

MINUTE ENTRY
FALLON, J.
August 14, 2003

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, August 14, 2003 at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Russ Herman, Leonard Davis, Arnold Levin, Charles Zimmerman, Bob Wright, Rebecca Cunard, Julie Jacobs, Dawn Barrios, Richard J. Arsenault, Blaine Barrilleaux, Robert Caluda, and Virginie Ramirez. In attendance for the Defendants were James Irwin, Thomas Campion, Charles Preuss, Billy Murphy, and Monique Garsaud. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 25 of Plaintiffs' and Defendants' Liaison Counsel.

1. Update to Rolling Document Production and Electronic Document Production

Plaintiffs' Liaison Counsel ("PLC") advised the Court that Defendants would provide the Court with corrected CDs within a week of the status conference. PLC and Defendants' Liaison Counsel

("DLC") advised the Court that no further document production was contemplated beyond the corrected CDs.

2. State Liaison Counsel

State Liaison Counsel ("SLC") advised the Court that it had no new information to report.

3. Plaintiff Profile Forms and Authorizations

Defense Liaison Counsel ("DLC") advised the Court that as of August 6, 2003, the defendants had received 2,308 PPFs, 208 are overdue, and 5 will become due within 30 days. DLC further advised that within 14 days it would bring a motion before the Court to dismiss those plaintiffs who had failed to comply with this Court's orders regarding PPFs.

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

PLC indicated that the Medicom certificate had been received was received on July 14, 2003.

As for the Degge Group, the Court advised that the motion for reimbursement of funds pursuant to Federal Rule of Civil Procedure 45 was under submission, and that the Court would be ruling on this issue.

6. Motion for Class Certification

DLC advised the Court that it had provided PLC with a proposed scheduling order for disposition of remaining class certification issues and would soon submit a draft pretrial order outlining

these issues. PLC and DLC advised that it was confident this Court should make the determinations on individual class certification motions.

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

PLC and DLC advised they were working together to resolve any outstanding issues. The Court advised parties to work together on stipulations for depositions and documents and to bring any matters requiring a ruling to the Court's attention.

8. Trust Account

The Court advised that the PSC's Motion for Release and Disbursement of Funds from the Registry of the Court [Record Doc. No. 1210] was still pending because remaining issues needed to be resolved between the SLC and PLC. The Court ORDERED SLC to submit a written brief stating its position no later than 10 days from the date of this Minute Entry. The Court FURTHER ORDERED PLC to submit any response within 5 days of the SLC's brief. All submissions to the Court on this issue shall be filed under seal. The Court will thereafter rule on the matter.

9. Declassified Documents

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

10. Mediation

PLC advised the Court that 13 cases were mediated during the first week of August, 2003. One case was successfully resolved, and PLC advised that it hoped to report on additional settlement offers within a week of the status conference. The Court again urged the parties to seek global resolution of the cases, rather than a case-specific approach.

11. Trial of Louisiana Cases

DLC advised the Court that seven Eastern District of Louisiana cases had been selected to go forward with trial preparation. DLC indicated that individual counsel for the plaintiffs had been contacted to begin scheduling matters. The Court indicated that it would in due course set a conference with these attorneys in open court to address scheduling of matters. The Court advised counsel that it desired that cut-offs for discovery and pretrial motions be set well in advance of any trial dates and that common dates be selected for all cases. PSC advised that it was in the process of preparing trial packages for the individual plaintiff's attorneys in this case.

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 discussion.

14. Motions to Withdraw

Counsel advised the Court that no new motions to withdraw had been received and that this item may be removed from the agenda.

15. Motion to Withdraw in the Matter of Donald Anderson, Civil Action 02-3518

This matter has been resolved and may be removed from the agenda.

16. Motions to Enforce Subpoenas

DLC advised that it had brought motions to compel production of documents pursuant to several subpoenas duces tecum issued to the Social Security Administration and Rite Aid Corporation

in several of the cases set for trial in the Eastern District of Louisiana. The Court advised that it had scheduled a telephone conference with all counsel on these issues for August 21, 2003 at 3:30 p.m.

17. Global Application of Daubert

DLC indicated that it had been discussing a process with the PLC for implementation of this Court's *Daubert* ruling in the *Brock* case in other MDL cases. DLC indicated it would shortly be presenting PLC with a draft pretrial order outlining its position. PLC would thereafter respond to the proposal.

16. Scheduling of Next Pretrial Status Conference

The next pretrial status conference will be held on Thursday, September 25, 2003 at 9:00 a.m.