



DLC is preparing and will file by week's end a Motion to Dismiss with Prejudice as to the overdue PPFs. DLC will set the matter for hearing at the Court's next regular hearing date.

**IV. Service List of Attorneys**

The parties will present the Court with the most current Master List of all Counsel, which will contain, where available, e-mail addresses.

**V. Third Party Subpoena Duces Tecum**

At the April 25, 2003 Status Conference, the Court directed the Defendants to obtain a certification and provide additional documents as to the production in connection with the subpoena duces tecum issued to Dr. Zipes. On May 13, 2003, defendants forwarded additional documents responsive to the subpoena duces tecum and thereafter provided a certification from Dr. Zipes. On May 16, 2003 PLC wrote to DLC and requested further information concerning the production. The parties will be prepared to discuss this matter at the May 22, 2003 monthly status conference.

On April 22, 2003, a representative of the Plaintiffs' Discovery Team went to Ingenix and began reviewing the production of Ingenix materials at the company's office in Eden Prairie, Minnesota. On May 13, 2003, counsel for Ingenix, Louise Dobbe, forwarded to PLC certain documents requested by PLC.

On May 13, 2003, counsel for McKinsey & Company wrote PLC and advised they were experiencing a delay in the production of documents responsive to the subpoena duces tecum issued by the PLC. PLC was advised by counsel for McKinsey that the documents should be sent out without much delay. PLC awaits receipt of the documents. The parties will be prepared to discuss this at the May 22, 2003 monthly status conference.

Medicom has represented in writing to PLC that the company has no documents responsive to the subpoena. On April 4, 2003, Defendants forwarded a certification to Lynn Sturgis of Medicom. Ms. Sturgis has represented to Defendants that prior to executing the document she needs her company's attorney to review the certification. Defendants have contacted Ms. Sturgis on several occasions regarding the status of such certification and are awaiting her response.

The Degge Group has advised that a large number of the documents responsive to the subpoena duces tecum will be available beginning May 22, 2003 at the office of their counsel, Leon Taranto. A representative of the Plaintiffs' Discovery Team will begin reviewing the documents produced in response to the subpoena duces tecum. The parties will be prepared to discuss this at the May 22, 2003 monthly status conference.

**VI. Motion on Class Certification.**

The parties will be prepared to discuss this at the May 22, 2003 Monthly Status. Class representative, Virginia Jones, died recently. PLC maintains that the remaining class certification issues are not ripe for briefing and hearing. Defendants maintain that the remaining class certification issues are ripe for briefing and hearing and requests that they be placed on the Court's calendar.

**VII. Plaintiffs' and Defendants' Respective Requests for Production of Documents**

On December 23, 2002, PLC served upon DLC Request for Admissions and Interrogatory regarding business records of Defendants. DLC has produced five waves of admissions and objections and advises that they have completed the responses. PLC is reviewing the adequacy of the responses. The parties will be prepared to discuss this further at the May 22, 2003 Monthly Status Conference.

On February 17, 2003, PLC served upon DLC a Motion to Compel Production of Documents of Sales Force. On April 15, 2003, DLC confirmed in writing to PLC that the hard copy documents were previously produced. The parties are scheduling a meeting to discuss whether the production of electronic materials should be addressed in a remand order, which would preserve this issue for the transferor court on an as-needed, case specific basis.

PLC previously filed with the Court a Motion to Compel regarding Norcisapride. The parties have been engaged in the additional discovery that was agreed upon. At the present time, there is no action to be taken regarding this motion, and, upon completion of the agreed upon discovery, the parties will advise the Court further.

On January 24, 2003, PLC served upon DCL Plaintiffs' Merit Interrogatories to Defendants, Janssen Pharmaceutica Inc. and Johnson & Johnson - Set No. 7. The First Response was filed by defendants on April 21, and this response was to be supplemented within one week and concluded in May. PLC awaits receipt of this information before it can judge the adequacy of any responses. The parties will be prepared to discuss this at the May 22, 2003 monthly status conference.

#### **VIII. Trust Account**

In accordance with Pre-Trial No. 16 Defendants continue to deposit settlement funds into the Court's Registry. On April 21, 2003, the PLC filed with the Court the Motion of The Plaintiffs' Steering Committee For Release and Disbursement of Funds from Deposits Made to the Registry of the Court Pursuant to Pretrial Order No. 16. The matter was set for hearing May 5, 2003, at 10:00 a.m., and the motion was granted. PLC will be bringing an additional motion in the near future.

**IX. Declassified Documents**

The parties have nothing new to report since last month's Status Conference.

**X. Mediation**

Various plaintiffs have submitted medical records and related materials ("settlement brochures") to DLC for purposes of settlement or mediation of their claims for wrongful death or serious injury. No mediations have occurred or been scheduled since the last status conference, but the DLC is attempting to coordinate with PLC and Mr. Juneau available dates to schedule available dates for additional mediations at this time. DLC advises that as of the filing of this report, 124 settlement brochures have been submitted, and review has been completed on all but 26 of them. Twelve (12) of the brochures were submitted with insufficient medical records, and further records have been requested on them, though one of the claims (for which no records at all were submitted) is now being voluntarily dismissed. Of the completed reviews for which records were deemed sufficient, twelve (12) claims have settled either at or following mediation before Mr. Juneau. Five (5) claims were mediated before Mr. Juneau without resolution. Fifty-one (51) of the completed reviews do not meet the defendants' settlement consideration criteria, and one of the 51 has been dismissed (for a total of 2 dismissals when the insufficient records case dismissal is included.) Currently, of the 124 brochures, eighteen (18) more claims meet the settlement consideration criteria.

