

**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
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 Propulsid® use and a medical

condition or injury attributed to Propulsid® 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 ineligible for the \$250 medical records reimbursements from the Programs’ Administrative Funds as they did not meet the criteria set forth in the Term Sheets, Sections 5A, 5C and 16B 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

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CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Defendants' Motion for an Order Dismissing With Prejudice the Claims of Plaintiffs 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 17th 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 _____