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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
2005 DEC 20 PM 3:01
LORETTA G. WHYTE
CLERK

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

-----	:	MDL NO. 1355
IN RE: PROPULSID	:	
	:	SECTION "L"
PRODUCTS LIABILITY LITIGATION	:	
	:	JUDGE FALLON
-----	:	

THIS DOCUMENT RELATES TO ALL CASES

CONSENT ORDER

The Plaintiffs' Steering Committee (PSC), The State Liaison Committee (SLC) and the defendants Janssen, L.P., formerly known as Janssen Pharmaceutica Inc. and Johnson & Johnson (hereafter "the Parties") have negotiated a comprehensive resolution program (hereafter the "Second MDL Program") to conclude as many cases as possible in both state and federal courts which are pending as of this date, as well as claims covered under tolling agreements. A copy of the Second MDL Program (MDL 1355) Term Sheet is attached. The Second MDL Program tracks the provisions of the First MDL Program's Term Sheet which is attached to this Court's Order of February 4, 2004. The Second MDL Program covers federal court and state court plaintiffs and tolling agreement claimants in Propulsid matters who were not eligible to enroll in The First MDL Program or who chose not to enroll in it.

_____	Fee	_____
_____	Process	_____
<input checked="" type="checkbox"/>	Dktd.	_____
_____	CtRmDep	_____
_____	Doc. No	_____

This Program will come into existence when an agreed upon number of plaintiffs and an agreed upon number of persons who have signed tolling agreements consent to enroll in the Second MDL Program and to be bound by its terms. Upon enrollment in the Second MDL Program, any enrolled plaintiff or claimant thereby consents to the terms and conditions of the Second MDL Program and accepts the jurisdiction of the MDL Court until all proceedings under the Second MDL Program have been concluded and agrees that this MDL Court, by their consent, is empowered to enter orders (1) terminating plaintiff and claimant rights to sue defendants if they fail to submit the medical records within the time set forth in the attached Term Sheet or any approved extension thereof or if the Medical Panel decides that they are not entitled to compensation and (2) authorizing the Special Master to pay from the Settlement Fund any award that he makes in favor of a plaintiff or claimant consistent with this Program in return for a release of all claims.

Because the Second MDL Program is private, its terms do not require approval of this MDL Court except as may be necessary in the approval of any settlement involving minors or incompetents or a determination of appropriate attorneys' fees as set forth in Section 19 of the attached Term Sheet. Notwithstanding, the Parties have petitioned this MDL Court for its participation and assistance in certain areas respecting management of the Second MDL Program once the minimum enrollment levels required to activate the Program are achieved. The Parties have represented that the Second MDL Program has, as one of its conditions, the requirement that this MDL Court agree to participate in the following aspects of the Program:

1. Acceptance of jurisdiction over enrolled plaintiffs and enrolled claimants in the Second MDL Program and defendants until all proceedings under the Second MDL Program have been concluded, with empowerment to enter orders (1) terminating plaintiff and claimant

rights to sue defendants if they fail to submit the medical records within the time set forth in the Term Sheet or any approved extension thereof or if the Medical Panel decides that they are not entitled to compensation and (2) authorizing the Special Master to pay from the Settlement Fund any award that he makes in favor of a plaintiff or claimant consistent with this Second MDL Program in return for a release of all claims.

2. Appointment of a Special Master to manage the Second MDL Program in accordance with the terms agreed upon by the Parties;
3. Replacement of the Special Master or any physician appointed to the Medical Panel as necessary and appropriate;
4. Maintenance as open cases on any state court or federal court docket, all lawsuits whose plaintiffs enter this Program, to be dismissed with prejudice only upon payment of an award under this Program or upon determination by the Medical Panel established under this Program that the claimant is not eligible for an award under the Program;
5. The MDL Court will determine and approve an appropriate award of attorneys' fees to the PSC and SLC, such fee to be paid by defendants in an amount not to exceed the amount stipulated under the Term Sheet; and
6. Exercise of such additional powers as may be called for under the Program or as may be necessary for the proper management of cases which are before this Court pursuant to its appointment as the MDL Court for this Propulsid litigation.

UPON CONSIDERING THE ABOVE, IT IS ORDERED AS FOLLOWS:

1. If the minimum enrollment required under the Second MDL Program is achieved, this MDL Court agrees to exercise the powers which the parties have requested of it in that Program;

2. This MDL Court, by consent of the parties and upon the Second MDL Program becoming effective, shall assume jurisdiction over enrolled plaintiffs, enrolled claimants not presently subject to the jurisdiction of the MDL Court and defendants until all proceedings under the Second MDL Program have been concluded and will exercise its powers (1) to terminate plaintiff and claimant rights to sue defendants if they fail to submit the medical records within the time set forth in the Term Sheet or any approved extension thereof or if the Medical Panel decides that they are not entitled to compensation and (2) to authorize the Special Master to pay from the Settlement Fund any award that he makes in favor of a plaintiff or claimant consistent with this Second MDL Program in return for a release of all claims;

3. Patrick A. Juneau is appointed Special Master of the Second MDL Program, to exercise his rights and responsibilities as set forth in the Program. His appointment will become effective as soon as the minimum enrollment under the Program has been achieved;

4. After the Second MDL Program has become effective, upon application by the Plaintiffs' Steering Committee (PSC) and the State Liaison Committee (SLC), this Court will set a hearing for the determination of an appropriate award of attorneys' fees to the PSC and SLC to be paid by defendants subject to the provisions and limitations of the Term Sheet;

5. The Enrollment Form and Claim Forms, including the Short Form Medical Records Reimbursement Form, used in the First MDL Program are approved for use in the Second MDL Program provided they are appropriately entitled as Second MDL Program forms;

6. The parties agree that the procedure established respecting management of the First MDL Program pursuant to Section 6 of this Court's February 4, 2004 Order shall, to the greatest extent possible, be the procedures which shall control management of the Second MDL Program.

7. This Court will issue additional orders as may be called for or appropriate with respect to the Second MDL Program or as may be necessary for this Propulsid litigation.

NEW ORLEANS, LOUISIANA, this 19 day of December, 2005.



JUDGE ELDON E. FALLON