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EAST DISTRICT OF LA

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

**IN RE: PROPULSID
PRODUCTS LIABILITY LITIGATION**

THIS DOCUMENT RELATES TO ALL CASES

MDL NO. 1355

**SECTION : L
JUDGE FALLON**

MAG. JUDGE WELLS-ROBY

STIPULATION

This Stipulation is agreed to by the undersigned counsel respecting actions in this Court as part of the MDL proceedings against defendants Janssen Pharmaceutica, Inc. and Johnson & Johnson involving the product Propulsid® (hereafter called “MDL Propulsid suits”). The parties wish to provide for the proper use of depositions which have been taken in the MDL Propulsid suits and which are identified in Section 1 hereof (hereafter called “MDL Depositions”) by stipulating to the use of the MDL Depositions in all those cases which are presently on file and/or which cases may be hereafter filed in state or federal courts in which a personal injury or wrongful death claim is advanced against the defendants respecting the use of the product Propulsid®. Any party who uses the depositions listed in this Stipulation and accompanying Order shall agree to submit to the jurisdiction of the United States District Court, Eastern District of Louisiana for the limited purpose of the enforcement of the accompanying Order and shall be bound by Pre-Trial Order No. 5 (Confidentiality Order) as entered by this Court. The parties

agree that the PSC has no responsibility to regulate compliance with or enforcement of Pre-Trial order No. 5 in this regard.

By Pretrial Order No. 2 this Court designated Russ M. Herman to be Plaintiffs' Liaison Counsel. By Pretrial Orders Nos. 2 and 3 this Court established a Plaintiffs' Steering Committee (hereafter "PSC") and appointed its members of whom Mr. Herman was one. The PSC was directed, among other things, to conduct discovery in a consolidated and coordinated manner on behalf of all the plaintiffs. It has done so. The deposition portion of the discovery program started in 2001 and continued until 2003. Depositions were taken in the United States and in several countries in Europe. The persons deposed were past or present employees of one or more of the defendants or of persons whose depositions were requested by the PSC and which were arranged through the efforts of the defendants.

1.

MDL DEPOSITIONS¹

<u>WITNESS</u>	<u>DATE OF DEPOSITION</u>
Atsma, Willem	11/14/02 – 11/15/02
Brown, Pam	5/21/02
Bush, Janice	1/30/02 – 1/31/02
Chen, David	2/18/02 – 2/19/02
DeFilippis, Joe	5/14/02 – 5/15/02
Domann, David	2/27/02 – 2/28/02
Fabbri, David	2/6/02
Gil, Jorge	4/2/02
Given, Bruce	5/31/02
Gorsky, Alex	6/18/02 – 6/19/02
Gheuens, Jan	12/16/02

¹ Neither this list nor this Stipulation and Order apply to any expert deposed in the MDL-1355 Propulsid Litigation. Any deposition respecting those experts deposed in the MDL-1355 Propulsid Litigation may be addressed at a different date.

Jokubaitis, Jen	12/18/01 – 12/19/01
Joslyn, Alan	4/2/01 – 4/4/01, 8/28/02 – 8/29/02
Kerr-Leathem, Deborah	2/10/03
Klausner, Mark	1/31/01 – 2/01/01, 8/15/02 – 8/16/02
Kolaras, Thomas	6/3/02 – 6/4/02
LaSelva, Dominic	3/4/02 – 3/5/02
Lauwers, Ludo	9/30/02 – 10/01/02
Morante, Rita	4/4/02
Mullen, Paul	12/3/02
Norton, David	11/14/02
Panico, Greg	6/19/02 – 6/20/02
Parier, Jean-Loup	6/6/02 – 6/7/02
Pesco-Koplowitz, Luana	5/22/02 – 5/23/02
Pritchard, Kip	2/12/02
Pruden, Gary	4/25/01 – 4/27/01
Rasmussen, Pam	4/17/02
Reardon, John	3/12/01 – 3/13/01, 12/11/01 – 12/12/01
Reyn, Dirk	6/5/01, 9/26/02 – 9/27/02
Robinson, Patricia	5/17/02
Robinson, Rob	4/30/02
Rouleau, Gaetan	3/13/02 – 3/14/02
Sloan, Sheldon	5/14/02
Smith, Riley	3/11/02 – 3/12/02
Sokolowski, Dorothy	3/20/02
Soons, Paul	6/3/02 – 6/4/02
Szabo, John	3/12/01
Tanca, Valentino	10/17/02
Vermuelen, Robert	9/24/01 – 9/25/02
Vervaet, Piet	1/16/03 – 1/17/03
Weldon, William	1/10/03
Wilson, Rickey	4/15/02 – 4/16/02
Zoka, Ramineh	7/23/02
Zollo, Steve	9/17/02 – 9/18/02

