

**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

**JOINT MOTION AND ORDER FOR PARTIAL DISBURSEMENT OF
SETTLEMENT FUNDS TO DEFENDANT JOHNSON & JOHNSON**

NOW INTO COURT, through undersigned counsel, come Plaintiffs' Lead and Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC), who jointly move this Court for an Order for partial disbursement to defendant, Johnson & Johnson, in the amount of \$40,000,000 from the MDL I settlement fund and \$5,000,000 from the MDL II settlement fund, for the reasons set forth below.

I.

As determined in the last monthly status conference held on November 3, 2011, and as set forth in Joint Report No. 93 filed by the PLC and DLC, MDL Resolution Programs I and II are nearing an end. (Rec. Docs. 4413 and 4416). As of this filing, only two tiered claims in MDL I and two tiered claims in MDL II require full briefing by the parties for review by the medical panel and the Special Master. (Exhibit A, Juneau Affidavit).

II.

All qualified tiered claims have been submitted to the medical panel in both programs. In addition, the Specials Master's Office is finalizing its clearance of any remaining administrative claims in both programs. (Rec. Docs. 4413 and 4416).

III.

With the exception of the four tiered claims referenced above, as well as the possibility of some isolated claims that could potentially qualify, the remaining plaintiffs on the docket are those that did not qualify for either program, did not enroll, failed to prosecute their claims, have claims that have already been paid, and/or were ineligible for payment. The parties are working with the Special Master to prepare motions to dismiss these plaintiffs and anticipate that the vast majority of them shall be dismissed by year end with the remainder dismissed sometime in early 2012. (Rec. Docs. 4413 and 4416).

IV.

The balance, as of November 30, 2011, of the settlement funds in MDL I is \$52,737,207.72 and in MDL II is \$13,013,426.47. (Exhibit B, McCartney Affidavit).

V.

The withdrawal and disbursement of the funds would leave over \$12,000,000 remaining in the settlement fund for MDL I and over \$8,000,000 remaining in the settlement fund for MDL II.

VI.

The Court-appointed Plaintiffs' Steering Committee (PSC) and the Co-Chairs of the State Liaison Committee (SLC) unanimously approved and authorized the PLC to join in the filing of this Motion. (Exhibit C, Herman Affidavit).

VII.

The Special Master agrees that this disbursement could be made and would not place the implementation of the settlement agreement at risk. (Exhibit A, Juneau Affidavit).

VIII.

However, in an abundance of caution, defendants agree that in the unlikely event some or all of the \$40,000,000 from MDL I and/or the \$5,000,000 from MDL II disbursed back to Johnson & Johnson are needed to satisfy any remaining claims, Johnson & Johnson shall reimburse and replenish the settlement fund for same, but in no event for more than the amounts disbursed back to Johnson & Johnson by this Order.

WHEREFORE, for the above and foregoing reasons, Plaintiffs' Lead and Liaison Counsel and Defendants' Liaison Counsel respectfully and jointly request that the Court enter an Order for Deutsche Bank and Bourgeois Bennett, L.L.C., the disbursing agent for the MDL Resolution Programs, to transfer by wire \$40,000,000 from the settlement fund in MDL I and \$5,000,000 from the settlement funds in MDL II to defendant, Johnson & Johnson.

Respectfully Submitted By:



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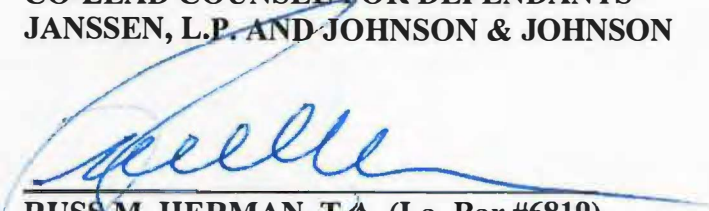
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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Joint Motion and Order for Partial Disbursement of Settlement Funds to Defendant Johnson & Johnson, 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 14th day of December, 2011.

