

**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
WHO FAILED TO SUBMIT THE REQUIRED MEDICAL RECORDS
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 enrolled in the First and Second MDL Resolution Programs (“the Programs”) who failed to submit the required medical records in support of their claims, and in support of their Motion, state as follows:

1. The Programs’ Term Sheets, Sections 5 and 7, require that claimants enrolled in the Programs submit medical records in support of their claim form. Section 7 of each Term Sheet specifically sets forth the timeframe in which records are to be submitted, and it outlines the circumstances under which the Special Master shall give claimants extensions of time to complete their medical records submissions. Under this section, in the event a plaintiff fails to timely submit medical records, that person’s claim shall be dismissed with prejudice. 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 failed

to submit medical records in support of their claims, in accordance with Sections 5 and 7 of the Term Sheets for the Programs.

3. The claims of the plaintiffs listed in Exhibit C to the Juneau Affidavit are subject to dismissal under Section 7 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 Who Failed to Submit the Required Medical Records 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 26th 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 _____