2.

The parties acknowledge and agree that the taking of the MDL Depositions has been controlled by Pretrial Orders Numbers 2, 5 and 7 entered in this proceeding by the United States District Court for the Eastern District of Louisiana.

3.

The parties agree and stipulate that MDL Depositions, which were taken in accordance with Rule 30(b) (6) of the Federal Rules of Civil Procedure, will have their future use controlled by the provisions of Rule 32 F.R.C.P.

As to all the other MDL Depositions, the parties stipulate and agree that the depositions themselves will be considered former testimony within the scope of Rule 804(b)(1) of the Federal Rules of Evidence, and hence, the use of the deposition will not be objected to as hearsay.

4.

The parties acknowledge and agree that this Stipulation is entered into based on an earlier agreement of the parties, adopted by this Court in MDL 1355, and incorporated into Pretrial Order No. 14.

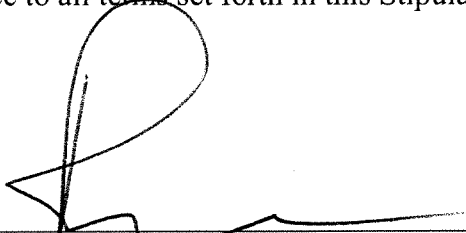
5.

Having agreed by this Stipulation that the MDL Depositions taken during the course of the MDL Propulsid suits may not be objected to by any party on the basis of hearsay and may be used at trial, hearings or other depositions, the parties nonetheless reserve and preserve all of their rights to raise any and all other objections to the use of this deposition testimony under the Federal Rules of Evidence, the Federal Rules of Civil Procedure and or any other applicable rule of evidence or civil procedure in any court where the Propulsid suit may be tried, including, but not limited to, objections based on relevancy and/or hearsay to particular questions.

7.

4

This Stipulation and Pre-Trial Order will apply to cases listed in tolling agreements only if such cases do not enroll in the MDL Settlement Program; become filed and prosecuted cases; and the respective plaintiffs' counsel agree to all terms set forth in this Stipulation and Pre-Trial Order.



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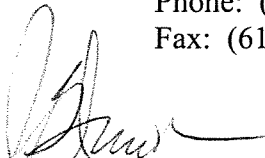
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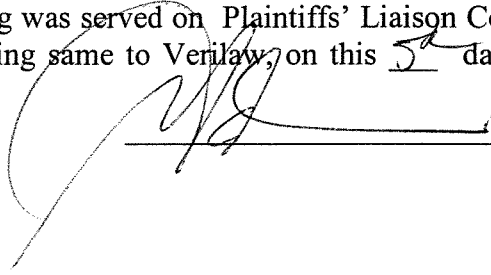
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing pleading was served on Plaintiffs' Liaison Counsel by e-mail and by e-service to all parties by uploading same to Verilaw, on this 5 day of November, 2004.



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NEW ORLEANS, LOUISIANA, this _____ day of November 2004.

JUDGE ELDON E. FALLON
UNITED STATES DISTRICT COURT JUDGE