

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

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CHIEF DEPUTY CLERK

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COLUMBIA, SOUTH CAROLINA 29211

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March 30, 2012

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Assistant Deputy Attorney General C. Havird Jones, Jr.
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& Coggins, P.C.
P.O. Box 3547
Spartanburg, SC 29304

John S. Simmons, Esquire
Simmons Law Firm, LLC
1711 Pickens St.
Columbia, SC 29201

Re: The State of SC v. Ortho-McNeil-Janssen

Dear Counsel:

The following Order has been endorsed on your Motion to Exceed Page Limit in the above entitled case on appeal.

“Granted.

s/ Jean H. Toal C.J.
For the Court

March 29, 2012.”

Please be advised that by copy of this letter we are advising all interested parties of the action by the Court.

Very truly yours,


CLERK

DES/lda

cc: C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Chanda A. Miller, Esquire
Edward M. Posner, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire

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Thomas A. Killoren, Jr.*
Wes A. Kissinger
Jeremy A. Dantin°
Amanda H. Craven^
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FEIN 57-1088154

* also licensed in GA, NC, IL
° also licensed in GA
^ also licensed in FL

March 23, 2012

VIA U.S. MAIL

The Honorable Daniel E. Shearhouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: The State of SC v. Ortho-McNeil Janssen
Case # 2012206987

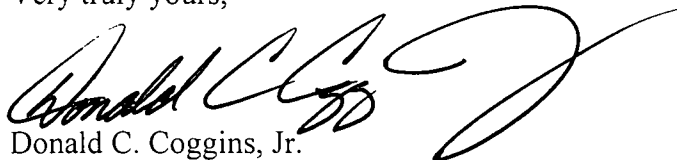
Dan
Rec
See flag- Do
you want to
grant

Dear Mr. Shearhouse:

Enclosed for filing please find the original and six copies of the **Respondent's Motion To Exceed Page Limit**. Also enclosed is the Proof of Service and a check for the \$25.00 filing fee. Please return a filed copy to us via the enclosed, self addressed stamped envelope. If you have any questions or need anything further, please do not hesitate to contact us.

With best regards, I remain,

Very truly yours,


Donald C. Coggins, Jr.

Enclosures

cc via U.S. Mail and Email:

Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

RECEIVED

MAR 26 2012

S.C. SUPREME COURT

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cc via Email:

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Robert Cowan, Esquire
Elizabeth Dwyer, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

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S.C. Supreme Court

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

RESPONDENT'S MOTION TO EXCEED PAGE LIMIT

Respondent, the State of South Carolina *ex. rel.* Alan Wilson in his capacity as Attorney General of the State of South Carolina (the "State"), does hereby move the Court for an expansion of the page limit for its responsive brief in this matter. This Motion is being made pursuant to Rule 208(b)(5) of the South Carolina Appellate Court Rules.

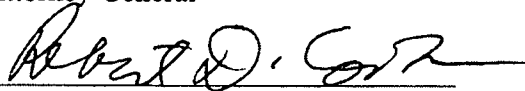
An expansion of the page limit is warranted by the number and complexity of the issues involved in this matter. In order to facilitate an adequate response to Appellant's

initial Brief of sixty-five (65) pages, Respondent requests an expansion of the page limit for its responsive brief to a maximum of seventy-five (75) pages.

Counsel for Appellant does not object to the expansion of the page limit requested. For the reasons set forth herein, Respondent respectfully requests that this Court grant its Motion to Exceed Page Limit.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson
Attorney General
Robert D. Cook
Deputy Attorney General
C. Havird Jones, Jr.
Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, South Carolina 29201

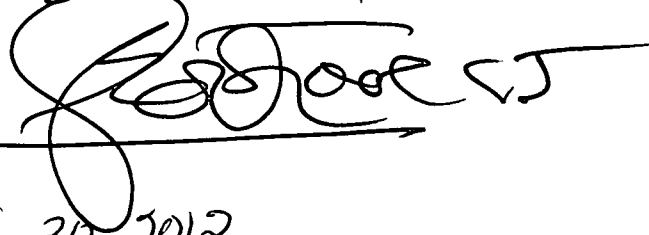
Harrison, White, Smith & Coggins, P.C.



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(803) 779-4600

Granted



March 30, 2012

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MAR 26 2012

S.C. SUPREME COURT

Bailey Perrin Bailey, PLLC
Fletcher Trammell (admitted *pro hac vice*)
Robert W. Cowan (admitted *pro hac vice*)
Elizabeth W. Dwyer (admitted *pro hac vice*)
440 Louisiana, Suite 2100
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(713) 425-7100

March 23, 2012

ATTORNEYS FOR RESPONDENT

Spartanburg, South Carolina

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In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

I certify that I have served the **Respondent's Motion To Exceed Page Limit** on Ortho-McNeil-Janssen Pharmaceuticals, Inc., by depositing a copy of same in the United States Mail, postage prepaid, on **March 23, 2012** addressed to their attorney of record, Richardson Plowden & Robinson, P.A., Post Office Drawer 7788, Columbia, South Carolina 29202. I also certify that I have served the same by depositing a copy of same in the United States Mail, postage prepaid, on **March 23, 2012** addressed to the following other counsel of record:

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Steven J. Pugh
Steven W. Hamm
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Columbia, South Carolina 29202

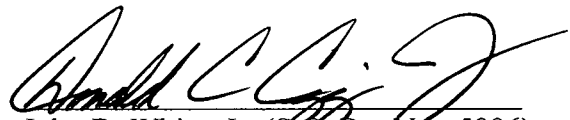
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Respectfully submitted,

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Robert D. Cook
Deputy Attorney General
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SPARTANBURG, SC

67-820/532

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Mar 23 2012

PAY TO THE
ORDER OF

SC Supreme Court

\$25.00

*** Twenty Five *****

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DOLLARS

SC Supreme Court
1231 Gervais Street
Columbia, SC 29211

HARRISON, WHITE, SMITH & COGGINS, P.C.
GENERAL ACCOUNT

MEMO Client Advances - JBW - Filing Fee 03/22/12 Antipsychotic vs Janssen

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HARRISON, WHITE, SMITH & COGGINS, P.C.
SPARTANBURG, SC 29304

61649

PAID TO : SC Supreme Court

DATE : Mar 23, 2012
CK # : 61649

CLIENT: Antipsychotic Drug Lit
MATTER: 06-0850

AMOUNT : \$25.00

ACCOUNT : 1

Client Advances - JBW Filing Fee 03/22/12 Antipsychotic vs. Janssen

The Supreme Court of South Carolina

State of South Carolina ex. rel.
Alan Wilson, in his capacity as
Attorney General of the State
of South Carolina, Respondent,

v.

Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutical, Inc.
and/or Janssen, L.P., and
Johnson & Johnson, Inc., Defendants,

Of whom Ortho-McNeil-
Janssen Pharmaceuticals, Inc. is
the, Appellant.

The Honorable Roger L. Couch
Spartanburg County
Trial Court Case No. 2007-CP-42-01438

ORDER

For good cause having been shown, the time for serving and filing
Initial Brief of Respondent and Designation of Matter in the above entitled
matter is hereby extended until May 18, 2012.

IT IS SO ORDERED.

JEAN H. TOAL, CHIEF JUSTICE

BY



CLERK

Columbia, South Carolina

March 26, 2012

cc: C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Chanda A. Miller, Esquire
Edward M. Posner, Esquire
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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

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MAR 26 2012

S.C. Supreme Court

State of South Carolina ex. rel. Alan Wilson in his
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vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is Appellant.

MOTION FOR EXTENSION

Respondent, the State of South Carolina *ex. rel.* Alan Wilson in his capacity as Attorney General of the State of South Carolina (the "State"), does hereby move the Court for a thirty (30) day extension of time to file its Initial Brief and Designation of Matter to be included on Appeal. The Initial Brief and Designation of Matter are currently due on April 18, 2012. Due to commitments in other cases and the complexity of this appeal, counsel is unable to adequately prepare the Initial Brief and Designation of Matter before May 18, 2012. Respondent moves for the thirty (30) day extension which

would extend the deadline for filing the Initial Brief and Designation of Matter to May 18, 2012. This is the first request for an extension of time by Respondent.

Counsel for Appellant does not object to the extension of time requested. In fact, due to other deadlines and work obligations, Appellant previously sought and obtained from the Court of Appeals a thirty (30) day extension of time to file its initial brief in this matter.

For the reasons set forth herein, Respondent respectfully requests that this Court grant its Motion for Extension of Time.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson

Attorney General

Robert D. Cook

Deputy Attorney General

C. Havird Jones, Jr.

Assistant Deputy Attorney General

1000 Assembly Street, Room 519

Columbia, South Carolina 29201

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Houston, Texas 77002
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March 23, 2012

ATTORNEYS FOR RESPONDENT

Spartanburg, South Carolina

Other Counsel of Record:

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

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Court of Common Pleas

Roger L. Couch, Circuit Court Judge

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Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

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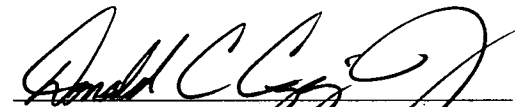
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HARRISON, WHITE, SMITH & COGGINS, P.C.
GENERAL ACCOUNT

[Signature]

MEMO Client Advances - JBW Filing Fee 03/23/12 Antipsychotic vs. Janssen

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HARRISON, WHITE, SMITH & COGGINS, P.C.
SPARTANBURG, SC 29304

61650

PAID TO : SC Supreme Court

DATE : Mar 23, 2012
CK # : 61650

CLIENT: Antipsychotic Drug Lit
MATTER: 06-0850

AMOUNT : \$25.00

ACCOUNT : 1

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FEIN 57-1088154

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March 23, 2012

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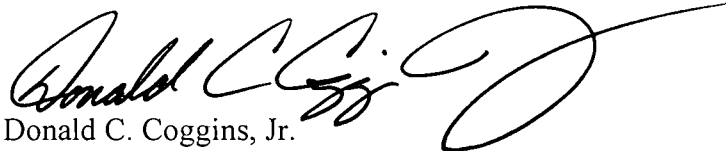
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Case # 2012206987

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With best regards, I remain,

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Donald C. Coggins, Jr.

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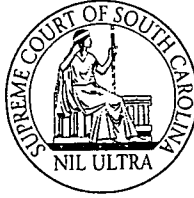
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Dear Counsel:

The following Order has been endorsed on your Motion to Admit Elizabeth W. Dwyer *Pro Hac Vice* in the above entitled case on appeal.

"Granted.

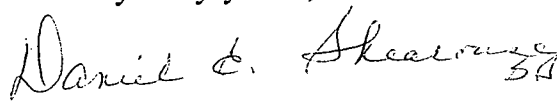
Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

March 21, 2012."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,

Handwritten signature of Daniel E. Shearouse in cursive script.

CLERK

DES/dmh

cc: C. Mitchell Brown, Esquire
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March 14, 2012

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RE: The State of SC v. Ortho-McNeil Janssen
Case # 2012206987

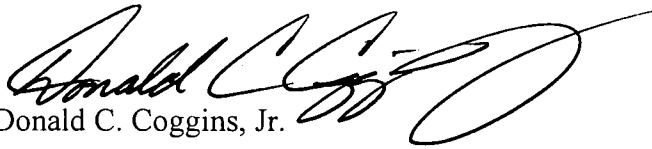
RECEIVED
MAR 18 2012
S.C. SUPREME COURT

Dear Mr. Shearhouse:

Enclosed for filing please find the original and six copies of the State's Motion to Admit Elizabeth W. Dwyer *Pro Hac Vice*. Also enclosed is the Proof of Service and a check for the \$25.00 filing fee. Please return a filed copy to us via the enclosed, self addressed stamped envelope. If you have any questions or need anything further, please do not hesitate to contact us.

With best regards, I remain,

Very truly yours,


Donald C. Coggins, Jr.

Enclosures

cc via U.S. Mail and Email:

Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070

Columbia, South Carolina 29211

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

cc via Email:

Alan Wilson, Attorney General
John McIntosh, Esquire
Bob Cook, Esquire
Sonny Jones, Esquire
Jay Smith
John Simmons, Esquire
John B. White, Jr., Esquire
Donald C. Coggins, Jr., Esquire
Griffin Lynch, Esquire
Mike Perrin, Esquire
Robert Cowan, Esquire
Elizabeth Dwyer, Esquire

RECEIVED

MAR 10 2012

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAR 19 2012

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

S.C. Supreme Court

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

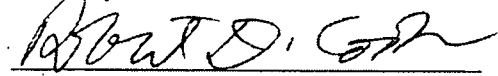
MOTION TO ADMIT ELIZABETH W. DWYER *PRO HAC VICE*

Respondent, the State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney General of the State of South Carolina hereby respectfully moves this Court to permit Elizabeth W. Dwyer to appear *pro hac vice* before the Court in the above-referenced matter. Ms. Dwyer's Application for Admission Pro Hac Vice along with her Certificate of Good Standing is attached hereto and incorporated herein as Exhibit A.

Counsel for Appellant, Ortho-McNeil-Janssen Pharmaceuticals, Inc., consents to the filing of this motion.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson

Attorney General

Robert D. Cook

Deputy Attorney General

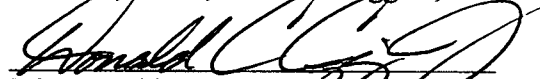
C. Havird Jones, Jr.

Assistant Deputy Attorney General

1000 Assembly Street, Room 519

Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.



John B. White, Jr. (S.C. Bar No. 5996)

Donald C. Coggins, Jr. (S.C. Bar No.: 1307)

178 West Main Street

P.O. Box 3547

Spartanburg, South Carolina 29304

(864) 585-5100

Simmons Law Firm, LLC

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Columbia, South Carolina 29202

(803) 779-4600

Bailey Perrin Bailey, PLLC

Fletcher Trammell

Robert W. Cowan

Elizabeth W. Dwyer

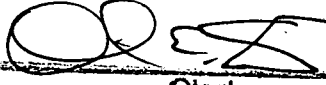
440 Louisiana, Suite 2100

Houston, Texas 77002

(713) 425-7100

ATTORNEYS FOR RESPONDENT

GRANTED.

Jean H. Toal C.J.
For the Court
By 
Clerk

March 21, 2012

March 13, 2012

Spartanburg, South Carolina

Other Counsel of Record:

Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

Drinker Biddle & Reath LLP
Thomas F. Champion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

Exhibit A

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA, ex. rel.
Alan Wilson, in his Capacity as Attorney
General of the State of South Carolina

Plaintiff

2012206987

Case No.

THE SUPREME COURT OF
SOUTH CAROLINA

Court

vs.

Mailing Address of Court: Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
PO Box 11330
Columbia, South Carolina 29211

ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC. f/k/a
JANSSEN PHARMACEUTIAL, INC.,
and/or JANSSEN, LP AND JOHNSON &
JOHNSON, INC.

Defendant

Comes now Elizabeth Dwyer, applicant herein, and respectfully represents the following:

1. Applicant resides at:

440 Louisiana, Suite 2100

Street Address

Houston

Harris

Texas

77002

City

County

State

Zip Code

713-425-7100

Telephone

2. Applicant is an attorney and a member of the law firm of (or practices law under the name of) Bailey

Perrin Bailey, with offices at, at

440 Louisiana, Suite 2100

Street Address

Houston

Harris

Texas

77002

City

County

State

Zip Code

713-425-7100

Telephone

713-425-7101

Fax Number

3. Applicant has been retained personally or as a member of the above named law firm by Plaintiff to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina.

4. Since April of 2008, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Texas where applicant regularly practices law. Attached is a certificate of good standing.

5. Applicant has been admitted to practice before the following courts: (List all of the following courts applicant has been admitted to practice before: United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and courts of other states or the District of Columbia.)

Court:

Date Admitted:

State of Texas	2008

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below:
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before.)

None

6. Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e.g., jurisdiction, court, date):

None

7. Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation):

None

8. Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e.g., date, administrative body, date of suspension and reinstatement):

None

9. Local counsel of record associated with applicant in this case is John B. White, Jr., of the Harrison, White, Smith & Coggins P.C. law firm, which has offices at:

P.O. Box 3547

Street Address

Spartanburg

Spartanburg

South Carolina

29304

County

City

State

Zip Code

864-585-5100

Telephone

If applicable list all other firms/attorneys you are associated with in this matter

John S. Simmons, Simmons Law Firm

10. Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted).

South Carolina v. Janssen Pharmaceutica; Case in Appeal, Date of Application: August 20, 2008, John White, Jr.; Application granted.

South Carolina v. AstraZeneca Pharmaceuticals, Case Pending; Date of Application: July 22, 2009, John White, Jr.; Application granted.

South Carolina v. Eli Lilly; Case dismissed; Date of Application: August 20, 2008; John White, Jr.; Application granted

11. Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct. Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

12. Applicant respectfully requests to be admitted to practice in the above named court for this case only.

DATED this 24 day of February, 2012.

