

MINUTE ENTRY  
FALLON, J.  
June 21, 2001

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

	:	MDL NO. 1355
IN RE: PROPULSID	:	
PRODUCTS LIABILITY LITIGATION	:	SECTION "L"
	:	
.....	:	JUDGE FALLON
	:	JUDGE AFRICK

THIS DOCUMENT RELATES TO ALL CASES:

A pretrial status conference was held June 21, 2001 at 9:00 a.m. in the courtroom of Judge Eldon E. Fallon. In attendance for Plaintiffs were Richard J. Arsenault, Dawn Barrios, Daniel E. Becnel, Rebecca Cunard, Leonard Davis, James Dugan, Kim Evers, Barry Hill, Julie Jacobs, Fred Longer, Carlos Prietto, A. J. Rebennack, Paul D. Walther, Bob Wright, and Charles Zimmerman. In attendance for Defendants were Thomas F. Campion,, James B. Irwin, Miriam McMichael, Quentin Urquhart, and Virginia Trainor. At the conference, counsel reported to the Court on the topics set forth in Joint Report No. 8 of Plaintiffs' and Defendants' Liaison Counsel.

1. Master Complaint/Answer

Liaison Counsel advised the Court that they have exchanged position papers regarding the filing of a Master Complaint and Answer and are working toward resolution of this issue.

2. Update to Rolling Document Production and Electronic Document Production

Liaison Counsel informed the Court that Defendants delivered approximately 551,355 pages of

documents on CD-ROM to Plaintiffs on June 15, 2001 thereby increasing to date the total number of pages produced on CD-ROM to 2,768,207. Defendants expect to complete domestic document production by the beginning of July and plan to begin foreign document production soon thereafter.

Counsel explained that they are working toward the production of electronic data and expect to begin production in several weeks. Moreover, the parties are continuing to discuss a nominee for a Special Master as required by Section H-3 of PTO-10.

3. Electronic Service/Verilaw

The parties indicated that they have agreed to purchase additional security measures from Verilaw for documents that are served electronically and will share the costs.

4. State Liaison Counsel

State Liaison Counsel advised the Court of the progress of coordinating state cases. To further cooperation with coordinate state litigation, the Court scheduled a meeting with members of the State Liaison Counsel to be held following the next monthly status conference on August 3, 2001. In addition, the Court requests that David Jacoby attend the August 3, 2001 status conference to report on the status of Propulsid litigation in New Jersey.

5. 30(b)(6) Deposition Regarding Corporate Organization

Liaison Counsel indicated that the 30(b)(6) deposition of Dirk Reyn, designated corporate representative of the Beerse operation, proceeded in Belgium on June 5, 2001.

6. Plaintiff Profile Forms and Authorizations

Defense Liaison Counsel noted that as of June 15, 2001 defendants have received 349 Patient Profile Forms while 102 are currently overdue and 26 PPF's will become due within thirty (30) days.

PLC and DLC continue to communicate with Plaintiffs' attorneys whose PPF's are overdue. DLC advised the Court of its intent to present for dismissal at the August 3, 2001 status conference the names of plaintiffs who have failed to respond to follow-up requests for completion of the PPFs.

7. Depositions in State Matters that have been Cross Noticed

Counsel explained that no depositions have been cross-noticed in MDL 1355 since the last monthly status conference although depositions in state cases have proceeded. PSC has requested that DLC provide advance notice of all depositions to be taken in Propulsid matters to PLC in advance of the depositions whether or not the deposition is cross-noticed into the MDL. DLC has agreed to provide advance notice to PLC of all depositions of Janssen employees (excluding sales representatives) whether the deposition is cross-noticed in the MDL. The Court also recommended that counsel post notice of all depositions on the electronic service calendar. In addition, Defendants have agreed to timely provide copies of any depositions already taken in Propulsid cases that have not been cross noticed in MDL-1355.

8. Subpoena to FDA

Liaison counsel explained that on May 30, 2001, Associate Chief Counsel of the FDA forwarded documents responsive to the subpoena to counsel for the Defendants. PLC received the initial wave of FDA documents on June 11, 2001. On June 1, 2001, Associate Chief Counsel to the FDA advised Liaison Counsel that additional documents responsive to the subpoena were being produced. Defendants explain that they will be reviewing this material and providing it to the Plaintiffs.

9. Service List of Attorneys

Liaison Counsel explained that they are communicating with newly enrolled counsel to inform

them of the Court's website, questionnaires, and deadlines. DLC filed a motion requesting that newly enrolled defense counsel complete an electronic questionnaire. DLC also presented a master list of all counsel to the Court.

10. Ongoing Studies

The parties stated that they are continuing to discuss the development of a protocol for the production of ongoing studies and expect to resolve the issue prior to the August 3, 2001 status conference.

11. Third Party Subpoena Duces Tecum Issued by PSC

Counsel explained that the PSC issued 43 subpoena Duces tecum to various advertising, publishing, public relation firms on May 30, 2001. Twelve have been returned and one raises an objection. DLC indicated that Liaison Counsel are working to create a pretrial order establishing a protocol for managing information received from third parties to whom subpoenas are issued.

12. Scheduling Presentation of Class Certification Motion

Liaison Counsel explained that they are drafting a proposed schedule for presenting to the Court issues related to a motion for class certification.

13. Documents Described in the Court's Docket as "Sealed documents"

Liaison Counsel submitted to the Court a joint motion providing for the court docket to identify the name of the party filing a confidential document and the name of the document filed under seal.

14. Tolling Agreement

Liaison Counsel reported that all Plaintiffs' counsel have been forwarded copies of a tolling agreement and have been informed that they should contact the DLC if they desire to enter into a tolling

agreement on behalf of their clients.

15. Defendants' Request for Production of Documents

Liaison Counsel indicated that on May 22, 2001 DLC forwarded to PLC the Defendants First Request for Production of Documents concerning information related to ongoing studies. PLC is preparing a formal response. Additionally, DLC forwarded to PLC a Defendants' Merits Request for Production of Documents - Set No. 2 on June 5, 2001.

16. Listing of State Cases

Counsel reported that DLC has agreed to provide PLC a complete list of all state cases which shall include the names and addresses of counsel, the claimant, and caption of the case on a monthly basis. DLC provided the first listing of state cases to the Court.

17. Internet Depositions

The Court received comments from counsel regarding the posting of information on an internet deposition service on the Court's website.

18. Cross Claims/Answers

The Court ruled that the general extension for answers to complaints referenced in paragraph 7 of PTO-1 also applies to cross claims.

19. Discovery to Consumer Plaintiffs

The Court indicated that all Plaintiffs involved in MDL 1355 should complete PPF's.

20. Uniform Certificate of Service

DLC explained the need for a Uniform Certificate of Service so that counsel are aware of the various services requirements of MDL 1355. Liaison Counsel are preparing a Uniform Certificate of

Service to be submitted to the Court for approval and posting on the Court's website.

21. Scheduling of Next Pretrial Status Conference

The next pretrial status conference will be held on Friday, August 3, 2001 at 9:00 a.m.

Following the conference, the Court will meet with the PSC, State Liaison Committee, and the DLC.