

**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' AMENDED MOTION FOR ORDER DISMISSING WITH
PREJUDICE THE CLAIMS OF PLAINTIFFS WHO FAILED TO ENROLL IN
THE 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 who failed to enroll in the First or the Second MDL Resolution Program (“the Program(s)”), as required under Section 3D of the Program’s Term Sheets.

1. The Programs’ Term Sheets, Section 3D, state that counsel for plaintiffs shall not be permitted to enroll less than 100% of the plaintiffs they represent. The Term Sheets to the First and Second MDL Resolution Programs are attached as Exhibits A and B, respectively, to the Affidavit of Tracie Militano Rosen, counsel for Defendants (“Rosen Affidavit”). The Rosen Affidavit is filed concurrently with Defendants’ Motion.
2. Attached as Exhibit C to the Rosen Affidavit is a list of non-enrolled plaintiffs, whose counsel of record enrolled other plaintiffs in one of the Programs.
3. The plaintiffs listed in Exhibit C to the Rosen Affidavit were required to enroll in one of the Programs, as their counsel of record enrolled other plaintiffs in the Programs. The failure to enroll less than 100% of the plaintiffs represented by these plaintiffs’

counsel of record violates the Terms Sheets and constitutes grounds for dismissal of these plaintiffs' claims.

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 Rosen Affidavit.

Respectfully Submitted By:

/s/Monique M. Garsaud

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Amended Motion for Order Dismissing with Prejudice the Claims of Plaintiffs who Failed to Enroll in the 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 13th day of April, 2011. This Motion will also be uploaded to the Court's website at <http://propulsid.laed.uscourts.gov/>.

/s/Monique M. Garsaud _____