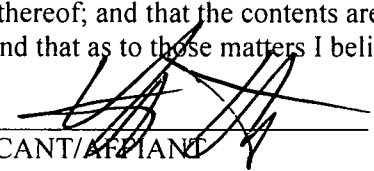

APPLICANT

VERIFICATION

STATE OF TEXAS)

COUNTY OF HARRIS)

I, Elizabeth Dwyer, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

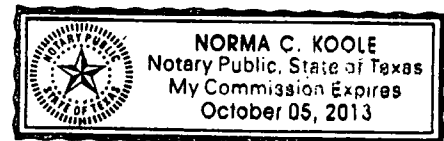

APPLICANT/AFFILIANT

Subscribed and sworn to before me this 24th day of February, 2012.

Norma C Koole

Notary Public for the State of Texas

My Commission Expires: 2013



LOCAL COUNSEL CONSENT

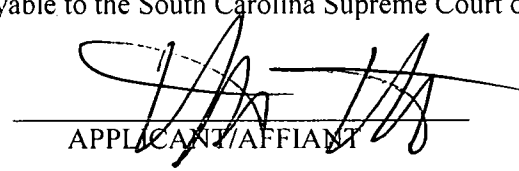
I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

DATED this 13th day of Mar, 20 12.


LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 24 day of FEB, 20 12.


APPLICANT/AFFILIANT

The Supreme Court of Texas

AUSTIN

CLERK'S OFFICE

I, **BLAKE HAWTHORNE**, Clerk of the Supreme Court of Texas, certify that the records of this office show that

Elizabeth Williams Dwyer

was duly admitted and licensed as an attorney and counselor at law by the Supreme Court of Texas on the 3rd day of April, 2008.

I further certify that the records of this office show that, as of this date

Elizabeth Williams Dwyer

is presently enrolled with the State Bar of Texas as an active member in good standing.

IN TESTIMONY WHEREOF witness my hand

and the seal of the Supreme Court of
Texas at the City of Austin, this, the
23rd day of February, 2012.

BLAKE HAWTHORNE, Clerk

by *Brad Sonogo*
Brad Sonogo, Deputy Clerk

RECEIVED
MAR 10 2012
S:8: SUPREME COURT

No. 0223D2

BAILEY PERRIN BAILEY, LLP
LITIGATION ACCOUNT-PUBLIC
440 LOUISIANA, SUITE 2100
HOUSTON, TX 77002
(713) 425-7100

ENCLOSURE BANK
35-9384/1130

1398

2/23/2012

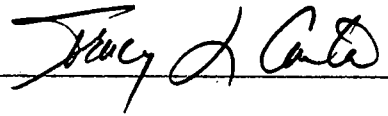
PAY TO THE ORDER OF South Carolina Supreme Court Office

\$ **250.00

Two Hundred Fifty and 00/100***** DOLLARS

South Carolina Supreme Court Office
of Bar Admissions
PO Box 11330
Columbia, SC 29211-1330

TWO SIGNATURES REQUIRED OVER \$5,000



MEMO

Pro Hac Vice Fee - Dwyer, Elizabeth

⑈001398⑈ ⑆113093849⑆ ⑈007320104⑈

BAILEY PERRIN BAILEY, LLP / LITIGATION ACCOUNT-PUBLIC

1398

South Carolina Supreme Court Office

2/23/2012

Pro Hac Vice Fee - Dwyer, Elizabeth

250.00

Encore - Litigation Acc Pro Hac Vice Fee - Dwyer, Elizabeth

250.00

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion to Admit Elizabeth W. Dwyer *Pro Hac Vice*** on Ortho-McNeil-Janssen Pharmaceuticals, Inc., by depositing a copy of same in the United States Mail, postage prepaid, on **March 13, 2012** addressed to their attorney of record, Richardson Plowden & Robinson, P.A., Post Office Drawer 7788, Columbia, South Carolina 29202. I also certify that I have served the same by depositing a copy of same in the United States Mail, postage prepaid, on **March 13, 2012** addressed to the following other counsel of record:

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

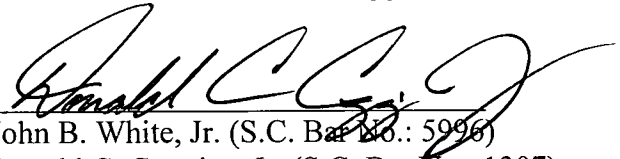
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Mattison Bogan
Miles E. Coleman
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Columbia, South Carolina 29211

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

Respectfully submitted,

State of South Carolina Office of the
Attorney General
Alan Wilson
Attorney General
Robert D. Cook
Deputy Attorney General
C. Havird Jones, Jr.
Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.


John B. White, Jr. (S.C. Bar No.: 5996)
Donald C. Coggins, Jr. (S.C. Bar No.: 1307)
178 West Main Street
P.O. Box 3547
Spartanburg, South Carolina 29304
(864) 585-5100

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1711 Pickens Street
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Bailey Perrin Bailey, PLLC
Fletcher Trammell
Robert W. Cowan
Elizabeth W. Dwyer
440 Louisiana, Suite 2100
Houston, Texas 77002
(713) 425-7100

ATTORNEYS FOR RESPONDENT



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-0384

March 19, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE: State of South Carolina, ex. Rel. Alan Wilson, in his
capacity as Attorney General of the State of S.C. v.
Ortho-McNeil-Janssen Pharmaceuticals, Inc., et al
Case No.: 2012206987

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received a verified application requesting Elizabeth Dwyer be admitted *pro hac vice* in the above matter. The \$250 filing fee for the applicant has been paid.

Yours truly,

Gayle B. Watts / st
Deputy Clerk for Bar Admissions

GBW/st

BAILEY PERRIN BAILEY, LLP
LITIGATION ACCOUNT-PUBLIC
440 LOUISIANA, SUITE 2100
HOUSTON, TX 77002
(713) 425-7100

ENCORE BANK
35-9384/1130

1398

2/23/2012

PAY TO THE ORDER OF South Carolina Supreme Court Office

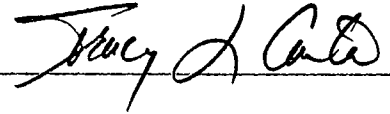
\$ **250.00

Two Hundred Fifty and 00/100*****

DOLLARS

South Carolina Supreme Court Office
of Bar Admissions
PO Box 11330
Columbia, SC 29211-1330

TWO SIGNATURES REQUIRED OVER \$5,000



MEMO Pro Hac Vice Fee - Dwyer, Elizabeth

⑈001398⑈ ⑆113093849⑆

⑈007320104⑈

BAILEY PERRIN BAILEY, LLP / LITIGATION ACCOUNT-PUBLIC

1398

South Carolina Supreme Court Office

2/23/2012

Pro Hac Vice Fee - Dwyer, Elizabeth

250.00

Encore - Litigation Acc Pro Hac Vice Fee - Dwyer, Elizabeth

250.00

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
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Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
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vs.

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Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
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Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

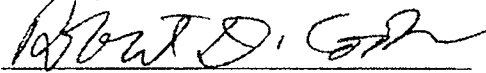
MOTION TO ADMIT ELIZABETH W. DWYER *PRO HAC VICE*

Respondent, the State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney General of the State of South Carolina hereby respectfully moves this Court to permit Elizabeth W. Dwyer to appear *pro hac vice* before the Court in the above-referenced matter: Ms. Dwyer's Application for Admission Pro Hac Vice along with her Certificate of Good Standing is attached hereto and incorporated herein as Exhibit A.

Counsel for Appellant, Ortho-McNeil-Janssen Pharmaceuticals, Inc., consents to the filing of this motion.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson

Attorney General

Robert D. Cook

Deputy Attorney General

C. Havird Jones, Jr.

Assistant Deputy Attorney General

1000 Assembly Street, Room 519

Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.



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Donald C. Coggins, Jr. (S.C. Bar No.: 1307)

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Fletcher Trammell

Robert W. Cowan

Elizabeth W. Dwyer

440 Louisiana, Suite 2100

Houston, Texas 77002

(713) 425-7100

March 13, 2012

Spartanburg, South Carolina

Other Counsel of Record:

ATTORNEYS FOR RESPONDENT

Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

Richardson Plowden & Robinson, P.A.
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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
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Roger L. Couch, Circuit Court Judge

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vs.

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Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion to Admit Elizabeth W. Dwyer Pro Hac Vice** on Ortho-McNeil-Janssen Pharmaceuticals, Inc., by depositing a copy of same in the United States Mail, postage prepaid, on **March 13, 2012** addressed to their attorney of record, Richardson Plowden & Robinson, P.A., Post Office Drawer 7788, Columbia, South Carolina 29202. I also certify that I have served the same by depositing a copy of same in the United States Mail, postage prepaid, on **March 13, 2012** addressed to the following other counsel of record:

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Columbia, South Carolina 29202

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Miles E. Coleman
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Columbia, South Carolina 29211

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

Respectfully submitted,

State of South Carolina Office of the
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Alan Wilson
Attorney General
Robert D. Cook
Deputy Attorney General
C. Havird Jones, Jr.
Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.



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Donald C. Coggins, Jr. (S.C. Bar No.: 1307)
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P.O. Box 3547
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Bailey Perrin Bailey, PLLC
Fletcher Trammell
Robert W. Cowan
Elizabeth W. Dwyer
440 Louisiana, Suite 2100
Houston, Texas 77002
(713) 425-7100

ATTORNEYS FOR RESPONDENT

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.5916

www.nelsonmullins.com

A. Mattison Bogan

Tel: 803.255.9589

Fax: 803.255.5916

matt.bogan@nelsonmullins.com

March 19, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

RECEIVED

MAR 19 2012

S.C. Supreme Court

RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

Dear Mr. Shearouse:

Enclosed please find the original and one copy of the Initial Brief of Appellant and Appellant's Designation of Matter for the Record on Appeal in regard to the above-referenced matter. We would ask that you file the originals and return clocked-in copies to us via our courier.

By copy of this letter to counsel of record, we are serving them with copies.

Very truly yours,



A. Mattison Bogan

AMB:lpw

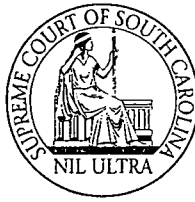
Enclosures

cc: Alan Wilson, Attorney General
C. Havird Jones, Jr., Sr. Assistant Attorney General
John B. White, Jr., Esquire
Donald C. Coggins, Jr., Esquire
John S. Simmons, Esquire



The Honorable Daniel E. Shearouse
March 19, 2012
Page 2

Fletcher V. Trammell, Esquire
Elizabeth Dwyer, Esquire
Robert W. Cowan, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy. Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 19, 2012

C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Nelson Mullins Riley & Scarborough
P. O. Box 11070
Columbia, SC 29211

Re: The State of SC v. Ortho-McNeil-Janssen

Dear Counsel:

The following Order has been endorsed on your Motion to Admit Chanda A. Miller *pro hac vice* in the above entitled case on appeal.

“Granted.

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

March 19, 2012.”

By copy of this letter we are advising all counsel of record of the action of the Court in this matter.

The State of SC v. Clitho-McNeil-Janssen
Page Two
March 19, 2012

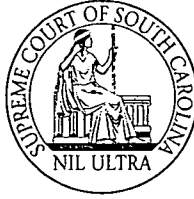
Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'C' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

DES/dmh

cc: Chanda A. Miller, Esquire
Edward M. Posner, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire
Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy
Attorney General Alan Wilson
C. Havird Jones, Jr., Esquire
Fletcher V. Trammell, Esquire
Robert W. Cowan, Esquire
John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
John S. Simmons, Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 19, 2012

C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Nelson Mullins Riley & Scarborough
P. O. Box 11070
Columbia, SC 29211

Re: The State of SC v. Ortho-McNeil-Janssen

Dear Counsel:

The following Order has been endorsed on your Motion to Admit Edward M. Posner *pro hac vice* in the above entitled case on appeal.

“Granted.

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

March 19, 2012.”

By copy of this letter we are advising all counsel of record of the action of the Court in this matter.

The State of SC v. Ortho-McNeil-Janssen
Page Two
March 19, 2012

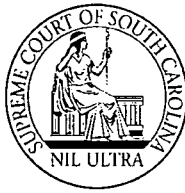
Very truly yours,

A handwritten signature in black ink, appearing to be 'DES', with a long horizontal line extending to the right.

CLERK

DES/dmh

cc: Chanda A. Miller, Esquire
Edward M. Posner, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire
Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy
Attorney General Alan Wilson
C. Havird Jones, Jr., Esquire
Fletcher V. Trammell, Esquire
Robert W. Cowan, Esquire
John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
John S. Simmons, Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-0384

March 15, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE: State of South Carolina, ex. Rel. Alan Wilson, in his
capacity as Attorney General of the State of S.C. v.
Ortho-McNeil-Janssen Pharmaceuticals, Inc., et al
Case No.: 2012206987

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received verified applications requesting Chanda A. Miller and Edward M. Posner be admitted *pro hac vice* in the above matter. The \$250 filing fee for each applicant has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/st

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.256.7500

www.nelsonmullins.com

William C. Wood, Jr.

Tel: 803.255.9534

bill.wood@nelsonmullins.com

March 13, 2012

RECEIVED

MAR 13 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

S.C. Supreme Court

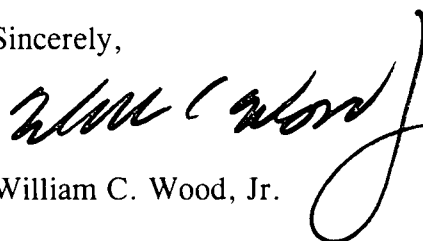
RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of Appellant's Motion to Exceed Page Limit in regard to the above-referenced matter. Please note that we have conferred with opposing counsel and they consent to this motion. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$25.00 as the required filing fee.

By copy of this letter to counsel of record, we are serving them with a copy of this motion.

Sincerely,



William C. Wood, Jr.

WCWJR:lpw

Enclosures

cc: Alan Wilson, Attorney General
C. Havird Jones, Jr., Sr. Assistant Attorney General
John B. White, Jr., Esquire

The Honorable Daniel E. Shearouse

March 13, 2012

Page 2

Donald C. Coggins, Jr., Esquire

John S. Simmons, Esquire

Fletcher V. Trammell, Esquire

Elizabeth Dwyer, Esquire

Robert W. Cowan, Esquire

Steven J. Pugh, Esquire

Steven W. Hamm, Esquire

Thomas F. Campion, Esquire

Edward M. Posner, Esquire

Kenneth A. Murphy, Esquire

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.256.7500
www.nelsonmullins.com

William C. Wood, Jr.
Tel: 803.255.9534
bill.wood@nelsonmullins.com

March 13, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

RECEIVED

MAR 13 2012

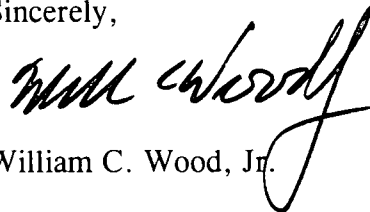
S.C. Supreme Court

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of a Motion to Admit Edward M. Posner *Pro Hac Vice* with a Verified Application for Admission *Pro Hac Vice* in the State of South Carolina in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$25.00 for the filing of this motion.

By copy of this letter to the Office of Bar Admissions, we are sending them a copy of the verified application with a check in the amount of \$250.00 as the filing fee. We are also serving counsel of record with the motion and application.

Sincerely,



William C. Wood, Jr.

WCWJR:lpw

Enclosures

cc: SC Office of Bar Admissions

The Honorable Daniel E. Shearouse

March 13, 2012

Page 2

Alan Wilson, Attorney General

C. Havird Jones, Jr., Sr. Assistant Attorney General

John B. White, Jr., Esquire

Donald C. Coggins, Jr., Esquire

John S. Simmons, Esquire

Fletcher V. Trammell, Esquire

Elizabeth Dwyer, Esquire

Robert W. Cowan, Esquire

Steven J. Pugh, Esquire

Steven W. Hamm, Esquire

Thomas F. Campion, Esquire

Edward M. Posner, Esquire

Kenneth A. Murphy, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

RECEIVED

MAR 13 2012

S.C. Supreme Court

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

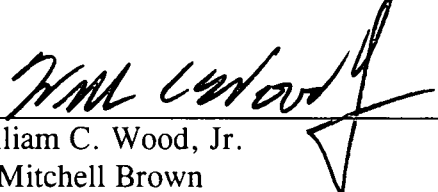
MOTION TO ADMIT EDWARD M. POSNER *PRO HAC VICE*

Pursuant to Rules 240 and 404 of the South Carolina Appellate Court Rules, the Appellant, Ortho-McNeill-Janssen Pharmaceuticals, Inc. hereby moves this Court for an Order Admitting Edward M. Posner to appear as counsel of record in this proceeding. Copies of the Verified Application and Certificate of Good Standing are attached and have also been filed with the South Carolina Office of Bar Admissions.

Pursuant to Rule 267 of the South Carolina Appellate Court Rules, I hereby certify that I have read Edward M. Posner's Verified Application for Admission Pro Hac Vice, and to the best of my knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:


William C. Wood, Jr.

C. Mitchell Brown

A. Mattison Bogan

Miles E. Coleman

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

(803) 799-2000

Attorneys for Ortho-McNeil-Janssen Pharmaceuticals,
Inc.

Columbia, South Carolina

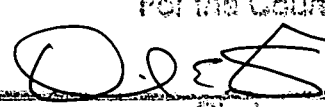
3/13, 2012

GRANTED.

