

**MINUTE ENTRY**  
**FALLON, J.**  
**April 26, 2005**

**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 on this date in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Russ Herman, Leonard Davis, Arnold Levin, Charles Zimmerman, James Dugan, Dawn Barrios, Daniel Becnel, Barry Hill, Richard Arsenault, Julie Jacobs, Stephen Murray, Bob Wright, Carroll Ingram, Jim Capretz, Troy Rafferty, Paul Pennock, and Chris Seegar. In attendance for the Defendants were James Irwin, Churck Preuss, Thomas Campion, and Monique Garsaud. Special Master Patrick Juneau was also in attendance. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 40 of Plaintiffs' and Defendants' Liaison Counsel.

1. State Liaison Counsel

State Liaison Counsel advised the Court that they remain in close contact with the DLC and PLC as the settlement program evolves. State Liaison Counsel further advised that they are in the process of determining how many state cases are pending around the country. State

Liaison Counsel is in communication with counsel in these matters.

Following the status conference, the Court met with Dawn Barrios and Richard Arsenault of the State Liaison Counsel, Arnold Levin and Charles Zimmerman of the Plaintiffs' Liason Counsel and the Defendants. The Court discussed beginning negotiations on a second settlement program for the state claims.

2. 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, and *pro se* plaintiffs.

3. Trust Account

Since the last status conference, there has been no activity with respect to the Trust Account.

4. Trial Schedule

The DLC reported that there have been no other changes to the trial schedule since last month's Status Conference. The DLC will continue to update the PLC if and when the schedule is revised.

5. Pharmacy Indemnity Agreements

There have been no pharmacy indemnity agreements executed by defendants since the last status conference. DLC advised that it continues to produce copies of all pharmacy indemnity agreements to the PLC.

6. MDL Mediation and Resolution Program

The parties reported that the enrollment process is complete and the minimum levels of enrollment have been met. Thus, the time in which to submit Claim Forms has begun and will run until August 11, 2005. The Court has updated its website with a revised Claim Form and

with the corrected service information. Patrick Juneau, the Special Master, reported that his office is mobilizing itself to receive Claim Forms and medical records. Mr. Juneau also reported that he foresees no problems with the process thus far.

Mr. Juneau also reported that he has been in contact with the government and that the government has committed to participating in the process. Once the information is available, Mr. Juneau will forward to the government the information they need to analyze their claims. The Court indicated that it will schedule a status conference with the government to discuss resolution of its claims once the information is made available.

The parties also reported that the balance of the funds for the Administrative Fund has been deposited. The parties also reported that the Escrow Agreement for the Settlement Fund has been reached and the initial funds deposited. The PLC indicated that it will submit a Motion regarding distribution of the attorney's fees in within ten days of this status conference.

7. Global Application of Daubert

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

8. Motion for Summary Judgment

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

9. Pro se Plaintiffs

The DLC provided to the Court an updated list of pro se plaintiffs that are active in this litigation. The parties reported that they are discussing the issues and plan to present a proposed Order setting forth procedures for notice to pro se plaintiffs and suggestions for how their cases should be managed from this point forward.

10. Verilaw/Lexis Propulsid Litigation Migration

On April 11, 2005, the Propulsid information that had been electronically uploaded to Verilaw was successfully migrated to the Lexis/Nexis File-N-Serve system. The parties reported a glitch in the system regarding the absence of a case name identifier on email correspondence from Lexis/Nexis. The parties shall schedule a meeting in Chambers with Lexis/Nexis to address this problem.

11. Remand Motions

Pending before the Court are the Motions to Remand of three plaintiffs (*Helena Masluk, #04-1278; Marion Bucaria for the Estate of Thomas Bucaria, #04-1277; and, Judy Ridgway for the Estate of Kenneth Ridgway, #04-1809*) represented by the law firm of Weitz & Luxemberg. The Court timely received Defendants' opposition.

The Defendants also filed four Motions for Summary Judgment set for hearing on May 25, 2005, regarding the following plaintiffs: *Manuel Fernandez, individually and as Administrator for the Estate of Catherine Fernandez, #04-1805; Robert Day and Wanda Day, #03-3039; Andrew Wiznia, Individually and as Executor of the Estate of Sidney Wiznia, #04-1280; Allison Case, on behalf of Evan Case, an Infant, #03-3025.*

At the request of Counsel, the Motions to Remand and the Motions for Summary Judgment are hereby CONTINUED without date, pending further discussions between the parties. The parties shall advise the Court on these matters at the next monthly status conference.

12. Proposed Remand Order

The Defendants are preparing a draft of a proposed Master Remand Order and will circulate it to the PSC for discussion.

14. Next Pretrial Status Conference

The next pretrial status conference shall be held on Tuesday, June 28, 2005, at 9:00 a.m.