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U.S. DISTRICT COURT  
EASTERN DISTRICT OF LA

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LORETTA G. WHYTE  
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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA**

**IN RE: PROPULSID PRODUCTS** : **MDL NO. 1355**  
**LIABILITY LITIGATION** :  
: **SECTION: L**  
**THIS DOCUMENT RELATES TO** :  
**ALL CASES** : **JUDGE FALLON**

**ORDER FOR THE APPOINTMENT OF A CURATOR PURSUANT TO  
FEDERAL RULE OF CIVIL PROCEDURE 53**

The foregoing Joint Motion for the Appointment of a Curator be considered and after giving notice to the parties that the Court would appoint a Curator; after receiving a suggestion from the parties to appoint Robert M. Johnston of Johnston, Hoefler, Holwadel & Eldridge, 601 Poydras Street, Suite 2490, New Orleans, LA 70130, as Curator; and after receiving an affidavit, attached to this Order as Exhibit A, from Robert M. Johnston swearing that there is no ground for disqualification under 28 U.S.C. § 455;

IT IS ORDERED BY THE COURT, pursuant to Federal Rule of Civil Procedure 53, that said Motion be and is hereby granted appointing as Curator, Robert M. Johnston (the "Curator"). The Curator shall proceed with all reasonable diligence and shall exercise his/her rights and responsibilities as follows:

- (1) That the Curator shall assist the Pro Se Plaintiffs by explaining their options regarding the prosecution of their Propulsid lawsuits. The Curator shall make the MDL Term Sheet, Enrollment Form, Claim Form, Medical Authorization Form, and Notice of Election Form available to the Pro Se Plaintiffs, and shall assist the

Fee \_\_\_\_\_  
Process \_\_\_\_\_  
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Doc. No. \_\_\_\_\_

Pro Se Plaintiffs with any questions they have regarding these forms, including, in the case of wrongful death claims, guidance in obtaining and executing the necessary forms granting claimant access to decedent's medical records.

- (2) That the Curator, subject to the approval of the Special Master, shall have the authority to engage support personal to assist in the discharge of the responsibilities set forth herein.
- (3) That the Curator shall be compensated from the Administrative Fund in the amount of \$250/hour for his services and \$175/hour for the services of his associates.
- (4) Additional administrative personnel may be hired as necessary, subject to the prior approval of the Special Master and notice to the Parties as to name, qualifications and proposed compensation.
- (5) That the Curator shall submit itemized bills on a bi-monthly basis to the Special Master for approval. Copies shall be submitted to the Parties.
- (6) That the Curator shall submit to the Court, with copies to the Special Master and the Parties, bi-monthly reports with respect to his/her administration and management of the Program as set forth below.
- (7) That if the Curator has questions regarding administration or management of the Program, the Curator shall contact the Special Master in the first instance, and then contact the Court and the Parties as the Special Master deems appropriate. Subject to the Special Master's prior approval, the Curator may communicate ex parte with the Court.

- (8) That the Curator may initiate contact and communicate with Parties, any pro se plaintiff, or counsel for any plaintiff, as the Curator deems appropriate, with respect to the efficient administration and management of the Program. Such communications, however, shall not involve the substance or merits of a lawsuit.
- (9) That the Curator shall keep a log of calls received from pro se plaintiffs. The log shall include the name and contact information for the pro se plaintiff and the date of the communication. The Curator should also retain any and all written information obtained from pro se plaintiffs.
- (10) That the Curator shall not have the authority to:
- (a) Issue binding decisions with respect to enrollment in the MDL resolution program.
  - (b) Issue extensions of time with respect to compliance with the Order to Show Cause.
- (11) That the Curator and Curator's support personnel shall be bound by confidentiality provisions of Sections 11 and 24 of the Term Sheet.
- (12) That the Curator shall serve until such time as the Special Master, subject to the approval of the Parties, and if necessary, the MDL Court, shall determine the services of the Curator are not longer needed for the efficient management of the Program.

IT IS SO ORDERED.

New Orleans, Louisiana, this 5<sup>th</sup> day of ~~May~~<sup>June</sup> 2006



JUDGE ELDON E. FALLON  
UNITED STATES DISTRICT COURT JUDGE