Jean H. Toal

For the Court

By


Clerk

March 19, 2012

Exhibit

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA, ex. rel.
Alan Wilson, in his Capacity as Attorney
General of the State of South Carolina

2012206987

SUPREME COURT OF
SOUTH CAROLINA

Plaintiff

Case No.

Court

vs.

ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., f/k/a/
JANSSEN PHARMACEUTICA, INC.
and/or JANSSEN, L.P., and JOHNSON
& JOHNSON, INC.

Defendant

Mailing Address of Court: Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Comes now Edward M. Posner, applicant herein, and respectfully represents the following:

1. Applicant resides at:

1110 Old Gulph Road

Street Address

Rosemont

City

Montgomery

County

PA

State

19010

Zip Code

610-527-2274

Telephone

2. Applicant is an attorney and a member of the law firm of (or practices law under the name of) Drinker

Biddle & Reath LLP, with offices at, at

One Logan Square, Suite 2000

Street Address

Philadelphia

City

Philadelphia

County

PA

State

19103-6996

Zip Code

215-988-2716

Telephone

215-988-2757

Fax Number

3. Applicant has been retained personally or as a member of the above named law firm by Appellant to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina.

4. Since October of 1974, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Pennsylvania where applicant regularly practices law. Attached is a certificate of good standing.

5. Applicant has been admitted to practice before the following courts: (List all of the following courts applicant has been admitted to practice before: United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and courts of other states or the District of Columbia.)

Court:	Date Admitted:
Supreme Court of Pennsylvania	1974
U.S. District Court for the Eastern District of Pennsylvania	1975
U.S. Court of Appeals for the Third Circuit	1976
U.S. Supreme Court	1981
U.S. Court of Appeals for the Federal Circuit	1983
U.S. Court of Appeals for the Fourth Circuit	1986
U.S. District Court for the Middle District of Pennsylvania	1993

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below:
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before.)

None

6. Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e.g., jurisdiction, court, date):

None

7. Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation):

None

8. Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e.g., date, administrative body, date of suspension and reinstatement):

None

9. Local counsel of record associated with applicant in this case is C. Mitchell Brown, of the Nelson Mullins Riley & Scarborough LLP law firm, which has offices at:

Meridian, 17th Floor, 1320 Main Street

Street Address

Richland

County

Columbia

City

SC

State

29201

Zip Code

803-799-2000

Telephone

If applicable list all other firms/attorneys you are associated with in this matter

Richardson Plowden Robinson, P.A., Steven J. Pugh

10. Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted).

State of South Carolina v. Ortho-McNeil-Janssen Pharmaceuticals, Inc., Case in Appeal, Date of Application: August 23, 2007, Local Counsel: Steven W. Hamm and Steven J. Pugh, Richardson Plowden Robinson, P.A., Application Granted.

11. Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct. Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

12. Applicant respectfully requests to be admitted to practice in the above named court for this case only.

DATED this 12TH day of March, 2012.

Edward M. Posner

APPLICANT

VERIFICATION

STATE OF PENNSYLVANIA)

COUNTY OF PHILADELPHIA)

I, Edward M. Posner, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

Edward M. Posner

APPLICANT/AFFIANT

Subscribed and sworn to before me this 12th day of MAR 20 12.

Melissa D. Bronzini

Notary Public for the State of PA

My Commission Expires: September 6, 2012

COMMONWEALTH OF PENNSYLVANIA

NOTARIAL SEAL

MELISSA D. BRONZINI, Notary Public

City of Philadelphia, Phila. County

My Commission Expires September 6, 2012

LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

DATED this 13 day of March, 2012.

Local Counsel

LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 13 day of March, 2012.

Edward M. Posner

APPLICANT/AFFIANT



Supreme Court of Pennsylvania

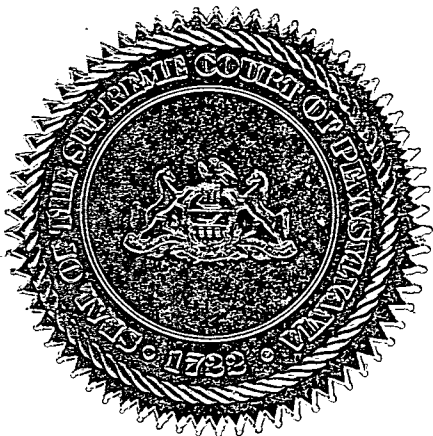
CERTIFICATE OF GOOD STANDING

Edward M. Posner, Esq.

DATE OF ADMISSION

October 16, 1974

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania, and is now a qualified member in good standing.



Witness my hand and official seal

Dated: March 9, 2012

Patricia A. Johnson

Patricia A. Johnson
Chief Clerk

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

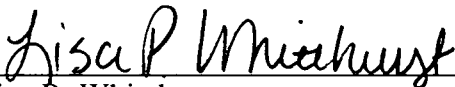
Pleadings: **Motion to Admit Edward M. Posner *Pro Hac Vice***

Counsel Served: The Honorable Alan Wilson
C. Havird Jones, Jr.
Office of Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201

John B. White, Jr.
Donald C. Coggins, Jr.
Harrison White Smith & Coggins, P.C.
178 West Main Street
Post Office Box 3547
Spartanburg, SC 29304

John S. Simmons
Simmons Law Firm, LLC
1711 Pickens Street
Columbia, SC 29202

Fletcher V. Trammell
Robert W. Cowan
Elizabeth W. Dwyer
Bailey Perrin Bailey
440 Louisiana, Ste 2100
Houston, TX 77002



Lisa P. Whitehurst
Administrative Assistant

March 13, 2012

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.256.7500

www.nelsonmullins.com

William C. Wood, Jr.

Tel: 803.255.9534

bill.wood@nelsonmullins.com

March 13, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RECEIVED

MAR 13 2012

S.C. Supreme Court

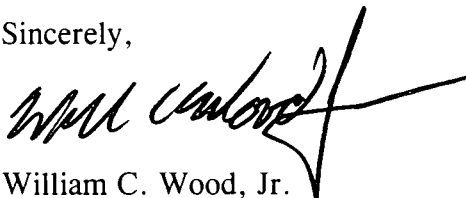
RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of a Motion to Admit Chanda A. Miller *Pro Hac Vice* with a Verified Application for Admission *Pro Hac Vice* in the State of South Carolina in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$25.00 for the filing of this motion.

By copy of this letter to the Office of Bar Admissions, we are sending them a copy of the verified application with a check in the amount of \$250.00 as the filing fee. We are also serving counsel of record with the motion and application.

Sincerely,



William C. Wood, Jr.

WCWJR:lpw

Enclosures

cc: SC Office of Bar Admissions

The Honorable Daniel E. Shearouse

March 13, 2012

Page 2

Alan Wilson, Attorney General

C. Havird Jones, Jr., Sr. Assistant Attorney General

John B. White, Jr., Esquire

Donald C. Coggins, Jr., Esquire

John S. Simmons, Esquire

Fletcher V. Trammell, Esquire

Elizabeth Dwyer, Esquire

Robert W. Cowan, Esquire

Steven J. Pugh, Esquire

Steven W. Hamm, Esquire

Thomas F. Campion, Esquire

Edward M. Posner, Esquire

Kenneth A. Murphy. Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAR 13 2012

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

S.C. Supreme Court

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

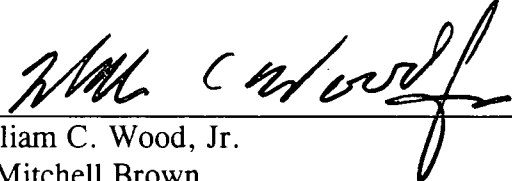
MOTION TO ADMIT CHANDA A. MILLER *PRO HAC VICE*

Pursuant to Rules 240 and 404 of the South Carolina Appellate Court Rules, the Appellant, Ortho-McNeill-Janssen Pharmaceuticals, Inc. hereby moves this Court for an Order Admitting Chanda A. Miller to appear as counsel of record in this proceeding. Copies of the Verified Application and Certificate of Good Standing are attached and have also been filed with the South Carolina Office of Bar Admissions.

Pursuant to Rule 267 of the South Carolina Appellate Court Rules, I hereby certify that I have read Chanda A. Miller's Verified Application for Admission Pro Hac Vice, and to the best of my knowledge, information, and belief, there is good ground to support it, and that it is not interposed for delay.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:


William C. Wood, Jr.

C. Mitchell Brown

A. Mattison Bogan

Miles E. Coleman

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

Columbia, SC 29201

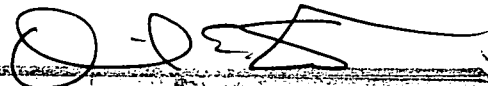
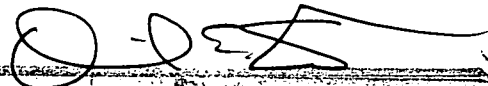
(803) 799-2000

Attorneys for Ortho-McNeil-Janssen Pharmaceuticals,
Inc.

Columbia, South Carolina

3/13, 2012

GRANTED.


John H. Trol
For the Court
By 
Trol

March 19, 2012

Exhibit

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA, ex. rel.
Alan Wilson, in his Capacity as Attorney
General of the State of South Carolina

2012206987

SUPREME COURT OF
SOUTH CAROLINA

Plaintiff

Case No.

Court

vs.

ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., f/k/a/
JANSSEN PHARMACEUTICA, INC.
and/or JANSSEN, L.P., and JOHNSON
& JOHNSON, INC.

Defendant

Mailing Address of Court: Honorable Daniel E. Shearouse
Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Comes now Chanda A. Miller, applicant herein, and respectfully represents the following:

1. Applicant resides at:

2114 Webster Street

Street Address

Philadelphia

City

267-239-2707

Telephone

Philadelphia

County

PA

State

19146

Zip Code

2. Applicant is an attorney and a member of the law firm of (or practices law under the name of) Drinker

Biddle & Reath LLP, with offices at, at

One Logan Square, Suite 2000

Street Address

Philadelphia

City

215-988-1197

Telephone

Philadelphia

County

PA

State

215-988-2757

Fax Number

19103-6996

Zip Code

3. Applicant has been retained personally or as a member of the above named law firm by Appellant to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina.

4. Since October of 2007, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Pennsylvania where applicant regularly practices law. Attached is a certificate of good standing.

5. Applicant has been admitted to practice before the following courts: (List all of the following courts applicant has been admitted to practice before: United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and courts of other states or the District of Columbia.)

Court:

Date Admitted:

Supreme Court of Pennsylvania	2007
Supreme Court of New Jersey	2007
U.S. District Court for the Eastern District of Pennsylvania	2008

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below:
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before.)

None

6. Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e.g., jurisdiction, court, date):

None

7. Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation):

None

8. Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e.g., date, administrative body, date of suspension and reinstatement):

None

9. Local counsel of record associated with applicant in this case is C. Mitchell Brown, of the Nelson Mullins Riley & Scarborough LLP law firm, which has offices at:

Meridian, 17th Floor, 1320 Main Street

Street Address

Richland

Columbia

SC

29201

County

City

State

Zip Code

803-799-2000

Telephone

If applicable list all other firms/attorneys you are associated with in this matter

Richardson Plowden & Robinson P.A., Steven J. Pugh

10. Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted).

None

11. Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct. Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

12. Applicant respectfully requests to be admitted to practice in the above named court for this case only.

DATED this 12th day of March, 2012.

Chanda Miller
APPLICANT

VERIFICATION

STATE OF PENNSYLVANIA)

COUNTY OF PHILADELPHIA)

I, Chanda A. Miller, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.

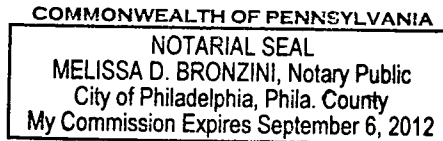
Chanda Miller
APPLICANT/AFFIANT

Subscribed and sworn to before me this 12th day of MAR 20 12.

Melissa D. Bronzini

Notary Public for the State of PA

My Commission Expires: September 6, 2012



LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

DATED this 13 day of March, 2012.

Wm (Wendy)
LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 13 day of March, 2012.

Chanda Miller
APPLICANT/AFFIANT



Supreme Court of Pennsylvania

CERTIFICATE OF GOOD STANDING

Chanda Ann Miller, Esq.

DATE OF ADMISSION

October 24, 2007

The above named attorney was duly admitted to the bar of the Commonwealth of Pennsylvania, and is now a qualified member in good standing.



Witness my hand and official seal

Dated: March 9, 2012

Patricia A. Johnson

Patricia A. Johnson
Chief Clerk

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: **Motion to Admit Chanda A. Miller *Pro Hac Vice***

Counsel Served: The Honorable Alan Wilson
C. Havird Jones, Jr.
Office of Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201

John B. White, Jr.
Donald C. Coggins, Jr.
Harrison White Smith & Coggins, P.C.
178 West Main Street
Post Office Box 3547
Spartanburg, SC 29304

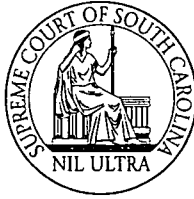
John S. Simmons
Simmons Law Firm, LLC
1711 Pickens Street
Columbia, SC 29202

Fletcher V. Trammell
Robert W. Cowan
Elizabeth W. Dwyer
Bailey Perrin Bailey
440 Louisiana, Ste 2100
Houston, TX 77002



Lisa P. Whitehurst
Administrative Assistant

March 13, 2012



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 16, 2012

C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Re: The State of SC v. Ortho-McNeil-Janssen

Dear Counsel:

The following Order has been endorsed on your Appellant's Motion to Exceed page Limit in the above entitled case on appeal.

"Granted.

s/ Costa M. Pleicones J.
For the Court

March 16, 2012."

Please be advised that by copy of this letter we are advising all interested parties of the action by the Court.

Very truly yours,

CLERK

The State of SC v. Ortho-McNeil-Janssen
Page Two
March 16, 2012

DES/lda

cc: Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire
Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy
Attorney General Alan Wilson
C. Havird Jones, Jr., Esquire
Fletcher V. Trammell, Esquire
Robert W. Cowan, Esquire
John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
John S. Simmons, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

RECEIVED

MAR 13 2012

S.C. Supreme Court

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

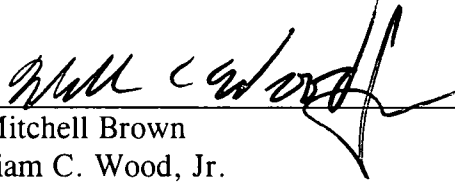
Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

APPELLANT'S MOTION TO EXCEED PAGE LIMIT

Due to the number and complexity of the issues involved in this matter,
Appellant Ortho-McNeill-Janssen Pharmaceuticals, Inc. ("Janssen") hereby moves for
an expansion of the page limits for its initial brief to a maximum of 70 pages. Janssen
believes its final work product will be less than 70 pages but the brief is still in
process. Janssen has conferred with opposing counsel and they consent to this motion.
(See attached emails).

SIGNATURE PAGE ATTACHED

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

C. Mitchell Brown

William C. Wood, Jr.

A. Mattison Bogan

Miles E. Coleman

1320 Main Street / 17th Floor

Post Office Box 11070 (29211-1070)

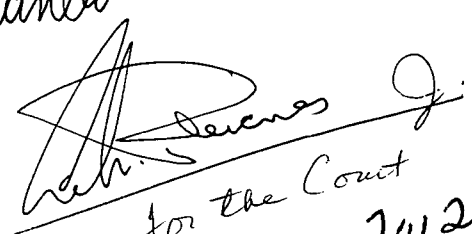
Columbia, SC 29201

(803) 799-2000

Attorneys for Ortho-McNeil-Janssen Pharmaceuticals,
Inc.

Columbia, South Carolina

3/13, 2012



for the Court
March 16, 2012

Lisa Whitehurst

From: Mitch Brown
Sent: Monday, March 12, 2012 12:31 PM
To: Lisa Whitehurst
Subject: FW: Janssen

This would be attached.

From: Mitch Brown
Sent: Monday, March 12, 2012 11:15 AM
To: Donald Coggins; John Simmons; John White
Cc: agrcook@scag.gov; Havaird Jones; agjwmcinto@scag.gov; Fagan, Rose; Griffin Lynch; edwyer@bpblaw.com; rcowan@bpblaw.com
Subject: RE: Janssen

Much appreciated. Thank you.

From: Coggins, Donald C. [<mailto:DCoggins@spartanlaw.com>]
Sent: Monday, March 12, 2012 10:53 AM
To: Mitch Brown; John Simmons; John White
Cc: agrcook@scag.gov; Havaird Jones; agjwmcinto@scag.gov; Fagan, Rose; Griffin Lynch; edwyer@bpblaw.com; rcowan@bpblaw.com
Subject: RE: Janssen

Mitch:

The AG's office has approved the requested consent to your motion. You may file it accordingly.