**XI. Trial Schedule**

There are no cases set for trial in the United States Court for the Eastern District of Louisiana.

On April 4, 2003, DLC furnished PLC with a list of upcoming trials throughout the

country through the end of September, 2003. DLC provided a list of counsel involved in these cases and provided a supplement to the list of trials identifying all scheduled trials through the end of the year. Several of these cases involve counsel who have agreed to discovery coordination and are obtaining information from the Plaintiffs' depository and the PLC pursuant to state coordination agreements.

**XII. Pharmacy Indemnity Agreements**

DLC continues to produce copies of all MDL pharmacy indemnity agreements which Defendants have executed to PLC. DLC will continue to furnish such agreements, if any, as they are executed.

**XIII. Verilaw**

The parties have had no further communication from Verilaw since the last status conference. This item may be removed from the agenda.

**XIV. End Game Planning Committee**

Counsel for defendants and representatives of the PSC and the Plaintiffs' Settlement Committee have been discussing a system to formalize criteria and monetary evaluations for those cases which defendants are prepared to mediate. The parties met with the court on May 13, 2003 and have had additional communications since that meeting. The parties plan to report to the Court at the May 22, 2003 Monthly Status Conference concerning the status and efforts to reach such an agreement.

**XV. Patricia Robinson Deposition**

This matter was addressed at the April 25, 2003 status conference and can be removed from the agenda.

## NEW AGENDA ITEMS

### **XVI. Bart/Gallagher Motions to Withdraw**

On April 16, 2003, the attorneys for plaintiffs in the matters of Adams (01-1300), Addison (01-1303), Alford (01-1297), Alix (01-1304), Anderson (01-1298), Ansardi (01-1294), Banks (01-1476), Batiste (01-1299), Blanchard (01-1296), Boudreaux (01-1292), Chesteen (01-1738), Cox (01-1293), Dufrene (01-1295) and Frederick (01-1739) filed Motions to Withdraw as counsel of record. Liaison counsel have discussed the status of these pending Motions. PSC is contacting Misters Bart and Gallagher. The parties will be prepared to discuss this at the May 22, 2003 Status Conference.

### **XVII. Application of the Daubert Ruling to other Plaintiffs**

The parties will be prepared to discuss this at the May 22, 2003 Status Conference.

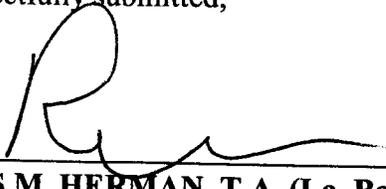
### **XVIII. Motion to Withdraw in the Matter of Donald Anderson, 02-3518**

Counsel for Donald Anderson, et al, Laurence B. Springberg, filed a Motion to Withdraw as Counsel of Record in the U.S.D.C. for the District of Nevada. The Motion was granted on April 15, 2003. Mr. Springberg did not serve Defendants with the Motion, and only recently advised Defendants of the Motion after receiving a PPF non-compliance letter. The parties will be prepared to discuss this further at the May 22, 2003 Status Conference.

### **Agenda**

A proposed Agenda for the May 22, 2003 Monthly Status Conference is attached.

Respectfully submitted,



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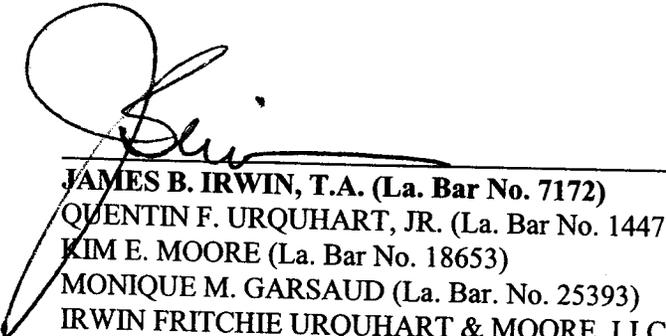
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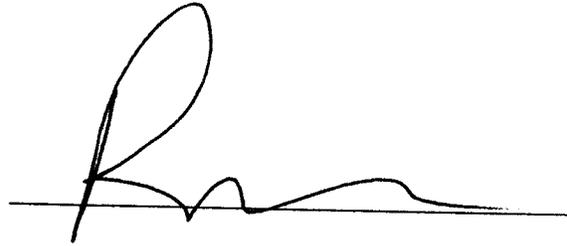
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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 23 of Plaintiffs' and Defendants' Liaison Counsel was served on Defendants' Liaison Counsel by hand and e-mail and by e-service to all parties by uploading same to Verilaw, on this 21st day of May, 2003.

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a series of connected, wavy lines that extend to the right. The signature is written over a horizontal line.



10. Mediation
11. Trial Schedule: Eastern District Trial Settings
12. Pharmacy Indemnity Agreements
13. Verilaw
14. End Game Planning Committee
15. Patricia Robinson Deposition

New Agenda Items

16. Bart/Gallagher Motions to Withdraw
17. Application of the Daubert Ruling to other Plaintiffs
18. Motion to Withdraw in the matter of *Donald Anderson*, 02-3518
19. Agenda