

**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 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 First and Second MDL Resolution Programs (“the Programs”), and in support of their Motion, state as follows:

1. The Programs’ Term Sheets, 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 Sheets 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 were found ineligible for payment under the Programs, but whose counsel received a \$250

payment<sup>1</sup> from the Programs' Administrative Funds to defray costs paid for the medical record assembly for each plaintiff, in accordance with Sections 5C and 16B of the Term Sheets for the Programs.

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 Programs' Terms Sheets. Their claims are therefore subject to dismissal under Section 4B of the Programs' Term Sheets.

**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*

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**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

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<sup>1</sup> Plaintiffs represented by Ingram & Associates were subject to a separate agreement regarding medical records reimbursement, and their counsel received \$125 to defray costs paid for the medical record assembly for each plaintiff.

and

DRINKER BIDDLE & REATH LLP  
TRACIE MILITANO ROSEN  
50 Fremont Street, 20<sup>th</sup> 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 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 27<sup>th</sup> 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*

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