Don

Donald C. Coggins, Jr., Esquire
Harrison, White, Smith & Coggins, P.C.
178 West Main Street (29306)
PO Box -3547
Spartanburg, SC 29304
Phone: 864-585-5100
Fax: 864-542-2993
DCoggins@spartanlaw.com

This electronic mail transmission is from a law office, HARRISON, WHITE, SMITH & COGGINS, P.C. and is intended solely for the use of the individual(s) to whom it is addressed. This electronic mail transmission may constitute an attorney-client communication that is privileged at law. It is not intended for transmission to, or receipt by, any unauthorized person(s). If you have received this electronic mail transmission by error, please delete it from your system, without copying it, and notify the sender by reply mail, so that our address record can be corrected. Although this email is believed to be free of any virus or other defects that might affect any computer system in which it is received, it is the responsibility of the recipient to ensure that it is virus free; HARRISON, WHITE, SMITH & COGGINS, P.C. accepts no responsibility for any loss or damage arising in any way from its use.

From: Mitch Brown [<mailto:mitch.brown@nelsonmullins.com>]
Sent: Monday, March 12, 2012 10:16 AM
To: John Simmons; White, John B. Jr.; Coggins, Donald C.
Subject: Janssen

Gentlemen:

We need to make a motion to exceed the 50 page limit for our appeal brief. I don't yet know exactly how many pages it will be, but we will move for an increase of the page limitation not to exceed 70 pages. We hope, of course, to be under that number. I would like to indicate in the motion that you consent to it. We will, of course, consent to the same motion if you need it for your Responsive brief. Thank you. Would like to file the motion today if possible.

Mitch

=====

Confidentiality Notice

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure.

If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify the sender immediately either by phone (800-237-2000) or reply to this e-mail and delete all copies of this message.

To ensure compliance with the requirements imposed by the IRS, we inform you that any U.S. federal tax advice contained in this communication (including the attachments) is not intended or written to be used, for the purpose of (a) avoiding penalties under the Internal Revenue Code or (b) promoting, marketing or recommending to another party any transaction or tax-related matter[s]. To provide you with a communication that could be used to avoid penalties under the Internal Revenue Code will necessarily entail additional investigations, analysis and conclusions on our part.

=====

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: **Appellant's Motion to Exceed Page Limit**

Counsel Served: The Honorable Alan Wilson
C. Havird Jones, Jr.
Office of Attorney General
1000 Assembly Street, Room 519
Columbia, SC 29201

John B. White, Jr.
Donald C. Coggins, Jr.
Harrison White Smith & Coggins, P.C.
178 West Main Street
Post Office Box 3547
Spartanburg, SC 29304

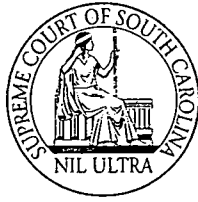
John S. Simmons
Simmons Law Firm, LLC
1711 Pickens Street
Columbia, SC 29202

Fletcher V. Trammell
Robert W. Cowan
Elizabeth W. Dwyer
Bailey Perrin Bailey
440 Louisiana, Ste 2100
Houston, TX 77002



Lisa P. Whitehurst
Administrative Assistant

March 13, 2012



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 12, 2012

John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
Harrison, White, Smith & Coggins, P.C.
P.O. Box 3547
Spartanburg, SC 29304

Re: The State of SC v. Ortho-McNeil-Janssen

Dear Counsel:

The following Order has been endorsed on your Motion to Admit Robert W. Cowan *pro hac vice* in the above entitled case on appeal.

“Granted.

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

March 12, 2012.”

By copy of this letter we are advising all counsel of record of the action of the Court in this matter.

The State of SC v. Ortho-McNeil-Janssen
Page Two
March 12, 2012

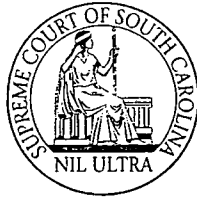
Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'O' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

DES/dmh

cc: C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire
Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy
Attorney General Alan Wilson
C. Havird Jones, Jr., Esquire
John S. Simmons, Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 12, 2012

John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
Harrison, White, Smith & Coggins, P.C.
P.O. Box 3547
Spartanburg, SC 29304

Re: The State of SC v. Ortho-McNeil-Janssen

Dear Counsel:

The following Order has been endorsed on your Motion to Admit Fletcher V. Trammel *pro hac vice* in the above entitled case on appeal.

“Granted.

Jean H. Toal C.J.
For the Court

By s/ Daniel E. Shearouse
Clerk

March 12, 2012.”

By copy of this letter we are advising all counsel of record of the action of the Court in this matter.

The State of SC v. Ortho-McNeil-Janssen

Page Two

March 12, 2012

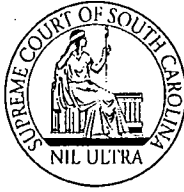
Very truly yours,

A handwritten signature in black ink, appearing to be "J. S. Simmons", written over a horizontal line.

CLERK

DES/dmh

cc: C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire
Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy
Attorney General Alan Wilson
C. Havird Jones, Jr., Esquire
John S. Simmons, Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-0384

March 9, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE: State of South Carolina, Ex rel Alan Wilson, in his
Capacity as Attorney General of the State of S.C. v.
Ortho-McNeil-Janssen
Case No.: 2012206987

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received verified applications requesting Robert W. Cowan and Fletcher V. Trammell be admitted *pro hac vice* in the above matter. The \$250 filing fee for each applicant has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/st

HWS&C
HARRISON, WHITE, SMITH & COGGINS, P.C.
Attorneys at Law

Ben C. Harrison
John B. White, Jr.
Danny R. Smith
Donald C. Coggins, Jr.
Thomas A. Killoren, Jr.*
Wes A. Kissinger
Jeremy A. Dantin°
Amanda H. Craven^
Allison P. Dunham
Griffin L. Lynch
Stephen L. Denton
Samuel R. Bass II

178 WEST MAIN STREET
P.O. BOX 3547
SPARTANBURG, SC 29304
www.spartanlaw.com

TELEPHONE: 864-585-5100
TOLL FREE: 800-543-2990
FACSIMILE: 864-542-2993

FEIN 57-1088154

* also licensed in GA, NC, IL
° also licensed in GA
^ also licensed in FL

March 8, 2012

VIA U.S. MAIL

The Honorable Daniel E. Shearhouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

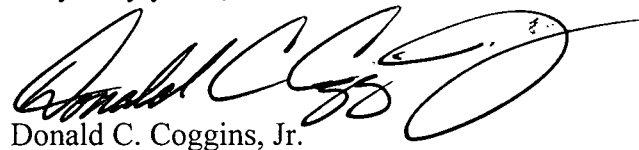
RE: The State of SC v. Ortho-McNeil Janssen
Case # 2012206987

Dear Mr. Shearhouse:

Enclosed for filing please find the original and six copies of the State's Motion to Admit Robert W. Cowan *Pro Hac Vice*. Also enclosed is the Proof of Service and a check for the \$25.00 filing fee. Please return a filed copy to us via the enclosed, self addressed stamped envelope. If you have any questions or need anything further, please do not hesitate to contact us.

With best regards, I remain,

Very truly yours,


Donald C. Coggins, Jr.

Enclosures

cc via U.S. Mail and Email:

Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

RECEIVED

MAR 09 2012

S.C. SUPREME COURT

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

cc via Email:

Alan Wilson, Attorney General
John McIntosh, Esquire
Bob Cook, Esquire
Sonny Jones, Esquire
Jay Smith
John Simmons, Esquire
John B. White, Jr., Esquire
Donald C. Coggins, Jr., Esquire
Griffin Lynch, Esquire
Mike Perrin, Esquire
Robert Cowan, Esquire
Elizabeth Dwyer, Esquire

RECEIVED
MAR 09 2012
S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

RECEIVED

MAR 9 2012

S.C. Supreme Court

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

MOTION TO ADMIT ROBERT W. COWAN *PRO HAC VICE*

Respondent, the State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney General of the State of South Carolina hereby respectfully moves this Court to permit Robert W. Cowan to appear *pro hac vice* before the Court in the above-referenced matter. Mr. Cowan's Application for Admission Pro Hac Vice along with his Certificate of Good Standing is attached hereto and incorporated herein as Exhibit A.

Counsel for Appellant, Ortho-McNeil-Janssen Pharmaceuticals, Inc., consents to the filing of this motion.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson

Attorney General

Robert D. Cook

Deputy Attorney General

C. Havird Jones, Jr.

Assistant Deputy Attorney General

1000 Assembly Street, Room 519

Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.



John B. White, Jr. (S.C. Bar No.: 5896)

Donald C. Coggins, Jr. (S.C. Bar No.: 1307)

178 West Main Street

P.O. Box 3547

Spartanburg, South Carolina 29304

(864) 585-5100

Simmons Law Firm, LLC

John S. Simmons (S.C. Bar No.: 10260)

1711 Pickens Street

Columbia, South Carolina 29202

(803) 779-4600

Bailey Perrin Bailey, PLLC

Fletcher Trammell

Robert W. Cowan

Elizabeth W. Dwyer

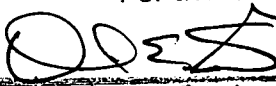
440 Louisiana, Suite 2100

Houston, Texas 77002

(713) 425-7100

ATTORNEYS FOR RESPONDENT

GRANTED.

Joan H. Neal C.J.
For the Court
By  Clerk

March 12, 2012

March 4, 2012

Spartanburg, South Carolina

Other Counsel of Record:

Nelson Mullins Riley & Scarborough LLP

C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

Exhibit A

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA, Ex rel
Alan Wilson, in his Capacity as Attorney
General of the State of South Carolina

Plaintiff

2012206987

Case No.

THE SUPREME COURT OF
SOUTH CAROLINA

Court

vs.

ORTHO-McNEIL-JANSSEN

Defendant

Mailing Address of Court: Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
PO Box 11330
Columbia, South Carolina 29211

Comes now Robert W. Cowan, applicant herein, and respectfully represents the following:

RECEIVED

MAR - 9 2012

S.C. SUPREME COURT

1. Applicant resides at:
440 Louisiana, Suite 2100

Street Address

Houston

City

713-425-7100

Telephone

Harris

County

Texas

State

77002

Zip Code

2. Applicant is an attorney and a member of the law firm of (or practices law under the name of) Bailey Perrin Bailey, with offices at, at
440 Louisiana, Suite 2100

Street Address

Houston

City

713-425-7100

Telephone

Harris

County

Texas

State

713-425-7101

Fax Number

77002

Zip Code

3. Applicant has been retained personally or as a member of the above named law firm by Plaintiff to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina.

4. Since November of 2001, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Texas where applicant regularly practices law. Attached is a certificate of good standing.

5. Applicant has been admitted to practice before the following courts: (List all of the following courts applicant has been admitted to practice before: United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and courts of other states or the District of Columbia.)

Court:

Date Admitted:

State of Texas	November 2001
Fifth Circuit Court of Appeals	
Eleventh Circuit Court of Appeals	
Arkansas Eastern District Court	January 2008
Arkansas Western District Court	January 2008
Texas Northern, Western and Eastern District Courts	
Texas Southern District / Bankruptcy Court	

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below:
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before.)

None.

6. Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e.g., jurisdiction, court, date):

None

7. Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation):

None

8. Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e.g., date, administrative body, date of suspension and reinstatement):

None

9. Local counsel of record associated with applicant in this case is John B. White, Jr., of the Harrison, White, Smith & Coggins P.C. law firm, which has offices at:

P.O. Box 3547

Street Address

Spartanburg

County

864-585-5100

Telephone

Spartanburg

City

South Carolina

State

29304

Zip Code

If applicable list all other firms/attorneys you are associated with in this matter

John S. Simmons, Simmons Law Firm

10. Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted).

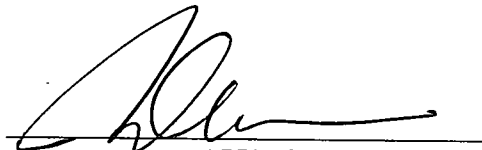
Civil Action No. 2007-CP-42-1855; South Carolina v. Eli Lilly; In the Court of Common Pleas for the Seventh Judicial Circuit; Application Filed: 6/29/2009 and Granted: August 7, 2009; Case Dismissed.

Civil Action No. 2007-CP-42-1438; South Carolina v. Ortho-McNeil-Janssen; In the Court of Common Pleas for the Seventh Judicial Circuit; Application Filed: 12/1/2010 and Granted 12/14/2010; Pending Appeal.

11. Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct. Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

12. Applicant respectfully requests to be admitted to practice in the above named court for this case only.

DATED this 28th day of February, 2012.

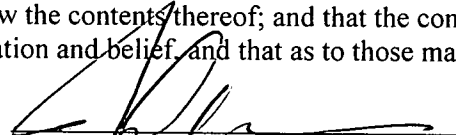

APPLICANT

VERIFICATION

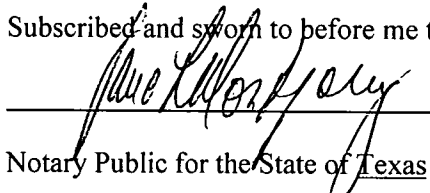
STATE OF TEXAS)

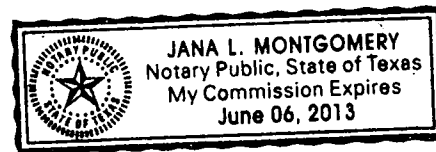
COUNTY OF HARRIS)

I, Robert W. Cowan, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.


APPLICANT/AFFIANT

Subscribed and sworn to before me this 28th day of February, 2012.


Notary Public for the State of Texas

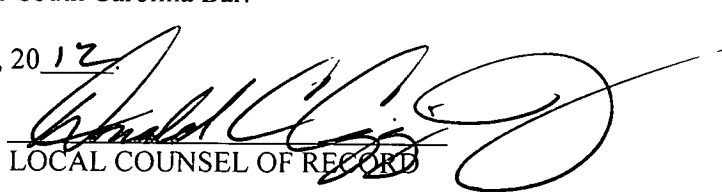


My Commission Expires: 6/6/2013

LOCAL COUNSEL CONSENT

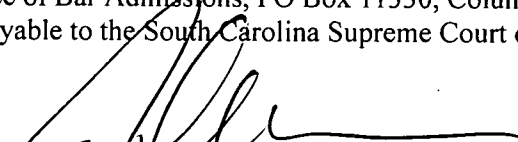
I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

DATED this 8th day of Mar, 20 12.


LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 28th day of February, 2012.


APPLICANT/AFFIANT

The Supreme Court of Texas

AUSTIN

CLERK'S OFFICE

I, **BLAKE HAWTHORNE**, Clerk of the Supreme Court of Texas, certify that the records of this office show that

Robert Wayne Cowan

was duly admitted and licensed as an attorney and counselor at law by the Supreme Court of Texas on the 2nd day of November, 2001.

I further certify that the records of this office show that, as of this date

Robert Wayne Cowan

is presently enrolled with the State Bar of Texas as an active member in good standing.

IN TESTIMONY WHEREOF witness my hand

and the seal of the Supreme Court of
Texas at the City of Austin, this, the
23rd day of February, 2012.

BLAKE HAWTHORNE, Clerk

by 
Brad Sonogo, Deputy Clerk

No. 0223D3

BAILEY PERRIN BAIL, LLP
LITIGATION ACCOUNT-PUBLIC
440 LOUISIANA, SUITE 2100
HOUSTON, TX 77002
(713) 425-7100

EN. E BANK
35-9384/1130

1399

2/23/2012

PAY TO THE ORDER OF South Carolina Supreme Court Office

\$ **250.00

Two Hundred Fifty and 00/100***** DOLLARS

South Carolina Supreme Court Office
of Bar Admissions
PO Box 11330
Columbia, SC 29211-1330

TWO SIGNATURES REQUIRED OVER \$5,000

Tracy A. Carter

MEMO

Pro Hac Vice Fee - Cowan, Robert

⑈001399⑈ ⑆113093849⑆ ⑈007320104⑈

BAILEY PERRIN BAILEY, LLP / LITIGATION ACCOUNT-PUBLIC

1399

South Carolina Supreme Court Office

Pro Hac Vice Fee - Cowan, Robert

2/23/2012

250.00

Encore - Litigation Acc Pro Hac Vice Fee - Cowan, Robert

250.00

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion to Admit Robert W. Cowan *Pro Hac Vice*** on Ortho-McNeil-Janssen Pharmaceuticals, Inc., by depositing a copy of same in the United States Mail, postage prepaid, on **March 8, 2012** addressed to their attorney of record, Richardson Plowden & Robinson, P.A., Post Office Drawer 7788, Columbia, South Carolina 29202. I also certify that I have served the same by depositing a copy of same in the United States Mail, postage prepaid, on **March 8, 2012** addressed to the following other counsel of record:

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

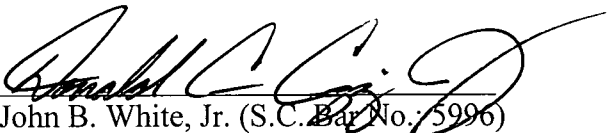
Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

Respectfully submitted,

State of South Carolina Office of the
Attorney General
Alan Wilson
Attorney General
Robert D. Cook
Deputy Attorney General
C. Havird Jones, Jr.
Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.

