

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

IN RE: PROPULSID : **MDL NO. 1355**
: **PRODUCTS LIABILITY LITIGATION** : **SECTION: L**
: **JUDGE FALLON**
: **MAG. JUDGE AFRICK**
THIS DOCUMENT RELATES TO ALL CASES :
:
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**JOINT REPORT NO. 6 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Report No. 5.

I. Virtual Document Depository - (Minute Entry, November 16, 2000)

Plaintiff and defendants continue to discuss issues regarding a virtual document depository.

II. Master Complaint/Answer - (PTO 2 - VI(B))

On March 22, 2001 the PLC delivered to DLC a draft of the Plaintiffs Position Paper Regarding the filing of a Master Complaint and Answer. DLC has advised that they will be offering comments to PLC

with respect to the plaintiffs position paper. PLC and DLC will address this with the court at the status conference.

III. Update of Rolling Document Production - (PTO 2 - IX)

DLC advises that the next production of documents will be rolled out the week of April 16, 2001 with the delivery of documents and associated data on CD-ROM. The production will also include video tapes and other media. The documents produced at this time primarily include files from Customer Action Center, Regulatory, and Medical Affairs. Other documents include a few marketing documents carried over from the prior production and limited pharmacology and other files. With this production, the total number of documents produced on CD-ROM so far will be 1,517,188 pages. This total does not include more than 15,000 pages of documents produced in paper form, primarily in connection with depositions

On March 23, 2001 PLC forwarded to DLC a sequencing request for the production of foreign materials responsive to discovery requests. A written response has not been received regarding this request, however, the defendants will attempt to accommodate the desired sequencing request. At this point, document collection and indexing is incomplete, and the defendants are presently unable to determine the availability of documents with respect to the categories identified by plaintiffs. Moreover, some categories are subject to the pending Motion to Compel and defendants' Objections. As an index is developed, the defendants will meet and confer with PSC to review the collection and identify document groups that fit within the plaintiffs' sequencing stages.

IV. Electronic Service/Verilaw - (PTO 2- IV(C)(C))

Documents have been electronically served through Verilaw. PLC and DLC do not believe that further discussion regarding this issue is needed at status conferences unless issues arise.

V. State Liaison Counsel - (Minute Entry, November 16, 2000)

State Liaison Counsel have participated in coordination telephone calls, depositions and document review.

VI. Electronic Document Production Motion/Briefing/Hearing Status

The parties have had a number of meetings to develop an agreed protocol for the preservation and production of electronic documents. Most recently the parties met in San Francisco, California during the week of March 26, 2001 and had numerous telephone conferences thereafter. The parties have resolved issues regarding the preservation of domestic electronic data. Section D, Paragraph 7 of the proposed protocol sets forth an agreement in principle among the parties as to the preservation of international electronic data providing that the parties will meet and confer as necessary to address preservation procedures necessitated by the practical limitation of international computer systems. The parties have had further discussions regarding the production of electronic data. A number of technical issues are being discussed. PLC and DLC will be prepared to report to the court on the particulars of these issues with more detail at the monthly status conference. On March 29, 2001 DLC sent a letter to PLC requesting consent from the plaintiffs to submit the names of international custodians to the Court in camera. The parties will meet and confer on the question of this in camera submission, and failing agreement, the defendants will submit a motion for the Court's consideration requesting that these names be submitted in camera.

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

On February 22, 2001 PLC forwarded to DLC a draft of a 30(b)(6) deposition notice regarding foreign corporate organization. PLC is waiting for DLC to advise when a representative will be produced.

Defendants are gathering documents in Europe pursuant to the draft notice and intend to produce as many of them as possible in advance of the actual deposition. Defendants will continue their discussions with PLC to schedule an appropriate time.

VIII. Patient Profile Form and Authorization

As of Friday, April 13, 2001, defendants have received 174 Patient Profile Forms (PPFs). 214 are currently overdue and 94 PPFs will become due in thirty (30) days or less.

IX. Depositions in State Matters that have been Cross Noticed

The deposition Alan Josyln, Ph.D., Janssen Director of Global Clinical Research and Development was taken in state court litigation and cross-noticed in the MDL. The deposition occurred on April 2, 3 and 4, 2001 and representatives of the PSC were present. Defendants have also cross-noticed the depositions of (1) Gary Pruden, Janssen Director of Marketing for April 25-27, 2001 and (2) Stephen Spielberg, M.D., Janssen Vice President of Pediatric Drug Development for May 10-11, 2001. All of these depositions were cross noticed subject to the MDL's reservation of rights to retake the depositions.

X. Subpoena to FDA

On March 9, 2001 the plaintiffs served upon the Food and Drug Administration (FDA) a subpoena requesting a number of documents in the possession of the FDA. Counsel for the FDA has been in communication with PLC and DLC regarding the responses. PLC and DLC have agreed upon a production protocol and the FDA is in the process of gathering documents responsive to the subpoena. It is expected that an initial wave of documents from the FDA will be produced by April 15, 2001.

XI. Plaintiffs Time and Billing Matters

PLC will be prepared to provide to the court an update regarding plaintiff's time and billing expense matters.

XII Service List of Attorneys

PLC and DLC believe it would be beneficial to establish one master list of counsel of record in the MDL. A protocol needs to be developed with the courts so that PLC and DLC are systematic informed about new counsel of record. PLC maintains a service list based upon Verilaw questionnaires. PLC and DLC routinely meet and confer to coordinate the service list but have concerns that the service list they prepare may not be as comprehensive as the court's and therefore would suggest that a method be developed so that one service list based upon the input of the court, PLC and DLC be maintained. This service list would also be uploaded to Verilaw and would set forth all plaintiffs counsel and defense counsel in the litigation.

XIII. Defendants Liaison and Lead Counsel - (PTO2-V(C))

PTO2 designated Thomas F. Campion and Charles F. Preuss as defendants co-lead counsel, and James B. Irwin, as liaison counsel for the pharmaceutical defendants. Since the entry of PTO2 additional defendants counsel have joined MDL-1355 as a result of the filing, removal and consolidation of various actions. Additional defense counsel are now of record. These defense counsel are not counsel for the pharmaceutical defendants. PLC and DLC desire to discuss with the court the responsibilities described in Section V(A) 1-7 of PTO2 as it pertains to defense counsel other than Thomas F. Campion, Charles F. Preuss and James B. Irwin.

Respectfully submitted:

/s/ Russ M. Herman

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing has been served on defendants liaison counsel, James Irwin by hand delivery or electronically and upon all plaintiffs counsel of record electronically or by electronically being uploaded to Verilaw in accordance with Pre-Trial Order No. 4, this 17th day of April, 2001.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

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PRODUCTS LIABILITY LITIGATION :
 : SECTION: L
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Monthly Status Conference April 19, 2001 9:00 a.m.
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AGENDA

Current Matters:

1. Virtual Document Depository
2. Master Complaint/Answer
3. Update of Rolling Document Production
4. Electronic Service/Verilaw

5. State Liaison Counsel
6. Electronic Document Production Motion/Briefing/Hearing Status
7. 30(b)(6) Deposition Regarding Corporate Organization
8. Plaintiffs Profile Form and Authorization
9. Depositions in State Matters that have been Cross Noticed
10. Subpoena to FDA
11. Plaintiffs Time and Billing Matters

New Matters:

1. Service List of Attorneys
2. Defendants Liaison and Lead Counsel
3. Pretrial Order Providing for the Discovery of Ongoing Studies