

**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 DEEMED INELIGIBLE FOR AWARDS
AND DEEMED INELIGIBLE FOR \$250 PAYMENTS 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 5A, 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 further state that, in order to qualify for the \$250 records reimbursement, a single medical or pharmacy prescription record indicating Propusid® use and a medical condition or injury attributed to Propusid® use, must be produced. 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, and who were found ineligible for a \$250 payment from the Programs' Administrative Funds to defray costs paid for the medical record assembly, in accordance with Sections 5A, 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 fully processed and finalized under the Term 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

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

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 Deemed Ineligible for Awards and Deemed Ineligible for \$250 Payments 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 5th day of May, 2011. This Motion will also be uploaded to the Court's website at <http://propulsid.laed.uscourts.gov/>.

/s/Monique M. Garsaud _____