

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2006 MAR 22 PM 4: 53

LORETTA G. WHYTE
CLERK

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

**IN RE PROPULSID PRODUCTS LIABILITY
LITIGATION**

MDL DOCKET #1355

SECTION: L

**THIS DOCUMENT RELATES TO ALL
CASES:**

JUDGE FALLON

**JOINT MOTION OF PLAINTIFFS' STEERING COMMITTEE AND DEFENDANTS
TO APPROVE THE SETTLEMENT AGREEMENT**

Plaintiffs' Steering Committee ("PSC") and Janssen, L.P., formerly known as Janssen Pharmaceutica Inc., and Johnson & Johnson ("Defendants") (collectively "the Parties") move this Honorable Court for the entry of an Order approving the settlement agreement between the Parties and the United States of America regarding Medicare expenditures. In support thereof, the Parties state as follows:

1. On April 30, 2004, the Parties entered into an agreement identified as the MDL-1355 Term Sheet pursuant to which qualifying individuals have an opportunity to submit their claims for possible monetary recovery through a process supervised by a court appointed Special Master (the "Settlement Program").

2. On February 5, 2004, this Honorable Court entered a Consent Order in In re Propulsid Products Liability Litig., MDL 1355 (E.D. La.), pursuant to which this Court agreed to

Fee _____
Process _____
X Dtd _____
CtRmDep _____
Doc. No _____

exercise jurisdiction over all individuals enrolled in the Settlement Program (27,781 are enrolled). This Court also affirmed that it would “issue additional orders as may be called for or appropriate with respect to the [Settlement] Program or as may be necessary for this Propulsid litigation.” Feb. 5, 2004, Consent Order para. 7.

3. On January 9, 2006, the Parties and attorneys for the United States Department of Justice conducted settlement discussions to resolve potential claims by the United States against the Parties arising under the Medicare Secondary Payer Statute, 42 U.S.C. 1395y(b) and the Medical Care Recovery Act, 42 U.S.C. §§ 2651-2653 for the recovery of Medicare expenditures for Propulsid-related injuries of individuals participating in the Settlement Program (“Government’s Medicare Claims”). The Parties and the United States agreed to settle these claims for \$400,000 and entered into the Settlement Agreement Among Janssen, L.P., Johnson & Johnson, The Plaintiffs’ Steering Committee for the In Re Propulsid Products Liability Litg., MDL No. 1355 (E.D. LA.) and the United States of America (“Settlement Agreement”) attached hereto as Exhibit A.

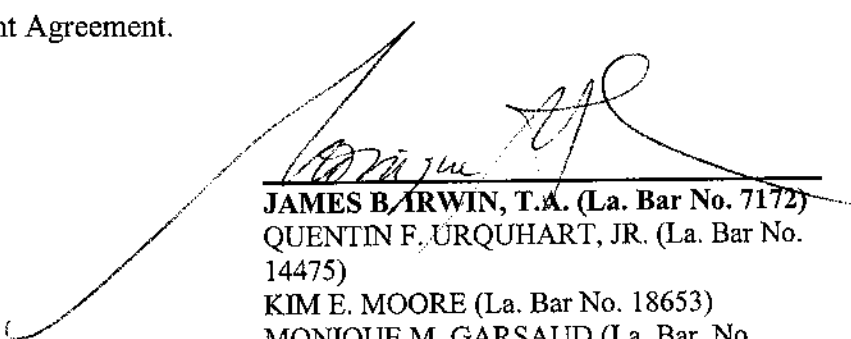
4. By its terms, the Settlement Agreement does not become effective without approval from this Honorable Court. Exhibit A. para. 8.

5. In the interest of efficiency and to further the desire of the PSC, Defendants and the United States of America to resolve the Government’s Medicare Claims, the Parties respectfully request that the Court approve the Settlement Agreement. Without Court approval of the Settlement Agreement, determinations will have to be made to establish the existence and amount of any Medicare payments for Propulsid-related injuries experienced by each enrollee in the Settlement Program who receives a monetary award from the Special Master. The Parties believe that this process will take substantial amounts of time to accomplish and could interfere

with the very purpose of multidistrict litigation to “promote the just and efficient conduct” of complex actions requiring massive filings. 28 U.S.C. § 1407. In contrast, this Court’s approval will further the purpose of multidistrict litigation while at the same time expedite the reimbursement of Medicare payments advanced by the U.S. Government.

6. The negotiations leading up to the Settlement Agreement were conducted at arm’s length with the goal of achieving a good faith determination of the Parties’ relative share of the potential liability for the Government’s Medicare Claims based on the facts known to the Parties at the time of the settlement.

WHEREFORE, the Parties respectfully request that the Court grant this joint request to approve the Settlement Agreement.

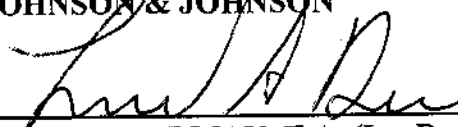


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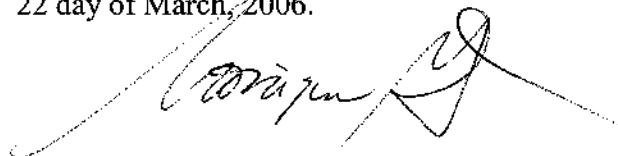

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CERTIFICATE OF SERVICE

I hereby declare that the foregoing pleading was served on Plaintiffs' Liaison Counsel, by U.S. mail and by e-service to all parties by uploading same to Lexis/Nexis File-N-Serve on this 22 day of March, 2006.



SEE RECORD FOR

EXHIBITS

OR

ATTACHMENTS

NOT SCANNED