

MINUTE ENTRY
FALLON, J.
SEPTEMBER 18, 2008

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. 67 of Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC). This conference was transcribed by Ms. Toni Tusa, Official Court Reporter. Counsel may contact Ms. Tusa at (504) 589-7778 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.

II. Trust Account

No deposits have been made into the Trust Account since the last status conference.

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___ Fee _____
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___ Cir/Dep _____
___ Dec. No _____

III. 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 reports that there are over 11,000 claimants who enrolled, but did not submit claims forms. The Special Master filed a Motion to Dismiss such claimants. Following discussions with the parties and after further consultation with the Court, the Special Master, on August 1, 2008, filed an Amended Motion for Order Dismissing, With Prejudice, All Plaintiffs in First MDL Resolution Program who have not submitted claim forms. Previously, on June 18, 2008, the PSC forwarded a draft of the Motion to plaintiffs' counsel whose clients were subject to the Motion and advised counsel that they had two weeks to contact the Special Master if they had any issue with the lists of plaintiffs/claimants subject to the Motion. The Amended Motion requested that once the Court enters an Order dismissing the plaintiffs listed on Exhibit A to the motion, the time limitation to seek removal from the Order shall be thirty (30) days. On August 15, 2008, the Court granted the Motion and ordered the claimants dismissed with prejudice. This matter may be removed from the Joint Report.

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 2,254 Tier I, II, and III claims to the medical panel for review. Of the 2,254 claims, Defendants have treated 1,955 on an expedited basis. Twenty-one (21) of the tiered claims submitted to the Panel have been found eligible by the panel, and the Special Master has made those awards. Two hundred and sixty-one (261) of the tiered claims are still in review by the Panel, 246 of which are considered expedited by the

Defendants.

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 awards, 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. As to all awards made after April 14, 2008, the 50% holdback remains in place.

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

IV. 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 matter, currently scheduled for hearing

on September 24, 2008, at 9:00 a.m., has been continued, to be reset for hearing at a later date.

On March 2, 2006 Dumas & Associates Law Corporation filed a Motion for Common Benefit Fees and Expenses Reimbursements. On April 4, 2006, the PLC filed a response to the motion. A hearing date has not been set.

V. Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee

On August 5, 2008, Robert J. Caluda and A.J. Rebennack expressed interest in filing a Motion for Leave to File Motion for Reimbursement of Costs for Common Benefit to the Class and Committee. Once the matter has been filed, the parties will have an opportunity to respond and a hearing date will be set.

VI. Motion and Order for Leave to File Petition Respecting Distribution of Special Master's Award and Affidavit of James R. Dugan, II Under Seal

Douglas R. Plymale and James R. Dugan II have provided the Court with a Motion and Order for Leave to File Petition Respecting Distribution of Special Master's Award and Affidavit of James R. Dugan II under seal. The parties expressed interest in filing opposition. The parties will have ten (10) days to file an opposition. The Court will schedule a hearing on the Motion.

VII. Panelist

A doctor approved by the Defendants as a panel member has been submitted to the PLC. The Plaintiffs will get back to the Special Master and Defendants' counsel with their position. Assuming the panelist is approved by all sides, the orientation meeting will be scheduled in court in the middle part of next week. Special Master Juneau is to coordinate that with the parties and the Court.

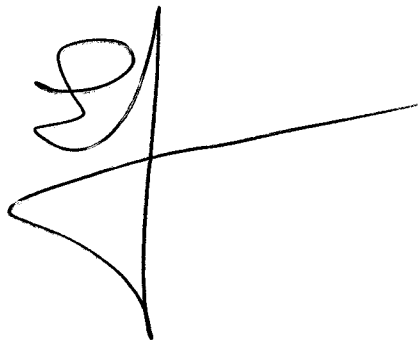
VIII. Government Representative

The Court will confer with Special Master Juneau regarding a date and time to meet with a representative from the government on Medicare/Medicaid liens.

IX. Next Status Conference

The next status conference will be held by telephone on October 14, 2008 at 1:30 p.m. Dial-in information for participation will be posted on the Propulsid MDL website prior to the conference.

The attached Propulsid II timeline for the distribution of funds to claimants shall be filed into the record.

A handwritten signature in black ink, consisting of a stylized 'S' or 'G' shape followed by a vertical line and a horizontal line extending to the right.



"Richard J. Arsenault"

>
09/18/2008 08:25 AM

To

cc

bcc

Subject FW: Propulsid II Timeline (current as of September 18, 2008)

Dear Judge Fallon,

In connection with today's status conference, please find below the most current Propulsid II timeline for the distribution of funds to claimants.

1. Claim Forms were due on 12/1/07. The Special Master's Office has received 1633 forms.
2. Medical Records were due on 1/30/08. To date, the Special Master's Office has received approximately 99% of these medical records.
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 first three groups of expedited claims were cleared for defense briefing on 4/30/08. It is anticipated that the next group of expedited claims will be cleared for defense briefing by September 19, 2008 and full briefing claims will be cleared for defense briefing on September 30, 2008.
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 and administrative payments on any of these claims which are declared ineligible should begin on or about November 30, 2008.
8. Non-expedited claims should begin going to medical panels by September 27, 2008 and administrative payments on any of these claims which are declared ineligible should begin on or about February 1, 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.

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.

Respectfully submitted,