

**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**

**DEFENDANTS' MOTION FOR AN ORDER
DISMISSING WITH PREJUDICE THE CLAIMS OF PLAINTIFFS
WHOSE CLAIMS HAVE BEEN PROCESSED IN THE SECOND MDL
RESOLUTION PROGRAM**

Defendants, Johnson & Johnson and Janssen, L.P., move this Court for entry of an order dismissing with prejudice the claims of plaintiffs whose claims have been processed and finalized in the Second MDL Resolution Programs ("the Program"), and in support of their Motion, state as follows:

1. The Program's Term Sheet, Sections 5C and 16B, state that in the event the Programs' Medical Panels find that a plaintiff is not entitled to payment under the Program, a \$250 payment to defray costs paid for the medical records or assembly of same by the attorney for the plaintiff shall be paid from the administrative fund. The Term Sheet to the First and Second MDL Resolution Programs are attached as Exhibits A and B, respectively, to the Affidavit of Patrick A. Juneau, Esq., Court-Appointed Special Master for the Programs ("Juneau Affidavit"). The Juneau Affidavit is filed concurrently with Defendants' Motion.

2. Attached as Exhibit C to the Juneau Affidavit is a list of plaintiffs who enrolled in the Second MDL Resolution Program and were not found eligible for

payment under the Programs, but whose counsel received a \$250 payment¹ from the Program's Administrative Fund to defray costs paid for the medical record assembly for each plaintiff, in accordance with Sections 5C and 16B of the Term Sheet for the Program.

3. The claims of the plaintiffs listed in Exhibit C to the Juneau Affidavit have been processed and finalized, and the Special Master's Office has issued payment to their counsel to defray the cost of medical records collection, as set forth the Program's Terms Sheet. Their claims are therefore subject to dismissal under Section 4B of the Program's Term Sheet.

WHEREFORE, the Defendants respectfully request that this Court issue an order dismissing with prejudice the claims of the plaintiffs listed on Exhibit C to the Juneau Affidavit.

Respectfully Submitted By:

/s/Monique M. Garsaud

JAMES B. IRWIN, T.A. (La. Bar #7172)
MONIQUE M. GARSAUD (La. Bar #25393)
IRWIN FRITCHIE URQUHART & MOORE
400 Poydras Street, Suite 2700
New Orleans, Louisiana 70130
Phone: (504) 310-2100
Fax: (504) 310-2101
LIAISON COUNSEL FOR DEFENDANTS
JANSSEN, L.P. AND JOHNSON & JOHNSON

DRINKER BIDDLE & REATH LLP
THOMAS F. CAMPION
SUSAN M. SHARKO
500 Campus Drive
Florham Park, NJ 07932-1047
Phone: (973) 549-7300
Fax: (973) 360-9831

¹ Defendants filed a similar motion to dismiss on April 27, 2011. That motion was to dismiss the claims of plaintiffs enrolled in the First MDL Resolution Program. This motion is to dismiss the claims of those plaintiffs enrolled in the Second MDL Resolution Program.

and

DRINKER BIDDLE & REATH LLP
TRACIE MILITANO ROSEN
50 Fremont Street, 20th Floor
San Francisco, CA 94105-2235
Phone: (415) 591-7500
Fax: (415) 591-7510
**CO-LEAD COUNSEL FOR DEFENDANTS
JANSSEN, L.P. AND JOHNSON & JOHNSON**

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Defendants' Motion for an Order Dismissing With Prejudice the Claims of Plaintiffs Whose Claims Have Been Processed in the Second MDL Resolution Program has been served upon all parties by electronically uploading the same to LexisNexis File & Serve, by U.S. mail, certified, return receipt requested, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing on this 1st day of June, 2011. This Motion will also be uploaded to the Court's website at <http://propulsid.laed.uscourts.gov/>.

/s/Monique M. Garsaud _____