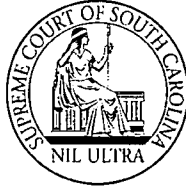


John B. White, Jr. (S.C. Bar No.: 5996)
Donald C. Coggins, Jr. (S.C. Bar No.: 1307)
178 West Main Street
P.O. Box 3547
Spartanburg, South Carolina 29304
(864) 585-5100

Simmons Law Firm, LLC
John S. Simmons (S.C. Bar No.: 10260)
1711 Pickens Street
Columbia, South Carolina 29202
(803) 779-4600

Bailey Perrin Bailey, PLLC
Fletcher Trammell
Robert W. Cowan
Elizabeth W. Dwyer
440 Louisiana, Suite 2100
Houston, Texas 77002
(713) 425-7100

ATTORNEYS FOR RESPONDENT



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1080
FAX: (803) 734-0384

March 9, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, S.C. 29211

RE: State of South Carolina, Ex rel Alan Wilson, in his
Capacity as Attorney General of the State of S.C. v.
Ortho-McNeil-Janssen
Case No.: 2012206987

Dear Mr. Shearouse:

I certify that the Office of Bar Admissions has received verified applications requesting Robert W. Cowan and Fletcher V. Trammell be admitted *pro hac vice* in the above matter. The \$250 filing fee for each applicant has been paid.

Yours truly,

Deputy Clerk for Bar Admissions

GBW/st

HWSSC
HARRISON, WHITE, SMITH & COGGINS, P.C.
Attorneys at Law

Ben C. Harrison
John B. White, Jr.
Danny R. Smith
Donald C. Coggins, Jr.
Thomas A. Killoren, Jr.*
Wes A. Kissinger
Jeremy A. Dantin°
Amanda H. Craven^
Allison P. Dunham
Griffin L. Lynch
Stephen L. Denton
Samuel R. Bass II

178 WEST MAIN STREET
P.O. BOX 3547
SPARTANBURG, SC 29304
www.spartanlaw.com

TELEPHONE: 864-585-5100
TOLL FREE: 800-543-2990
FACSIMILE: 864-542-2993

FEIN 57-1088154

* also licensed in GA, NC, IL
° also licensed in GA
^ also licensed in FL

March 8, 2012

VIA U.S. MAIL

The Honorable Daniel E. Shearhouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

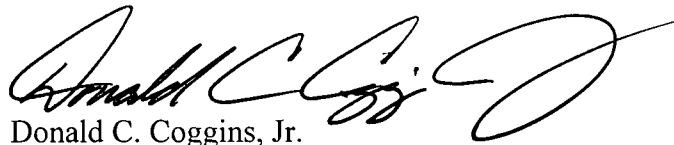
RE: The State of SC v. Ortho-McNeil Janssen
Case # 2012206987

Dear Mr. Shearhouse:

Enclosed for filing please find the original and six copies of the State's Motion to Admit Fletcher V. Trammell *Pro Hac Vice*. Also enclosed is the Proof of Service and a check for the \$25.00 filing fee. Please return a filed copy to us via the enclosed, self addressed stamped envelope. If you have any questions or need anything further, please do not hesitate to contact us.

With best regards, I remain,

Very truly yours,



Donald C. Coggins, Jr.

Enclosures

cc via U.S. Mail and Email:

Nelson Mullins Riley & Scarborough LLP
C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

RECEIVED

MAR 09 2012

S.C. SUPREME COURT

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

Drinker Biddle & Reath LLP
Thomas F. Campion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

cc via Email:

Alan Wilson, Attorney General
John McIntosh, Esquire
Bob Cook, Esquire
Sonny Jones, Esquire
Jay Smith
John Simmons, Esquire
John B. White, Jr., Esquire
Donald C. Coggins, Jr., Esquire
Griffin Lynch, Esquire
Mike Perrin, Esquire
Robert Cowan, Esquire
Elizabeth Dwyer, Esquire

RECEIVED

MAR 09 2012

S.O. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED

MAR 9 2012

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

S.C. Supreme Court

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

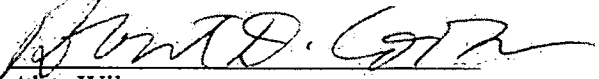
MOTION TO ADMIT FLETCHER V. TRAMMELL *PRO HAC VICE*

Respondent, the State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney General of the State of South Carolina hereby respectfully moves this Court to permit Fletcher V. Trammel to appear *pro hac vice* before the Court in the above-referenced matter. Mr. Trammell's Application for Admission Pro Hac Vice along with his Certificate of Good Standing is attached hereto and incorporated herein as Exhibit A.

Counsel for Appellant, Ortho-McNeil-Janssen Pharmaceuticals, Inc., consents to the filing of this motion.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson

Attorney General

Robert D. Cook

Deputy Attorney General

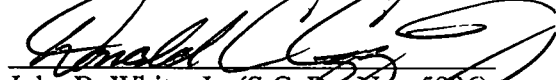
C. Havird Jones, Jr.

Assistant Deputy Attorney General

1000 Assembly Street, Room 519

Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.



John B. White, Jr. (S.C. Bar No.: 5996)

Donald C. Coggins, Jr. (S.C. Bar No.: 1307)

178 West Main Street

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Bailey Perrin Bailey, PLLC

Fletcher Trammell

Robert W. Cowan

Elizabeth W. Dwyer

440 Louisiana, Suite 2100

Houston, Texas 77002

(713) 425-7100

ATTORNEYS FOR RESPONDENT

GRANTED.

Jean H. Toal C.J.
For the Court

By 
Clerk

March 12, 2012

March 8, 2012

Spartanburg, South Carolina

Other Counsel of Record:

Nelson Mullins Riley & Scarborough LLP

C. Mitchell Brown
William C. Wood, Jr.
Mattison Bogan
Miles E. Coleman
Post Office Box 11070
Columbia, South Carolina 29211

Richardson Plowden & Robinson, P.A.
Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

Drinker Biddle & Reath LLP
Thomas F. Champion
Edward M. Posner
Kenneth A. Murphy
One Logan Square, Suite 2000
Philadelphia, Pennsylvania 19103-6996

Exhibit A

**VERIFIED APPLICATION FOR ADMISSION *PRO HAC VICE*
IN THE STATE OF SOUTH CAROLINA**

STATE OF SOUTH CAROLINA, ex. rel.
Alan Wilson, in his Capacity as Attorney
General of the State of South Carolina

Plaintiff

2012206987

Case No.

THE SUPREME COURT OF
SOUTH CAROLINA

Court

vs.

ORTHO-McNEIL-JANSSEN
PHARMACEUTICALS, INC., f/k/a
JANSSEN PHARMACEUTICAL, INC.
and/or JANSSEN, LP AND JOHNSON &
JOHNSON, INC.

Defendant

Mailing Address of Court: Honorable Daniel Shearouse
Clerk of Court
South Carolina Supreme Court
PO Box 11330
Columbia, South Carolina 29211

RECEIVED

MAR - 9 2012

S.C. SUPREME COURT

Comes now Fletcher V. Trammell, applicant herein, and respectfully represents the following:

1. Applicant resides at:

440 Louisiana, Suite 2100

Street Address

Houston

City

713-425-7100

Telephone

Harris

County

Texas

State

77002

Zip Code

2. Applicant is an attorney and a member of the law firm of (or practices law under the name of) Bailey Perrin Bailey, with offices at, at

440 Louisiana, Suite 2100

Street Address

Houston

City

713-425-7100

Telephone

Harris

County

Texas

State

713-425-7101

Fax Number

77002

Zip Code

3. Applicant has been retained personally or as a member of the above named law firm by Plaintiff to provide legal representation in connection with the above case now pending before the above named court of the State of South Carolina.

4. Since November of 2003, applicant has been, and presently is, a member in good standing of the bar of the highest court of the District of Columbia or the State of Texas where applicant regularly practices law. Attached is a certificate of good standing.

5. Applicant has been admitted to practice before the following courts: (List all of the following courts applicant has been admitted to practice before: United States District Courts; United States Circuit Courts of Appeals; the Supreme Court of the United States; and courts of other states or the District of Columbia.)

Court:

Date Admitted:

Supreme Court of Texas	November 2003
USDC Southern District of Texas	August 2004
USDC Eastern District of Texas	February 2006
USDC Eastern and Western Districts of Arkansas	January 2008
US Court of Appeals Eleventh Circuit	September 2007

Applicant is presently a member in good standing of the bars of those courts listed above, except as listed below:
(List any court named in the preceding paragraph that applicant is no longer admitted to practice before.)

None

6. Applicant presently is not subject to any suspension or disbarment proceedings, and has not been formally notified of any complaints pending before a disciplinary agency, except as provided below (give particulars, e.g., jurisdiction, court, date):

None

7. Applicant never has had any application for admission *pro hac vice* in this or any other jurisdiction denied or any *pro hac vice* admission revoked, except as provided below (give particulars, e.g., date, court, docket number, judge, circumstances; attach a copy of any order of denial or revocation):

None

8. Applicant never has had any certificate or privilege to appear and practice before any administrative body suspended or revoked, except as provided below (give particulars, e.g., date, administrative body, date of suspension and reinstatement):

None

9. Local counsel of record associated with applicant in this case is John B. White, Jr., of the Harrison, White, Smith & Coggins P.C. law firm, which has offices at:

P.O. Box 3547

Street Address

Spartanburg

Spartanburg

South Carolina

29304

County

City

State

Zip Code

864-585-5100

Telephone

If applicable list all other firms/attorneys you are associated with in this matter

John S. Simmons, Simmons Law Firm

10. Applicant has previously filed an application to appear *pro hac vice* in the following South Carolina cases (give case name and status of litigation, date of application, local counsel of record in each case, and state whether application is pending or was granted).

South Carolina v. Janssen Pharmaceutica; Case in Appeal, Date of Application: August 8, 2007, Application granted.

South Carolina v. Eli Lilly; Case dismissed; Date of Application: August 7, 2007; John White, Jr., Application granted;

South Carolina v. AstraZeneca Pharmaceuticals, Case Pending; Date of Application: September 2, 2010, John White, Jr. Application granted;

Roberts v. Toyota Motor Corp.; Case dismissed; Date of Application: February 22, 2010; John White, Jr., Application granted;

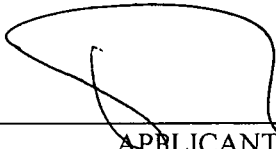
Tim Clark, et al v. Goldline International; Case dismissed; Date of Application October 24, 2010: John White, Jr.; Application granted;

Burton, et al v. Chrysler Group LLC, Case pending; Date of Application: March 23, 2010; John White, Jr.; Application granted

11. Applicant agrees to comply with the applicable statutes, laws and rules of the State of South Carolina and will familiarize him/herself with and comply with the South Carolina Rules of Professional Conduct. Applicant consents to the jurisdiction of the South Carolina courts and Commission on Lawyer Conduct.

12. Applicant respectfully requests to be admitted to practice in the above named court for this case only.

DATED this 28th day of February, 2012.



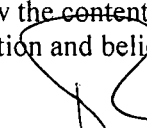
APPLICANT

VERIFICATION

STATE OF TEXAS)

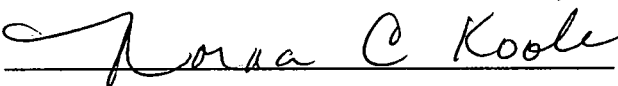
COUNTY OF HARRIS)

I, Fletcher V. Trammell, do hereby swear or affirm under penalty of perjury that I am the applicant in the above styled matter; that I have read the foregoing application and know the contents thereof; and that the contents are true of my own knowledge, except as to those matters stated on information and belief, and that as to those matters I believe them to be true.



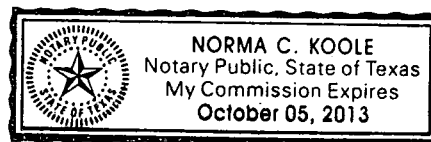
APPLICANT/AFFIANT

Subscribed and sworn to before me this 28th day of February, 2012.



Notary Public for the State of Texas

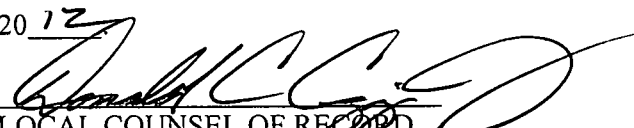
My Commission Expires: 2013



LOCAL COUNSEL CONSENT

I hereby consent, as local counsel of record, to the association of applicant in this cause pursuant to Rules Governing Admission *Pro Hac Vice* to the South Carolina Bar.

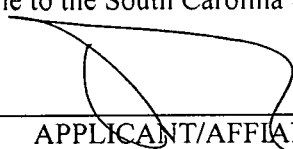
DATED this 8th day of Mar., 2012



LOCAL COUNSEL OF RECORD

CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of this application upon the South Carolina Supreme Court by mail addressed to: South Carolina Supreme Court Office of Bar Admissions, PO Box 11330, Columbia, SC 29211, accompanied by payment of the \$250 filing fee payable to the South Carolina Supreme Court on this 8th day of Mar., 2012.



APPLICANT/AFFIANT

The Supreme Court of Texas

AUSTIN

CLERK'S OFFICE

I, **BLAKE HAWTHORNE**, Clerk of the Supreme Court of Texas, certify that the records of this office show that

Fletcher Vines Trammell

was duly admitted and licensed as an attorney and counselor at law by the Supreme Court of Texas on the 6th day of November, 2003.

I further certify that the records of this office show that, as of this date

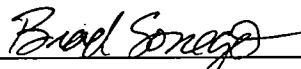
Fletcher Vines Trammell

is presently enrolled with the State Bar of Texas as an active member in good standing.

IN TESTIMONY WHEREOF witness my hand

and the seal of the Supreme Court of
Texas at the City of Austin, this, the
23rd day of February, 2012.

BLAKE HAWTHORNE, Clerk

by 
Brad Sonogo, Deputy Clerk

No. 0223D1

BAILEY PERRIN BAILEY, LLP
LITIGATION ACCOUNT-PUBLIC
440 LOUISIANA, SUITE 2100
HOUSTON, TX 77002
(713) 425-7100

ENC JANK
35-9384/1130

1400

2/23/2012

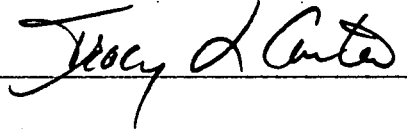
PAY TO THE ORDER OF South Carolina Supreme Court Office

\$ **250.00

Two Hundred Fifty and 00/100***** DOLLARS

South Carolina Supreme Court Office
of Bar Admissions
PO Box 11330
Columbia, SC 29211-1330

TWO SIGNATURES REQUIRED OVER \$5,000


MP

MEMO Pro Hac Vice Fee - Trammell, Fletcher V.

⑈001400⑈ ⑆113093849⑆

⑈007320104⑈

BAILEY PERRIN BAILEY, LLP / LITIGATION ACCOUNT-PUBLIC

1400

South Carolina Supreme Court Office

2/23/2012

Pro Hac Vice Fee - Trammell, Fletcher V.

250.00

Encore - Litigation Acc Pro Hac Vice Fee - Trammell, Fletcher V.

250.00

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
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Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

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capacity as Attorney General of the State of South
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vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
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Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion to Admit Fletcher V. Trammell Pro Hac Vice** on Ortho-McNeil-Janssen Pharmaceuticals, Inc., by depositing a copy of same in the United States Mail, postage prepaid, on **March 8, 2012** addressed to their attorney of record, Richardson Plowden & Robinson, P.A., Post Office Drawer 7788, Columbia, South Carolina 29202. I also certify that I have served the same by depositing a copy of same in the United States Mail, postage prepaid, on **March 8, 2012** addressed to the following other counsel of record:

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Steven J. Pugh
Steven W. Hamm
Mason A. Summers
Post Office Drawer 7788
Columbia, South Carolina 29202

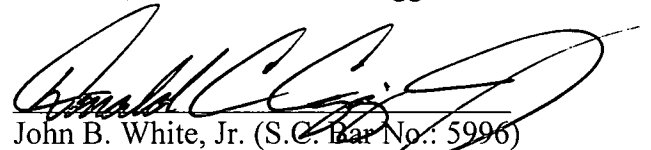
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Drinker Biddle & Reath LLP
Thomas F. Campion
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Philadelphia, Pennsylvania 19103-6996

Respectfully submitted,

State of South Carolina Office of the
Attorney General
Alan Wilson
Attorney General
Robert D. Cook
Deputy Attorney General
C. Havird Jones, Jr.
Assistant Deputy Attorney General
1000 Assembly Street, Room 519
Columbia, South Carolina 29201

Harrison, White, Smith & Coggins, P.C.



John B. White, Jr. (S.C. Bar No.: 5996)
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ATTORNEYS FOR RESPONDENT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

RECEIVED
FEB 13 2012
SC Court of Appeals

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

MOTION TO TRANSFER CASE
AND CERTIFY THE CASE FOR
REVIEW BY THE SUPREME COURT

The Respondent, State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney General of the State of South Carolina (the "State") does hereby move to have the above appeal transferred from the South Carolina Court of Appeals and have the case reviewed directly by the South Carolina Supreme Court. This Motion is being made pursuant to Rule 204(b) of the South Carolina Appellate Court Rules. Certification is warranted because this case presents issues of significant public interest and involves

legal principles of major importance not only to the Office of the Attorney General for the State of South Carolina but also to the citizens of South Carolina at large.

