

MINUTE ENTRY
FALLON, J.
March 11, 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, March 11, 2004, 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, Bradley Becnel, Robert Becnel, Virginie Ramirez, Bob Wright, Stephen Murray, Julie Jacobs, Richard Arsenault, Barry Hill, Rebecca Cunard, and A.J. Rebennack. In attendance for the Defendants were James Irwin, Charles Preuss, Thomas Champion, and Monique Garsaud. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 29 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. The parties further advised that they are preparing a Stipulation concerning the suspension of electronic mail preservation due to the costs associated with such preservation.

2. State Liaison Counsel

State Liaison Counsel advised the Court that it had nothing to report.

3. Plaintiff Profile Forms and Authorizations

DLC advised the Court that as of March 4, 2004, they have received 3,115 PPF's, 739 are overdue, and 56 will become due in thirty days. The Defendants advised the Court that they will halt filing motions to dismiss for failure to provide a PPF during the period in which claimants may opt in to the MDL 1355 settlement.

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. Motion for Class Certification

The Plaintiffs reported that they have postponed filing their motion in light of the pending settlement.

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

The parties advised the Court that they have collected and organized into binders all documents which are subject to the PLC's 803(6) challenge. Both sides have prepared comments regarding the admissibility of the respective documents and shall submit a motion to the Court within ten (10) days.

7. Trust Account

The Defendants made deposits of additional settlement funds into the Court's Registry on January 27, 2004 and February 11, 2004 since last month's status conference. The Plaintiffs advised that they will contact the Clerk of Court to obtain the balance on the account.

8. Declassified Documents

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

9. Mediation

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

10. Trial of Louisiana Cases

On March 1, 2004, the DLC furnished a complete list to the PLC of all state court trials scheduled this year. The DLC advised that approximately twenty cases are scheduled for trial in Mississippi, New York, Pennsylvania, and Texas.

11. Pharmacy Indemnity Agreements

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

12. End Game Planning Committee

On February 4, 2004, the parties announced that they had reached an agreement in principle to resolve all federal lawsuits related to Propulsid. On February 5, 2004, the Court entered a Consent Order as to this agreement. The parties advised the Court they have continued to meet to further address various issues regarding the settlement agreement including, among other things, the enrollment agreement, the Term Sheet, and issues related thereto.

The PLC advised the Court they met with approximately eighty lawyers from seventy different law firms recently in Orlando and that a majority of the attendees indicated their intent to enroll in the MDL and the settlement. The PLC further indicated that they are awaiting the enrollment form, which

will be available on the Propulsid website as soon as it is completed. 13. Global Application of

Daubert

The DLC indicated that this matter is on hold pending the outcome of the settlement program.

14. Motions to Withdraw as Counsel of Record

The parties have nothing further to report on this matter, and the matter is on hold pending the outcome of the settlement program.

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

The parties reported that they have been communicating regarding the preparation of a stipulation for the use of depositions in MDL matters. The DLC submitted a draft Pretrial Order to the PLC. The parties shall submit a stipulation to the Court within ten (10) days of the status conference.

16. CIS NED-32 Deposition

The 30(b)(6) deposition regarding the final version of CIS NED-32 has been canceled, without prejudice, to be rescheduled at a later date.

17. Motion for Summary Judgment

The PLC indicated that they have postponed filing this motion due to the pending settlement agreement.

18. Bailey Motion

The Court received a Motion to Dismiss certain named defendants in Civil Action number 03-2734. The parties indicated that they have no position on the motion. The Court will address the

motion in a separate order.

19. Hale Motion

The Court received a Notice to Substitute the United States on behalf of Dr. William L. Booker and a Motion to Dismiss for Failure to Exhaust Administrative Claims in Civil Action No. 03-2419.

The Court advised that the matter shall be set for hearing for the next monthly status conference.

20. Tolling Agreements

The DLC advised the Court that the agreement to toll applicable statutes of limitation is hereby terminated due to the pending settlement.

21. Scheduling of Next Pretrial Status Conference

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