

MINUTE ENTRY
FALLON, J.
January 14, 2004

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF LOUISIANA

IN RE: PROPULSID : **MDL NO. 1355**
PRODUCTS LIABILITY LITIGATION : **SECTION "L"**
 : **JUDGE FALLON**
..... :

THIS DOCUMENT RELATES TO ALL CASES

A pretrial status conference was held Thursday, December 4, 2003 at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Russ Herman, Leonard Davis, Charles Zimmerman, Arnold Levin, Robert Becnel, Larry Morris, and Julio Diaz (participating by telephone). In attendance for the Defendants were James Irwin, Thomas Champion, Charles Preuss, and Monique Garsaud. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 27 of Plaintiffs' and Defendants' Liaison Counsel.

1. Update to Rolling Document Production and Electronic Document Production

DLC advised the Court that there is no further scheduled document production. PLC continues to discuss document production with the Plaintiffs' Discovery Team and will discuss further with the DLC in the future.

2. State Liaison Counsel

There was no report from the State Liason Counsel.

3. Plaintiff Profile Forms and Authorizations

DLC advised the Court that as of December 1, 2003, 2,470 PPF's have been received, 525 are overdue, and 569 will become due in thirty days. The Defendants advised the Court that they will be filing a Motion to Dismiss with prejudice as to the 525 PPF's which are overdue to be set for hearing at the next Monthly Status Conference.

4. Service List of Attorneys

DLC provided the Court with an updated list of attorneys in the MDL case as well as related state court cases.

5. Third Party Subpoena Duces Tecum

The parties indicated that they have nothing further to report on this issue and that this item may be removed from the agenda.

6. Motion for Class Certification

The Defendants reported that they are preparing a proposed scheduling Order which they will submit to the PLC when completed. The parties stated that a motion for class certification should be filed with the Court within shortly. The Court indicated that it will meet with liason counsel concerning this issue after receiving the proposed procedure from the parties.

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

The PLC advised the Court that they served upon the DLC a Request for Admissions and Interrogatories regarding the business records of the Defendants on December 23, 2002. Thereafter, submitted responses, including objections. After reviewing the objections, the PLC reduced their

request to approximately 229 documents. The PLC submitted this narrowed down list on October 29, 2003 and the DLC has submitted a response, including objections. The PLC indicated that it will be filing a motion to traverse those objections.

8. Trust Account

The Defendants made deposits of additional settlement funds into the Court's Registry on November 10, 2003 and November 17, 2003.

9. Declassified Documents

The parties advised that they had nothing new to report on this issue.

10. Mediation

The parties advised that no additional mediations have occurred since the last status conference.

11. Trial of Louisiana Cases

The parties reported that the claims of Cecilia Bell Overton (00-2497) were dismissed with prejudice by this Court on November 20, 2003. The parties further reported that they were in discussions concerning the possible dismissal of the other three plaintiffs scheduled for trial: Dorita Black (00-2497); Kemper Darnell, Sr. (01-0773); Melissa Nettles (02-1866). As of the date of this status conference, however, the parties reported that they are proceeding with discovery regarding the three remaining plaintiffs pursuant to this Court's Scheduling Order dated November 19, 2003.

12. Pharmacy Indemnity Agreements

DLC advised that it continues to produce copies of all pharmacy indemnity agreements to the PLC.

13. End Game Planning Committee

The End Game Planning Committee indicated that it was meeting and would continue to update the Court on the progress of its discussions.

14. Global Application of Daubert

DLC and PLC continue to have discussions regarding the DLC's desire to implement a procedure for the application of this Court's *Daubert* ruling in the *Brock* case in other MDL cases. The PLC indicated that it would object to any global application of *Daubert* rulings.

15. Motions to Withdraw as Counsel of Record

PLC advised the Court that it has no comment at this time.

16. Stipulation and Pre-trial Order Providing for Use at Trial of Depositions in State or Federal Courts

Parties advised the Court that they have been in communication regarding the preparation of a stipulation for use of depositions in MDL matters for use at trial in both state and federal courts. DLC has submitted a draft Pre-Trial Order to the PLC, which the parties are discussing.

18. Scheduling of Next Pretrial Status Conference

The next pretrial status conference will be held on Thursday, January 29, 2004, at 9:00 a.m.