The State sued Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., ("Janssen") and Johnson & Johnson, Inc. for violations of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10 *et seq.*, ("SCUTPA") stemming from Janssen's dissemination of its Risperdal package insert and November 2003 Dear Doctor Letter to doctors and patients in South Carolina. A jury found Janssen willfully violated SCUTPA, and the Honorable Roger L. Couch issued an award of civil penalties under SCUTPA against Janssen and in favor of the State of South Carolina in the amount of \$327,073,700.00. Janssen then filed the present appeal.

The novel issues raised by this case arise out of the recovery of civil penalties by the South Carolina Attorney General for violations of SCUTPA by Janssen. On appeal, Janssen will likely argue, as it did in the trial court, that an award of civil penalties under SCUTPA based on the Risperdal package insert and the November 2003 Dear Doctor letter is improper because (1) the claims are barred by S.C. Code Ann. § 39-5-40(a), the regulated activity exemption under SCUTPA; (2) the violations are preempted by the Federal Food Drug and Cosmetics Act ("FDA"); (3) the violations are protected by the First Amendment; (4) the State failed to prove the Risperdal package insert and the November 2003 Dear Doctor Letter violated SCUTPA; (5) the State failed to prove actual harm and/or reliance by South Carolina physicians on any misrepresentations and/or omissions in the Risperdal package insert and November 2003 Dear Doctor Letter; (6) Janssen's unfair or deceptive trade practices did not impact the public interest; (7)

Janssen's unfair or deceptive trade practices were not willful; (8) the State's claims are barred by the statute of limitations; (9) the Court's evidentiary rulings tainted the jury verdict; (10) the State's opening and closing arguments prejudiced Janssen; and (11) the jury instructions and verdict sheet rendered the jury's verdict uninterpretable.

The State, without arguing the merits of this appeal, submits that it is crucial that this Court hear this appeal in the first instance. SCUTPA, codified in S.C. Code Ann. § 39-5-10 *et seq.*, specifically states that the Attorney General may bring an action for a violation of S.C. Code Ann. § 39-5-20, defined as any "unfair method of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce." S.C. Code Ann. § 39-5-20; see also S.C. Code § 39-5-50. SCUTPA further defines trade and commerce as "advertising, offering for sale, sale or distribution of any property, tangible or intangible, real, personal, or mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this state." S.C. Code Ann. § 39-5-10(b). In performing his obligations under SCUTPA, the Attorney General is granted specific authority to petition the Court on behalf of the State to recover a civil penalty not exceeding \$5,000 per violation, once the Court has found a willful violation of SCUTPA. S.C. Code Ann. § 39-5-110.

Courts in this State have interpreted SCUTPA to allow the Attorney General to bring an action on behalf of the citizens of South Carolina and to have created a statutory standard of willfulness that is different from the common law standard. See State ex rel. Medlock v. Nest Egg Society Today, Inc., 348 S.E.2d 381 (S.C. Ct. App. 1986); State ex rel. McLeod v. C & L Corporation, Inc., 313 S.E.2d 334 (S.C. Ct. App. 1984) (abrogated on other grounds). In order to recover under SCUTPA, a plaintiff is not required to prove

that a claim or representation was intended to deceive; rather, a plaintiff need only show that the claim or representation was unfair or had the capacity, effect, or tendency to deceive. State ex rel. McLeod, 313 S.E.2d 334 at 338. South Carolina courts have also held that proof of common law fraud is not required to establish a violation of SCUTPA. *See* State ex rel. McLeod, 313 S.E.2d 334 at 338. Nevertheless, Janssen continues to mischaracterize the State's allegations, the Court's orders, and the jury's verdict as those of a "failure to warn" case requiring proof of common law negligence and fraud.

The issues raised by this case are believed to be of first impression in South Carolina, and also in the United States, as the Attorney General is unaware of any other case which has been successfully litigated against a major pharmaceutical corporation as a consumer protection enforcement action solely for civil penalties. Given the prevalence of pharmaceutical promotion in society today, it is critical that these issues be addressed as expeditiously as possible for the benefit of the Attorney General as well as South Carolina business and industry. In fact, the Attorney General currently has pending several other pharmaceutical cases which have been brought, in whole or in part, pursuant to the same statutory provision.

Consequently, this case is of vital importance to the State of South Carolina and its citizenry because Janssen seeks to prevent the Office of the Attorney General from performing its statutorily mandated duties of protecting the citizens of South Carolina. Janssen is essentially asking the courts of this State to ignore the plain, statutory language of SCUTPA and the case law interpreting it. The defendants in these pending cases are sure to follow Janssen's lead.

SCUTPA is a critical aspect of the Attorney General's ability to protect the public interest in South Carolina when it comes to ensuring that corporations do not engage in unfair or deceptive business practices in South Carolina. This tool is even more critical in the protection of South Carolina citizens in situations involving prescription drugs. With respect to such products, the doctors and patients of South Carolina are particularly dependent on the information provided by the pharmaceutical companies to them, both directly and through the FDA, and, thus, susceptible to any deception within that information. Moreover, the use of prescription drugs by South Carolina citizens directly affects their health and, in some cases, their mortality.

The State, therefore, respectfully requests to have this appeal directly heard by the South Carolina Supreme Court rather than by the South Carolina Court of Appeals.

Respectfully submitted,

State of South Carolina Office of the
Attorney General



Alan Wilson

Attorney General

Robert D. Cook

Deputy Attorney General

C. Havird Jones, Jr.

Assistant Deputy Attorney General

1000 Assembly Street, Room 519

Columbia, South Carolina 29201

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February 10, 2012

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THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina.....Respondent,

vs.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceuticals, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,.....Defendants,

Of Whom Ortho-McNeil-Janssen Pharmaceuticals, Inc., is.....Appellant.

PROOF OF SERVICE

I certify that I have served the Respondent's **Motion to Transfer Case and
Certify the Case for Review by the Supreme Court** by depositing a copy of it in the
United States Mail, postage prepaid, on February 10, 2012, addressed to the following
counsel of record and the South Carolina Court of Appeals:

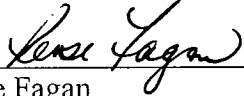
Nelson Mullins Riley & Scarborough LLP
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The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
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Rose Fagan
Paralegal

February 10, 2012

Spartanburg, South Carolina

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° also licensed in GA
^ also licensed in FL

February 10, 2012

VIA U.S. MAIL

The Honorable Daniel E. Shearhouse
Clerk, Supreme Court of South Carolina
Post Office Box 11330
Columbia, South Carolina 29211

RE: State of South Carolina ex. rel. Alan Wilson, in his capacity as Attorney General of the
State of South Carolina vs. Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a Janssen
Pharmaceutica, Inc. and/or Janssen, LP, and Johnson & Johnson, Inc.
Civil Action No.: 2007-CP-42-1438

Dear Mr. Shearhouse:

Enclosed for filing please find the original and six copies of the State's Motion to Transfer Case and Certify the Case for Review by the Supreme Court. Also enclosed is the Proof of Service and a check for the \$25.00 filing fee. Please return a filed copy to us via the enclosed, self addressed stamped envelope. If you have any questions or need anything further, please do not hesitate to contact us.

With best regards, I remain,

Very truly yours,

John B. White, Jr.

Enclosures

cc via U.S. Mail:

✓ Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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FEB 13 2012
SC Court of Appeals

cc via U.S. Mail and Email:

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cc via Email:

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Bob Cook, Esquire
Sonny Jones, Esquire
Jay Smith
John Simmons, Esquire
John B. White, Jr., Esquire
Donald C. Coggins, Jr., Esquire
Griffin Lynch, Esquire
Mike Perrin, Esquire
Robert Cowan, Esquire
Elizabeth Dwyer, Esquire

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

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Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc.,..... Defendants,

Of whom Ortho-McNeil-Janssen Pharmaceuticals, Inc. is.... Appellant.

**APPELLANT'S RESPONSE TO MOTION TO
TRANSFER CASE AND CERTIFY THE CASE
FOR REVIEW BY THE SUPREME COURT**

Appellant, Ortho-McNeil-Janssen Pharmaceuticals, Inc. ("Janssen"),¹ hereby responds to the Motion of Respondent, the State of South Carolina, to Transfer Case and Certify the Case for Review by the Supreme Court. Although Janssen does not agree with many of the statements made in the State's motion, or with the State's summarization and characterization of the case, Janssen does not object to the relief sought by the motion; it does not object to transferring this case and certifying the case

¹ On June 22, 2011, Ortho-McNeil-Janssen Pharmaceuticals, Inc. changed its name to Janssen Pharmaceuticals, Inc.

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SC Court of Appeals

sought by the motion; it does not object to transferring this case and certifying the case for review by the Supreme Court. Indeed, important legal principles are at issue on this appeal, and it is appropriate for the appeal to be heard directly by the Supreme Court.

After a jury found that Janssen had violated the South Carolina Unfair Trade Practices Act ("SCUTPA"), S.C. Code Ann. §§ 39-5-10 to -170, the trial court imposed more than \$327,000,000 in civil penalties. Liability and these enormous penalties were based on: (1) Janssen's use in South Carolina of the Risperdal[®] label, or package insert, which had been approved repeatedly by the U.S. Food and Drug Administration ("FDA"); and (2) a November 2003 mailing sent to South Carolina health care professionals that set forth Janssen's understanding of the state of scientific and medical knowledge about the incidence of metabolic side effects in patients treated with antipsychotic medicines, including Risperdal, and that included citations to the full body of peer-reviewed, published epidemiologic studies available at that time. The jury returned its verdicts, and the trial court imposed these penalties, even though there was no evidence that any South Carolina physician was misled or was likely to be misled by the package insert or by the mailing, there was no evidence that any South Carolina patient suffered any injury as a result of Risperdal treatment, and there was no evidence that the State or anyone else suffered any financial loss by reason of any "misstatements" in the package insert or the mailing. Further, the trial court's penalty award was based on the trial court's assumptions about the basis for the jury's general liability verdicts – the trial court assumed, for example, that the jury had found that the

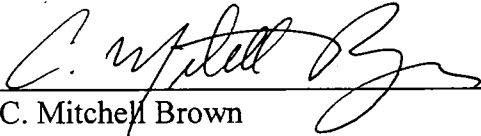
FDA-approved package insert was “inadequate” for multiple reasons and for more than thirteen years.

This raises questions on appeal involving significant legal principles, including whether (1) a claim based on the use, in South Carolina, of an FDA-approved package insert is barred by SCUTPA’s “regulated activity exemption,” S.C. Code Ann. § 39-5-40(a); (2) the State’s claims are preempted by federal law; (3) liability and penalties may be imposed when a plaintiff has not shown, as required by SCUTPA, that the challenged statements had an impact on the marketplace – e.g., that they were likely to deceive the doctors who used the label and read the mailing; (4) the First Amendment to the U.S. Constitution requires clear and convincing evidence of elements of the State’s claim; (5) the First Amendment to the U.S. Constitution bars the imposition of liability and penalties for statements that do not mislead and/or for statements that are true; (6) penalties can be imposed for “violations” that, for all that appears from the verdict sheets, may not have been the basis for the jury verdicts; (7) the massive penalties imposed by the trial court – in the absence of any proof of deception or loss – violate the Due Process Clause of the U.S. Constitution; and (8) the penalties imposed by the trial court violate the Excessive Fines Clauses of the South Carolina and U.S. Constitutions.

WHEREFORE, Janssen does not object to the transfer of the case and certification of the case for review by the Supreme Court.

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By:



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Attorneys for Appellant
Ortho-McNeil-Janssen Pharmaceuticals, Inc.

Columbia, South Carolina
February 21, 2012.

² Applications for admission *pro hac vice* will be filed.

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Attorneys for Respondent

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SPARTANBURG COUNTY
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Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

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Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants,

Of whom Ortho-McNeil-Janssen Pharmaceuticals, Inc. is.... Appellant.

PROOF OF SERVICE

I certify that I have served all counsel in this action with a copy of Appellant's
Response to Motion to Transfer Case and Certify the Case for Review by the Supreme
Court by mailing a copy of the same by United States Mail, postage prepaid, to the
following addresses:

Alan Wilson
C. Havird Jones, Jr.
Office of Attorney General
1000 Assembly Street, Room 519
Columbia, South Carolina 29201

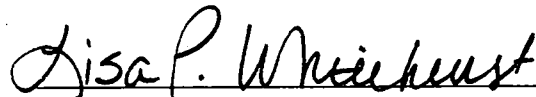
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The Honorable Tanya A. Gee
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

A handwritten signature in cursive script, reading "Lisa P. Whitehurst", written over a horizontal line.

Lisa P. Whitehurst
Administrative Assistant

February 21, 2012.

Nelson Mullins

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February 21, 2012

The Honorable Daniel E. Shearouse
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Post Office Box 11330
Columbia, SC 29211

RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
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Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

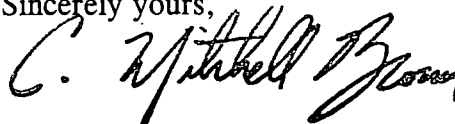
Dear Mr. Shearouse:

Enclosed please find the original and seven copies of Appellant's Response to Motion to Transfer Case and Certify the Case for Review by the Supreme Court in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier.

By copy of this letter to counsel of record, we are serving them with a copy of this response.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw

Enclosures

cc: The Honorable Tanya Gee
Alan Wilson, Attorney General

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SC Court of Appeals

The Honorable Daniel E. Shearouse

February 21, 2012

Page 2

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February 13, 2012

Hand Delivered

The Honorable Tanya A. Gee
Clerk of Court
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1015 Sumter Street - 5th Floor
Columbia, SC 29201

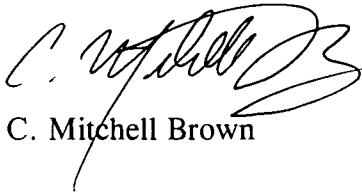
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L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

Dear Ms. Gee:

Pursuant to our conversation today, this letter confirms that we were in the possession of the transcript prior to the filing of the Notice of Appeal in this matter. Thank you very much for your time in speaking with me today regarding our extension request.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw

cc: Alan Wilson, Attorney General
C. Havird Jones, Jr., Sr. Assistant Attorney General
John B. White, Jr., Esquire
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SC Court of Appeals

The Honorable Tanya A. Gee

February 13, 2012

Page 2

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The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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February 15, 2012

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Houston, TX 77002

Re: The State of SC v. Ortho-McNeil-Janssen
Case #2012206987

Dear Counsel:

If you desire to represent Ortho-McNeil-Janssen Pharmaceuticals, Inc. & the State of South Carolina before the Court of Appeals, you must file an Application for Admission Pro Hac Vice and have a member in good standing of the South Carolina Bar associated with you as attorney of record. The specific requirements are outlined in Rule 404 of the South Carolina Appellate Court Rules and are available on the Internet at www.sccourts.org.

The **original** Application for Admission Pro Hac Vice with an **original** certificate of good standing of the Bar from the highest court of any state or the District of Columbia in which you are admitted to practice law must be filed with this Court. A **copy** of the completed application form, including the \$250.00 filing fee and any required attachments, must be filed with the South

Carolina Supreme Court Office of Bar Admissions. The Clerk of the Supreme Court will certify to this court that the completed application and fee have been received.

In addition, the South Carolina attorney with whom you will be associated must serve and file a motion to admit you pro hac vice. The motion must be in compliance with the requirements of Rule 224, SCACR, to include the original motion, six copies, proof of service on all other parties, and the filing fee of \$25.00.

The required documents should be served and filed within thirty days of the date of this letter. If you have any questions, please contact this office at (803) 734-1890.

Very truly yours,

V. Claire Allen, Deputy

CLERK

TAG/jt

cc: C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire

Attorney General Alan Wilson
C. Harvird Jones, Jr., Esquire

John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
John S. Simmons, Esquire

The South Carolina Court of Appeals

State of South Carolina ex. rel. Alan
Wilson, in his capacity as Attorney
General of the State of South Carolina, Respondent,

v.

Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen
Pharmaceutical, Inc. and/or Janssen,
L.P., and Johnson & Johnson, Inc., Defendants,

Of whom Ortho-McNeil-Janssen
Pharmaceuticals, Inc. is the, Appellant.

The Honorable Roger L. Couch
Spartanburg County
Trial Court Case No. 2007-CP-42-01438

ORDER

For good cause having been shown, the time for serving and filing the Appellant's Initial Brief and Designation of Matter in the above entitled matter is hereby extended until March 19, 2012.

IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE
For the Court

BY V. Claire Allon, Deputy
CLERK

FILED

2/13/12

ST

Columbia, South Carolina

cc: C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire

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Kenneth A. Murphy

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The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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1015 SUMTER STREET
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February 13, 2012

C. Mitchell Brown, Esquire
William C. Wood, Jr., Esquire
A. Mattison Bogan, Esquire
Miles E. Coleman, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Re: The State of SC v. Ortho-McNeil-Janssen
Case #2012206987

Dear Counsel:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. Failure to file in the proper court may result in the dismissal of your appeal. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the bar number and firm name of any counsel shown must be included in his or her address.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the transcript) with the Court Reporter for furnishing the transcript. You are reminded of the notification requirements of Rule 207(a)(5), SCACR, also, please advise the Court in writing upon receipt of the transcript.

