

**MINUTE ENTRY
FALLON, J.
JUNE 26, 2009**

**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 monthly status conference was held on this date by telephone in the Chambers of Judge Eldon E. Fallon. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 75 of Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC). This conference was transcribed by Ms. Karen Anderson Ibos, Official Court Reporter. Counsel may contact Ms. Anderson Ibos at (504) 589-7776 to request a copy of the transcript. A summary of the monthly status conference follows.

I. State Liaison Counsel/MDL Resolution Program II

The enrollment requirements have been met for the State Settlement Program (Propulsid II). Escrow Agreements have been executed and Defendants have funded the various funds. The claims, medical records, and claimant memoranda deadlines have passed. Administrative claims are being processed and disbursements have begun. The Special Master's Office has begun clearing claims for defense briefing, and the defendants have begun submitting defense memoranda. One hundred twenty-five (125) claims have been submitted to the Medical Panel for review, of which defendants have treated 122 on an expedited basis (these numbers are current through June 19, 2009). No claim has been found eligible.

JS10(00:20)

___ Fee _____
___ Process _____
 ___ Filed _____
___ Clerk's Copy _____
___ Doc. No. _____

II. MDL Mediation and Resolution Program

The deadline for enrollment and the submission of claims forms for the First MDL Resolution Program has expired.

The Special Master's office continues to review Claims Forms to determine if the Forms meet the qualifying criteria for submission to the Medical Panel set forth in the Term Sheet. The Special Master continues to notify the attorneys for the claimants that have deficiencies. Thus far, in Propulsid I, the Special Master has submitted 3,051 Tier I, II, and III claims to the Medical Panel for review. Of the 3,051 claims the Defendants have treated 2,638 on an expedited basis. Twenty-four (24) of the tiered claims submitted to the Panel have been found eligible by the panel, and the Special Master has made those awards. One hundred seventy-six (176) tiered claims are still in review by the Panel, 159 of which are considered expedited by the Defendants. (All numbers in this paragraph are current through June 19, 2009). The Defendant and PSC have agreed upon a Medical Panel Replacement member and the training session with the Special Master and the Court will be held around July 16, 2009. The parties are directed to contact the Court to schedule a date with the Court. The Courtroom shall be reserved for this meeting.

On April 29, 2008, the Court entered an Order regarding the waiver of the 6% MDL assessment fee as to those claimants found eligible by the Medical Panel. As for those claimants who have already received awards as of April 14, 2008 and whose awards were subject to the 6% assessment, the Clerk of Court remitted a check to the Special Master to reimburse those claimants for such assessment and further, the balance of the awards, the holdback 50% of the award, was paid out from the Settlement Fund to each claimant that was found eligible for an award and who had previously received 50% of their award.

Defendants continue to submit a list of plaintiffs/claimants whose records have already been obtained by defendants in whole or in part, so when necessary, the parties, the Special Master and the attorneys for these plaintiffs/claimants can expedite the submission and review the Claim Forms for these individuals.

The parties have agreed on a select number of cases that will be subject to a second review, 9 of which have been deemed eligible for awards.

The parties have agreed on a new investment for the Settlement Fund.

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

There are approximately 1,400 enrolled Tiered Claims yet to be sent to the Panel in Propulsid I, and 290 enrolled Tiered claims in Propulsid II.

III. Attorney's Fees Issues

All pending motions have been resolved. IT IS ORDERED that the Motion to Reconsider (Rec. Doc. No. 1876) and the Motion for Leave to File Intervention (Rec. Doc. No. 1781) be and are hereby DENIED as MOOT. The PSC will be filing a motion and the Court will address the attorney fees issues at a later date.

IV. Medical Records from Medical Records Providers

On December 4, 2008, the Court issued an Order requiring certain medical providers who have failed to comply with or even respond to legal requests made by Propulsid claimants for the production of their medical records to appear in Court on December 22, 2008 to show cause why they should not be held in contempt of court and why they should not also be fined \$1,000 per day for every day thereafter until such records are produced. The Order provided that the medical


records providers can satisfy the records request by submitting the information to Special Master Patrick Juneau in the Special Master's Office, 400 Poydras Street, Suite 2820, New Orleans, Louisiana 70130-6901, prior to Thursday, December 18, 2008, so that they will no longer be subject to the Order and no longer required to appear in Court.

A Rule to Show Cause for failure to make a good faith effort to produce records shall be filed and set for hearing on July 8, 2009 at 9:00 a.m.

V. Next Status Conference

The next status conference will be held by telephone on July 29, 2009 at 3:30 p.m. The dial-in is 1-866-213-7163 and the conference ID is 17753638.

A handwritten signature in black ink, consisting of a stylized, cursive 'R' followed by a long horizontal line extending to the right.

1. Claim Forms were due on 12/1/07. The Special Master's Office has received 1,664 claim forms. Claims received in Propulsid I which belong in Propulsid II continue to be transferred and entered in the Propulsid II database.
 2. Medical Records were due on 1/30/08. To date, approximately 99% of the claimants who have submitted claim forms have submitted medical records. The defendant has had issues with inadequacies associated with the submissions and has requested that the Special Master continue efforts to ensure that the medical record submissions meet the requirements of the Program.
 3. Claimant memorandums were due on 3/30/08. To date, the Special Master's Office has received 10% of these on Tier claims.
 4. Administrative claims began being processed on 4/1/08. To date, 312 of these claims have been paid and proceeds forwarded to claimants.
 5. The Special Master's Office began clearing claims for defense briefing on 5/31/08. The most recent batch of expedited claims was cleared on June 24, 2009 and it is anticipated that the next batch of expedited and non-expedited will be cleared by June 30, 2009.
 6. The Special Master's Office began receiving defense memorandums on August 22, 2008.
 7. Expedited claims began going to medical panels on August 28, 2008. Disbursements began on December 23, 2008 regarding administrative payments on any of these claims which were declared ineligible. The most recent batch was disbursed on May 20, 2009. The next batch is anticipated
- 

to be released to defense counsel for approval for payment by July 3, 2009.

8. Non-expedited claims began going to medical panels on September 27, 2008 and administrative payments on any of these claims which were declared ineligible began on December 23, 2008. The next batch is anticipated to be released to defense counsel for approval for payment by July 3, 2009.

9. Payment of claims which are declared eligible will begin as soon as they are cleared by the panel and the required documentation has been submitted.

10. Panel review status:

Total to Panel: **125** (of that, **122** are expedited)

In review: **14** (of that, **14** are expedited)

Ineligible: **111** (of that, **108** are expedited)

The Special Master agrees that this is a correct and reasonable projected timeline with the caveat that it is based on and assumes timely filings by claimants and the defendant.

We are also advised that while there is a heavy concentration on completing the First Program, steady activity is maintained in the Second Program. The Special Master's office continues to process status reports and deficiency notices to plaintiff counsel and as resolutions are received, claims are cleared for defense briefing. Duplicate enrollments and claim submissions are also being processed and resolved.

Respectfully submitted,

Richard J. Arsenault

RICHARD J. ARSENAULT

