposition.

X. Proposed Order to Reflect Dismissal of Certain Tolling Agreement Claimants

The parties are discussing an appropriate dismissal order to submit to the Court for the Court's consideration. On December 2, 2005, Defendants sent PLC a draft of such Order and awaits their response. Tolling agreement claimants who are not awarded compensation and those persons whose claims are covered by Medical Records Reimbursements will be the subject of the dismissal order.

XI. Motion for Clarification of August 12, 2005 Minute Entry

On September 15, 2005, Ingram & Associates, PLLC filed a Combined Motion for Clarification of August 12, 2005 Minute Entry and Memorandum in Support of Said Motion and Request for Additional Relief regarding the Court's ruling related to the disposition of claims

using the "Short Form." Defendants filed an opposition on October 11, 2005. The parties agreed to continue the Motion pending discussions regarding a resolution, which are ongoing.

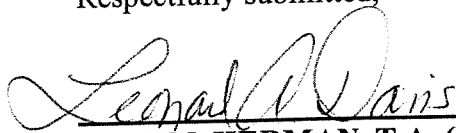
XII. Proposed Order Approving A Wrongful Death Award Made by the Special Master in the MDL 1355 Settlement Program

On October 7, 2005, a Proposed Order was provided to Defendants' counsel that would avoid approvals by State Equity, Chancery and Common Pleas Courts of settled claims. This proposed Order was sought to avoid multiple approvals that may require additional time and expense, and to consolidate the issues into one MDL Order to handle the various matters. Defendants are in receipt of the proposed Order and are reviewing it.

XIII. Emergency Motion for Distribution of Attorney's Fees

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 PSC will be prepared to discuss the scheduling of this Motion at the December 15, 2005 Monthly Status Conference.

Respectfully submitted,



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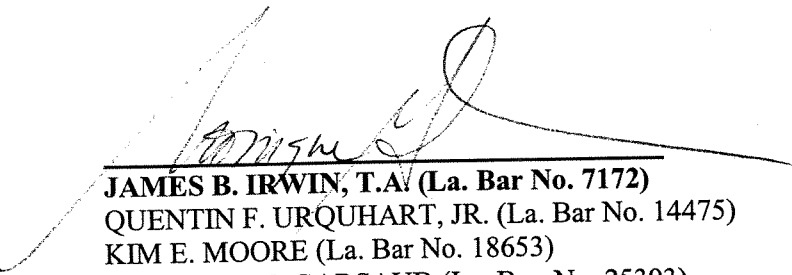
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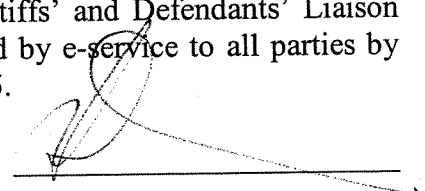
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Joint Report No. 44 of Plaintiffs' and Defendants' Liaison Counsel was served on Plaintiffs' Liaison Counsel by e-mail and by e-service to all parties by uploading same to LexisNexis, on this 13th day of December, 2005.



12. Proposed Order Approving A Wrongful Death Award Made by the Special Master in the MDL 1355 Settlement Program
13. Emergency Motion for Distribution of Attorney's Fees