I further wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

V. Claire Allen, Deputy
Tanya A. Gee
CLERK

TAG/jt

cc: Steven J. Pugh, Esquire
Steven W. Hamm, Esquire
Mason A. Summers, Esquire

Thomas F. Campion, Esquire
Edward M. Posner, Esquire
Kenneth A. Murphy

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Robert W. Cowan, Esquire
Elizabeth W. Dwyer, Esquire
John B. White, Jr., Esquire
Donald C. Coggins Jr., Esquire
John S. Simmons, Esquire
The Honorable M. Hope Blackey

The Supreme Court of South Carolina

RE: Interim Guidance Regarding Personal Data Identifiers and
Other Sensitive Information in Appellate Court Filings

ORDER

Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006); Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). Therefore, with some few exceptions,¹ documents filed with this Court or the South Carolina Court of Appeals (appellate court) are available to the public unless sealed by order of the appellate court in which the matter is pending.

Several commercial vendors have recently requested copies of briefs filed with the appellate courts, and it is anticipated that these and other appellate filings will be available electronically from both private and public sources in the future. The ready availability of these documents raises significant privacy concerns. While this problem is currently under review by the Chief Justice's Task Force on Public Access to Court Records, we adopt the following interim guidance regarding personal data identifiers and other sensitive information in documents filed in the appellate courts.

Parties shall not include, or will partially redact where inclusion is necessary, the following personal data identifiers from documents filed with an appellate court:²

1. Social Security Numbers. If a social security number must be included, only the last four digits of that number should be used.
2. Names of Minor Children. If a minor is the victim of a sexual assault or is involved in an abuse or neglect case, the minor's name will be completely redacted and a term such as "victim" or "child" should be used. In all other cases, only the minor's first name and first initial of the last name (i.e., John S.) should be used.
3. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses. If a home address must be included, only the city and state should be used.

Parties wishing to file documents containing the personal data identifiers listed above may file unredacted documents under seal, together with redacted versions for the public file. The sealed unredacted documents shall be filed in a separate Appendix and the bottom of each page of the Appendix shall be marked "Sealed." No order of the appellate court will be required to file this sealed Appendix. The number of copies of the Appendix to be served and filed shall be the same as that required for the brief, record on appeal, motion or other filing that includes the redacted documents.

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above, must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in Ex parte Capital U-Drive-It, Inc. and Davis v. Jennings, supra, must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for insuring that information is redacted or sealed rests with counsel and the parties.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

Columbia, South Carolina

August 13, 2007

¹ See, e.g., Rule 12 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR; Rule 12 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502, SCACR; Rule 402(n), SCACR; and Rule 403(l), SCACR.

² This restriction shall not apply when this information is required or requested by the appellate court. For example, the application for admission to practice law under Rule 402, SCACR, requires many of these personal identifiers to be disclosed.

Nelson Mullins

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February 2, 2012

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RECEIVED
FEB 02 2012
SC Court of Appeals

RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

Dear Ms. Gee:

Due to other deadlines and work obligations, the Appellant respectfully requests a thirty (30) day extension of time to file its initial brief in this matter. This is the first request for an extension of time by the Appellant to file this brief, and based on our calculations, the new deadline would be March 19, 2012. Our check for \$25.00 is enclosed as the required motion fee. We thank the Court for its kind consideration of this request.

With kind regards, I remain

Sincerely yours,


C. Mitchell Brown

CMB:lpw

Enclosure

cc: Alan Wilson, Attorney General
C. Havird Jones, Jr., Sr. Assistant Attorney General
John B. White, Jr., Esquire

2/17/12
3/19/12

The Honorable Tanya A. Gee
February 2, 2012
Page 2

Donald C. Coggins, Jr., Esquire
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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

RECEIVED

JAN 18 2012

SC Court of Appeals

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina,.....

Respondent,

v.

Ortho-McNeil-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ...

Defendants,

Of whom Ortho-McNeil-Janssen Pharmaceuticals, Inc. is....

Appellant.

NOTICE OF APPEAL

Pursuant to Rule 203 of the South Carolina Appellate Court Rules,
Ortho-McNeil-Janssen Pharmaceuticals, Inc.¹ ("Janssen") appeals the Order of the
Honorable Roger L. Couch dated December 20, 2011, and filed December 20, 2011
(attached as Exhibit A) denying Janssen's Motion for Judgment Notwithstanding the
Verdict or, in the Alternative, for a New Trial; the Order of the Honorable Roger L.
Couch dated December 20, 2011, and filed December 20, 2011 (attached as Exhibit B)
denying Janssen's Motion to Alter or Amend the Judgment and/or for a New Trial; the

¹ On June 22, 2011, Ortho-McNeil-Janssen Pharmaceuticals, Inc. changed its name to
Janssen Pharmaceuticals, Inc.

Order of the Honorable Roger L. Couch dated June 3, 2011, and filed June 3, 2011 (attached as Exhibit C) awarding penalties in favor of Respondent; and the accompanying Verdict Form signed March 22, 2011 (attached as Exhibit D). Appellant received written notice of entry of the above cited December Orders on December 20, 2011.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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(215) 988-2700

Attorneys for Appellant
Ortho-McNeil-Janssen Pharmaceuticals, Inc.

Columbia, South Carolina
January 18, 2012.

Other Counsel of Record (on next page):

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Office of Attorney General

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Attorneys for Respondent

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2007-CP-42-1438

State of South Carolina ex. rel. Alan Wilson in his
capacity as Attorney General of the State of South
Carolina, ... Respondent,

v.

Ortho-McNeill-Janssen Pharmaceuticals, Inc., f/k/a
Janssen Pharmaceutica, Inc., and/or Janssen, L.P., and
Johnson & Johnson, Inc., ... Defendants.

Of whom Ortho-McNeill-Janssen Pharmaceuticals, Inc.
is Appellant.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: **Notice of Appeal**

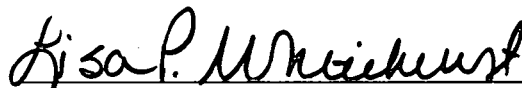
Counsel Served: The Honorable Alan Wilson
 C. Havird Jones, Jr.
 Office of Attorney General
 1000 Assembly Street, Room 519
 Columbia, SC 29201

RECEIVED
JAN 18 2012
SC Court of Appeals

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Lisa P. Whitehurst
Administrative Assistant

January 18, 2012

Nelson Mullins

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January 18, 2012

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: State of South Carolina ex. rel. Alan Wilson in his capacity as Attorney
General of the State of South Carolina v. Ortho-McNeil-Janssen
Pharmaceuticals, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen,
L.P., and Johnson & Johnson, Inc.
Civil Action No. 2007-CP-42-1438
Our File No. 03501/01534

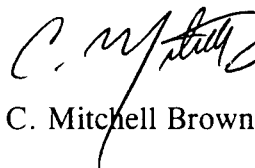
Dear Ms. Gee:

Enclosed please find the original and one copy of a Notice of Appeal in the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$100.00 as the required filing fee.

By copy of this letter to the Spartanburg County Clerk of Court and counsel of record, we are serving them with a copy of this notice.

With kind regards, I remain

Sincerely yours,


C. Mitchell Brown

RECEIVED
JAN 18 2012
SC Court of Appeals

CMB:lpw
Enclosures

cc: The Honorable M. Hope Blackley
The Honorable Alan Wilson

The Honorable Tanya A. Gee

January 18, 2012

Page 2

C. Havird Jones, Jr., Sr.
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STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA

ex. rel. Alan Wilson, in his capacity
as Attorney General of the State of
South Carolina,

PLAINTIFF,

vs.

ORTHO-MCNEIL-JANSSEN
PHARMACEUTICALS, INC., f/k/a
JANSSEN PHARMACEUTICA, INC.,
and/or JANSSEN, L.P., AND
JOHNSON & JOHNSON, INC.

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

FOR THE SEVENTH JUDICIAL CIRCUIT

Civil Action No.: 2007-CP-42-1438

ORDER DENYING DEFENDANT'S
MOTION FOR JUDGMENT
NOTWITHSTANDING THE VERDICT
OR, IN THE ALTERNATIVE,
FOR A NEW TRIAL

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CLERK OF COURT
SPARTANBURG COUNTY
2011 DEC 20 PM 4:31
HOPE BLACKLEY

This matter came before me on the Motion for Judgment Notwithstanding the Verdict or, in the Alternative, for a New Trial, and Memorandum of Law in Support (collectively, the "Motion"), filed by Defendant Ortho-McNeil-Janssen Pharmaceuticals, Inc., (hereinafter "Defendant" or "Janssen"), and the Response in Opposition and Memorandum of Law in Support (collectively, the "Response"), filed by Plaintiff, the State of South Carolina, *ex rel.* Alan Wilson, in his capacity as Attorney General of the State of South Carolina (hereinafter, "the State"). A trial was held in Spartanburg, South Carolina, beginning March 8, 2011. On March 22, 2011, following a full day of deliberation, the jury unanimously found that Defendant had willfully committed deceptive or unfair acts in violation of the South Carolina Unfair Trade Practices Act ("SCUTPA"). Upon consideration of the above described Motion, the Memoranda and Response of the parties filed therewith, and the evidence presented at trial, the Court rules as follows:

[Signature]
pi

For the reasons that follow, the Court rejects each of Defendant's contentions that judgment in favor of Janssen notwithstanding the jury's verdict is appropriate and that Janssen is entitled to a new trial.

First, Janssen contends the State's claim based on the FDA-approved Risperdal package insert is barred by several legal doctrines. Specifically, Janssen argues (1) the State's package insert claim is barred by SCUTPA's regulated activity exemption, S.C. Code Ann. § 39-5-40(a); (2) the State's evidence that the FDA-approved package insert constitutes an unfair or deceptive trade practice amounted to nothing more than an attempt to enforce the FDCA, barred by principles of primary jurisdiction; and, (3) the FDA-approved package insert cannot, as a matter of law, be considered "unfair" or "deceptive" to consumers because it is not written for consumers and because Janssen has no "duty" to consumers. Janssen has repeatedly presented the same or similar arguments to the Court, and they have been previously rejected. Janssen presents nothing in this Motion that convinces the Court it should deviate from its prior rulings.

Second, Janssen contends the State's November 2003 Dear Doctor letter expressly preempted, because the FDCA does not permit private causes of action based on violations of the Act. In addition, Janssen argues the State's package insert claim is barred by federal conflict preemption, *Buckman* "fraud on the FDA" preemption, and express preemption. Again, the Court has previously ruled that this is an action brought under SCUTPA, not the FDCA, brought by the State to recover penalties for SCUTPA violations, not for "fraud on the FDA" or any other violation of federal law or regulation. Janssen's contention is again rejected.

Third, Janssen contends the State was required to prove certain additional elements because its SCUTPA claim sought to punish Janssen's speech in violation of the First Amendment, including (1) evidence that the statements it sought to punish could be proven true

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SPARTANBURG COUNTY
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MICHOE BLACKLEY

or false; and, (2) clear and convincing evidence that the statements were made with actual malice. As previously determined by the Court, there is no First Amendment violation here; furthermore, the media-based defamation cases cited by Janssen are inapposite.

Fourth, Janssen argues that the State's claim that the November 2003 Dear Doctor letter and the Risperdal package insert constitute unfair trade practices fails because (1) the use of an FDA-approved package insert cannot be an unfair trade practice; (2) the State has no evidence that satisfies the essential elements of a claim for an unfair trade practice; and (3) alleged violations of public policy alone are not a basis for a finding that an act or practice is unfair. As it has found previously with respect to the same or similar arguments by Janssen, the Court rejects each of those contentions. Janssen has proffered no new arguments or evidence such that it may be said that jury's verdict is wholly unsupported by the evidence, nor that the conclusion reached was pursuant to an error of law.

Fifth, Janssen insists that the State's deceptive trade practice claim fails because (1) the November 2003 Dear Doctor letter and the Risperdal package insert do not contain any actionable representations; (2) the State has no evidence that Janssen did not have a reasonable basis for the opinions set forth in either the November 2003 Dear Doctor letter or the Risperdal package insert or that either the November 2003 Dear Doctor letter or the Risperdal package insert had a tendency to deceive or was likely to deceive the relevant audience; and, (3) the State has no evidence that either the November 2003 Dear Doctor letter or the challenged statements in the Risperdal package insert were material to South Carolina physicians' decisions to prescribe Risperdal for their patients. The Court finds contrary to Janssen's assertions. The misrepresentations and omissions in the November 2003 Dear Doctor letter and the Risperdal

package insert were actionable under SCUTPA, and the State adduced sufficient evidence to support the jury finding of SCUTPA violations.

Sixth, Janssen contends the State's SCUTPA claim fails because the State did not introduce sufficient evidence for the jury to find that the alleged unfair or deceptive trade practice adversely affected the public interest. The Court also rejects this contention. Again, the Court finds that the State adduced sufficient evidence to satisfy its burden under SCUTPA.

Seventh, Janssen argues the State's SCUTPA claim fails because the State did not introduce sufficient evidence for the jury to find willful conduct as willfulness is defined by South Carolina law. That point is also rejected. The Court finds that the State introduced sufficient evidence for the jury to find Janssen acted "willfully," as that term is defined under SCUTPA and South Carolina case law.

Eighth, Janssen contends the State's SCUTPA claim is barred by the statute of limitations. Accordingly, Janssen believes it was entitled to a directed verdict on statute of limitations ground, and the Court erred in granting the State's Motion for a Directed Verdict on the Statute of Limitations Defense. As the Court has previously ruled, the Court finds that this action was timely filed within the period provided by the applicable statute of limitations.

Ninth, Janssen argues that the Court's evidentiary rulings tainted the jury's verdict against Janssen, and that the Court erred in:

1. failing to limit the State's SCUTPA claim to the conduct the State identified in discovery as the basis of its SCUTPA violation;
2. admitting various categories of evidence, including but not limited to, documents and testimony related to (i) advisory letters from the FDA's DDMAC; (ii) the number of Risperdal prescriptions filled in South Carolina; (iii) Defendants' profits, sales, revenues, and business plans; (iv) emails sent by Scott Reines; (v) alleged off-label and otherwise improper and deceptive promotional and marketing activities; and, (vi) nondisclosures to the FDA;

3. excluding relevant evidence, including documents and testimony that would have shown that: (i) the FDA has recognized that each atypical antipsychotic has a different risk profile; (ii) the November 2003 Dear Doctor letter and the Risperdal package insert did not have a tendency to deceive South Carolina prescribing physicians; and, (iii) the State's interpretation of the federal regulations governing a pharmaceutical manufacturer's duty to update its product label was erroneous;
4. excluding post-2004 evidence regarding the risks of diabetes, hyperglycemia, and other side effects of various atypical antipsychotics, including Risperdal;
5. precluding Janssen from introducing the testimony of Dr. Eugene Barrett;
6. precluding Janssen from introducing certain evidence regarding the SCORxE Program.
7. precluding Janssen from introducing certain testimony from Dr. William Wecker; and,
8. precluding Janssen from introducing certain testimony of Sheldon Bradshaw.

The Court rejects each of the above contentions. The Court acted within its sound discretion in admitting and denying admission of certain evidence and testimony at trial.

Tenth, Janssen believes the State's opening and closing statements prejudiced Janssen because they repeatedly referenced Defendants' revenues and profit margins, corporate integrity, and corporate ethics, and otherwise sought to have the jury base its decision on emotion and/or bias, rather than evidence. The Court has already rejected the same or similar arguments by Janssen during trial. Janssen presents no supportable basis for the Court to deviate from its prior rulings.

Finally, Janssen contends that errors in the jury instructions and the verdict sheet render the jury's verdict uninteruptable. Specifically, Janssen argues that the Court's purported failure to charge the jury as to each of the necessary elements of the State's claim confused the jury and prejudiced Janssen. Moreover, Janssen insists the verdict sheet was not specific enough to ensure that the jury's verdict was supported by the evidence. The Court finds that jury

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 SPARTANBURG COUNTY
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 M. HOPE BLANKLEY

instructions and attendant verdict form were entirely supported by South Carolina precedent and procedure.

On the whole and as to any particular, for the reasons stated above and for those reasons apparent from the record but left unstated in this Order, and viewing the evidence and its reasonable inferences in the light most favorable to the nonmovant, consistent with all relevant statutory and case law and evidence presented in this case, the Court hereby rejects each of Defendant's arguments in its Motion. *See Hessenthaler v. Tri-County Sister Help, Inc.*, 616 S.E.2d 694, 697 (S.C. 2005) (citing *Jinks v. Richland County*, 585 S.E.2d 281, 283 (S.C. 2003)). Further, it cannot be said that the jury's verdict is wholly unsupported by the evidence, nor was the conclusion reached pursuant to an error of law. *Norton v. Norfolk S. Ry. Co.*, 567 S.E.2d 851, 854 (S.C. 2002) (citing *Folkens v. Hunt*, 387 S.E.2d 265, 265 (S.C. 1990)). Accordingly, because Defendant failed to meet its burden to prove that judgment in favor of Janssen, notwithstanding the jury's verdict, is appropriate and that Janssen is entitled to a new trial, Defendant's Motion for Judgment Notwithstanding the Verdict or, in the Alternative, for a New Trial is denied in its entirety. *See Proctor v. Dep't of Health & Envtl. Control*, 696 S.E.2d 496, 504 (S.C. Ct. App. 2006) (if there is any testimony tending to prove allegations of the complaint, the motions must be refused); *see also id.* ("This rule is especially strong in South Carolina where the 'scintilla of evidence rule' is applied.").

IT IS SO ORDERED this 21st day of December, 2011.


HONORABLE ROGER L. COUCH

Spartanburg, South Carolina

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2011 DEC 20 PM 4:31
M. HOPE BLACKLEY

EXHIBIT B

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG

STATE OF SOUTH CAROLINA

ex. rel. Alan Wilson, in his capacity
as Attorney General of the State of
South Carolina,

PLAINTIFF,

vs.

ORTHO-MCNEIL-JANSSEN
PHARMACEUTICALS, INC., f/k/a
JANSSEN PHARMACEUTICA, INC.,
and/or JANSSEN, L.P., AND
JOHNSON & JOHNSON, INC.

DEFENDANTS.

) IN THE COURT OF COMMON PLEAS

) FOR THE SEVENTH JUDICIAL CIRCUIT

) Civil Action No.: 2007-CP-42-1438

) ORDER DENYING DEFENDANT'S
) MOTION TO ALTER OR AMEND
) THE JUDGMENT AND/OR
) FOR A NEW TRIAL

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This matter came before me on the Motion to Alter or Amend the Judgment and/or for a New Trial, and Memorandum of Law in Support (collectively, the "Motion"), filed by Defendant Ortho-McNeil-Janssen Pharmaceuticals, Inc., (hereinafter "Defendant" or "Janssen"), and the Response in Opposition (the "Response"), filed by Plaintiff, the State of South Carolina, *ex rel.* Alan Wilson, in his capacity as Attorney General of the State of South Carolina (hereinafter, "the State"). A trial was held in Spartanburg, South Carolina, beginning March 8, 2011. On March 22, 2011, following a full day of deliberation, the jury unanimously found that Defendant had willfully committed deceptive or unfair acts in violation of the South Carolina Unfair Trade Practices Act ("SCUTPA"). Upon consideration of the above described Motion and Memorandum and Response of the parties filed therewith, and the evidence presented at trial, including at the April 18 and April 19, 2011 penalties hearing, the Court rules as follows:

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For the reasons that follow, the Court rejects each of Defendant's contentions that the Court should alter or amend the June 3, 2011 Penalty Order or, in the alternative, order a new trial as to penalties.

First, Janssen contends the Penalty Order does not comply with S.C.R. Civ. P. 52(a), because it does not set forth separate findings of fact and conclusions of law. The Court finds that, while it is not entirely clear that Rule 52(a) applies to the Penalty Order, *In the Matter of the Care & Treatment of Corley*, 616 S.E.2d 441, 443 (S.C. Ct. App. 2005), the Penalty Order nevertheless substantially complies with the Rule and adequately states the bases for the results it reaches. *Mathis v. Brown & Brown of S.C., Inc.*, 698 S.E.2d 773, 784 (S.C. 2010); *Dixon v. Besco Eng'g. Inc.*, 463 S.E.2d 636, 639 (S.C. Ct. App. 1995). Also, the Court rejects Janssen's contentions that certain statements in the Penalty Order are unsupported by the Record. As the State demonstrates in its Response (at 5-11), the Court finds that the statements about which Janssen complains are amply supported by the record.

Second, Janssen contends the penalty award is deficient in several respects. Specifically, Janssen argues that the penalty award based on Risperdal samples is legally and factually flawed because it is purportedly based on (i) a failure to warn patients; (ii) a conclusion that the Risperdal package insert was likely to deceive patients; (iii) unsupported assumptions about the reasons for the jury's verdict and about the time period for which the jury found the Risperdal package insert inadequate; (iv) a failure to consider the testimony of the State's and Janssen's experts that the risks at issue were risks of events that were infrequent; and, (v) because the award of a nine-figure penalty for the inadequacy the Risperdal package insert is improper. In addition, Janssen argues that the penalty award based on the November 2003 Dear Doctor letter is legally and factually flawed because (i) it over-counts the number of violations on which a

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diabetes, and other metabolic risks associated with Risperdal and other atypical antipsychotics; certain additional testimony of William E. Wecker; and, the testimony of twenty South Carolina prescribers). For the reasons stated at trial, during the penalties phase, and in the Court's prior written rulings, the Court is unconvinced that it abused its discretion in ruling on such evidence.

Finally, Janssen insists that the penalty award is unconstitutional in that it is unconstitutionally excessive and violative of Due Process as well as violative of the First Amendment. Again, for the reasons stated in the Court's many prior rulings on those topics, Janssen's arguments are again rejected.

On the whole and as to any particular, for the reasons stated above and for those reasons apparent from the record at trial and during the penalties phase but left unstated in this Order, as well as consistent with all relevant statutory and case law and evidence presented in this case, the Court hereby rejects each of Defendant's arguments in its Motion. See *Norton v. Norfolk S. Ry. Co.*, 567 S.E.2d 851, 854 (S.C. 2002) (citing *Folkens v. Hunt*, 387 S.E.2d 265, 265 (S.C. 1990)) ("a trial judge's order . . . will be upheld unless the order is 'wholly unsupported by the evidence, or the conclusion reached was controlled by an error of law.'"); see also *Mathis v. Brown & Brown of S.C., Inc.*, 698 S.E.2d 773, 784 (S.C. 2010) (quoting *Luckabaugh*, 568 S.E.2d 342 (quoting *Noisette v. Ismail*, 403 S.E.2d 122, 123 (S.C. 1991))) (S.C.R. Civ. P. 52(a) is "directorial in nature 'so where a trial court substantially complies with Rule (a) and adequately states the basis for the result it reaches, the appellate court should not vacate the trial court's judgment for lack of an explicit or specific factual finding.'"). It cannot be said that the Penalties Order contains no findings of fact or reasoning to support the judgment. Nor can it be said that the penalties award is wholly unsupported by the evidence. Here, the record amply supports every statement, and the Court's conclusions were not in error. Accordingly, because

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Defendant failed to meet its burden to prove that the penalty award is wholly unsupported by the evidence and, thus, requires amendment, and that Janssen is entitled to a new trial as to penalties, Defendant's Motion to Alter or Amend the Judgment and/or for a New Trial is denied in its entirety.

IT IS SO ORDERED this 20th day of December, 2011.



HONORABLE ROGER L. COUCH

Spartanburg, South Carolina

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

Ex. Rel. Alan Wilson in his capacity)
as Attorney General of the State of)
South Carolina,)

C.A.No.: 07-CP-42-1438

Plaintiff)

PENALTY ORDER

v.)

Ortho-McNeil-Janssen)
Pharmaceuticals, Inc., f/k/a Janssen)
Pharmaceutica, Inc., And/or Janssen,)
L.P., And Johnson & Johnson, Inc.,)
Defendants.)

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The Jury has determined that Ortho-McNeil-Janssen Pharmaceutica, Inc., f/k/a Janssen Pharmaceutica, Inc., and/or Janssen L.P. (hereinafter referred to as simply Janssen) have violated the South Carolina Unfair Trade Practices Act (SCUTPA) by willfully engaging in unfair or deceptive practices in the manner in which they conducted their trade or commerce and in the marketing and labeling of Risperdal in the State of South Carolina. The question now before this Court is: What are the appropriate penalties to be levied against those companies for their actions?

The statutes involved in this action are:

South Carolina Code Section 39-5-20: Unfair methods of competition and unfair or deceptive acts or practices unlawful; application of interpretations of Federal act.

(a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.

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South Carolina Code Section 39-5-110: Civil penalties for willful violation or violations of injunction.

(a) If a court finds that any person is willfully using or has willfully used a method, act or practice declared unlawful by Section 39-5-20, the Attorney General, upon petition to the court, may recover on behalf of the State a civil penalty of not exceeding five thousand dollars per violation.

(c) For the purposes of this section, a willful violation occurs when the party committing the violation knew or should have known that his conduct was a violation of Section 39-5-20.

The South Carolina Unfair Trade Practices Act provides that when it has been determined that willful violations of the Act have occurred, the State may recover a civil penalty not to exceed five thousand dollars per violation. Id. It is within the judge's discretion to determine the total amount of the penalty, so long as it does not exceed the statutory limitation. There can be no error of law in imposing a fine within the limits authorized by the Act. Within those limits, the amount of the fine is a matter within the judge's discretion. State ex rel. McLeod v. C & L Corp., Inc., 280 S.C. 519, 313 S.E.2d 334, (S.C. App. 1984).

During the trial of this matter, certain information and testimony presented to this Court was placed on a list of contested evidence. I have reviewed the proffer of this evidence and make the following rulings:

- Evidence of the Louisiana legal action was excluded and not considered by this Court.
- Evidence concerning the Topomax criminal settlement was excluded and not considered by this Court
- Testimony of Dr. William Wecker, I find, did not meet the tests of reliability for expert witnesses established by our courts, and therefore, the testimony should not be entered into the record. Further, I find some of the conclusions reached by him are not supportable. This conclusion is based on other scientifically reliable evidence already

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entered into the record of this case. Therefore, even if his testimony had been admissible, I would have found his testimony to be totally unreliable, and it would have been given no weight by this Court.

Both the Plaintiff and the Defendants agree that the Court, when exercising its discretion in determining the measure of penalties to be assessed, should consider factors similar to those articulated in United States v. Reader's Digest Ass'n, 662 F.2d 955, 967 (3rd Cir. 1981).

- The good faith or bad faith of the Defendant;
- The injury to the public;
- The desire to eliminate the benefits derived by a violation;
- The necessity of vindicating the authority of the agency involved; and;
- The Defendant's ability to pay.

I will begin my discussion of these factors by pointing out the Credo of the Defendants' parent company which expresses the standard of conduct to which the Defendants purport to hold themselves.

The Credo of Johnson & Johnson, as published on its website and referred to in its annual reports begins, "We believe our first responsibility is to the doctor, nurses and patients, to mothers and fathers and all others who use our products and services. In meeting their needs everything we do must be of high quality."

This Court is aware that the Defendants are for-profit corporations which are in the business of developing new and better medicines for a whole host of human ailments. In many ways, the competitive environment in which they operate is the engine that drives the research and development of new and evermore effective medicines from which all of mankind benefits.

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In this case in particular, it is acknowledged by all concerned that Risperdal is an excellent drug for the treatment of mental illnesses. It has been a quality of life saver for millions of patients. It allows those who are treated with it to escape many of the effects of their mental illnesses and live a more open and productive life.

Also, this Court is not so naive so as to not understand that these companies are in this business to generate a profit for their shareholders and investors. Pharmaceutical companies, such as the Defendants, must generate returns on their investments in order to assure their survival and continued vitality. However, as Janssen's parent company points out in its own credo, the first obligation which it owes is to the persons who prescribe, use and consume their products. It is the collision of these competing interests that has created the issues that we consider here. Additionally, it is the loss of the Company's focus, upon the primary objective of its credo, which brings us to this discussion.

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A. The good faith or bad faith of the Defendant:

In discussing this factor, I am mindful of the position taken by the Defendants throughout this trial. That position is that what Defendants said about Risperdal was true or was later proven to be true. Therefore, they could not have been unfair or deceptive in their actions.

The statutes provide for punishment for "unfair" or "deceptive" methods, acts or practices in the conduct of trade or commerce. S.C. Code Ann. § 39-5-20 & 39-5-110. This Court has consistently ruled that those issues concerning fairness or deceptiveness must be weighed using the information that was available and existed when the statements were made. The actions must be weighed in light of the intentions that existed when they were made. In considering the issues presented by this defense, I came upon an article by Joel Marks, in a

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magazine entitled *Philosophy Now*, issue 27;

([http://philosophynow.org/issue27/The Truth About Lying](http://philosophynow.org/issue27/The_Truth_About_Lying)) in which he discussed the nuances of deception, lies and the truth. I found the following excerpts from that article to be very helpful in my analysis of this case.

"Lying has nothing to do with truth and falsity. It is simply not true that the definition of lying is stating a falsehood. Lying seems instead to be a relation between a belief and an intention. If you utter what you believe to be false (regardless of whether it is false) for the purpose of inducing another to believe that it is true, **you have lied.**" Id.

"But deceiving is a broader category than lying." Mark goes on to explain, "This is important to recognize because it implies that any comparable act of deception, lie or not, is just as wrong." Id. It has become clear to me that the act of deception involves engaging in disingenuous actions by which one attempts to manipulate the intended audience into acting upon the deception in a certain desired fashion. Deceiving statements may involve issuing statements which are true but which are issued for the purpose of manipulation. In this Case, the manipulation was to get prescribers and patients to make treatment decisions based upon misleading or incomplete data or concealing data which would have impacted those decisions. Cases in our State have indicated that even true statements may serve as the basis for an action under the SCUTPA if they have the capacity or tendency to deceive. Wright v. Craft, 372 S.C. 1, 372 S.E. 2d 486 (2006 S.C. App.).

Here, in this case, the Jury has found the methods, actions and practices of the Defendants to be unfair and deceptive.

i. **Label**

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I will begin this discussion of the good or bad faith of the Defendant as it relates to the labeling of the drug Risperdal. The drug was approved by the FDA in 1994. The FDA approved the initial label for the drug and all subsequent labels. The law allowed the Defendant to unilaterally strengthen Risperdal's warning section of the label as soon as there was reasonable evidence of an association of a serious hazard with the drug. There was no requirement that this should be delayed until a causal relationship was proved. 21 C.F.R. §201.57(e) (2006).

Both Dr. Plunkett and Wirshing testified that the early evidence concerning the adverse events involving this drug, as well as its chemical makeup, should have given Janssen reason to strengthen the warnings in its label concerning diabetes, hyperglycemia and weight gain. During the early years (1994-1998) of marketing, evidence of adverse events began to appear indicating that there may be an increased risk of hyperprolactinemia, diabetes, hyperglycemia and weight gain. Also, during this time there was growing evidence of cardio vascular problems associated with the use of the drug in the elderly. The Defendants conducted and participated in studies specifically designed to shed light on the possible side effects of the drug. Specifically, these studies included RIS USA-113 & 275 and ERI. In the case of ERI and Study 113, the results indicated a substantial relationship between the use of this drug and weight gain and diabetes. Rather than making the information gathered in these studies available to the medical, regulatory and scientific communities, the Defendants chose to use pretenses to keep them hidden. It is apparent to this Court that this information was not disclosed because it did not fit the marketing department's vision for the promotion and marketing of the drug, and ultimately the content of the label. The top line results of Study 113 became available to the Defendants in September of 1999. It is clear to this Court, particularly after the top line results of study 113 became available, that the Company systematically set about in a concerted effort to conceal that

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information and to manipulate the information available to the public for the purpose of protecting or improving its market share. They characterized the results of the study as "flawed" and hid the results until 2009. When the results were released, they were not termed as a "flawed study," but were characterized as one that had some problems with its methodology, which problems did not affect the overall results. These reports were only released after the patent on Risperdal had expired.

From 1999 to 2003, the Defendants continued to take actions to avoid the disclosure of information which was in its possession and failed to take action to strengthen the warnings in its label. In 2003, the FDA required a class change in the label, which resulted in the issuance of the Dear Doctor Letter discussed below. Throughout this period of time, the Plaintiffs showed during the trial that up through 2007 there was never a warning for weight gain or hyperprolactinmia. The Plaintiffs showed by ample evidence that labeling issues followed the distribution of this drug throughout the period of its distribution. This Court is keenly aware that the issues involving the label vary throughout the period of time from the drugs launch in 1994 through 2007. I have made a conscious effort to average the penalty awarded for the labeling issue and have not awarded a penalty that is close to the maximum penalty available for those violations.

I do note that courts in this State have consistently upheld that medical patients have the right to make informed decisions concerning their treatment. It is elementary that the right to make informed treatment decisions would extend to, and include, the right of a patient to have made available to them, full and complete disclosures of the critical information in the package insert, in the label published on the Physician's Desk Reference or on the company's website. This need for full and complete disclosure of all available information is especially critical when

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the majority of the patients treated with this drug suffer from conditions which diminish their ability to make such critical decisions to the point that they may rely more heavily on the advice of their physicians or guardians. Because of the diminished mental capacity of the patients being treated, this Court finds the actions of the Defendants, upon this audience, to be detestable.

Based on the reasons stated above, and the considerable volume of evidence presented during the trial, this Court finds that the Defendants exhibited a callous disregard to a patient's right to have all possible information available, and in the hands of their physician, before deciding to use or continue to use the drug. Further, I find that the Defendants allowed the "profit at all costs" mentality to cloud the vision of their own responsibilities as acknowledged in their credo.

Therefore, I find the bad faith of the Defendant to be considerable during the period September 1999 until 2007 as it relates to labeling questions. There is absolutely no doubt in my mind that the desire to protect market share overshadowed the good judgment of those in control at Janssen.

I note that the evidence supplied to this Court concerning the number of Risperdal prescriptions filled in South Carolina, during the applicable time periods, involved those which were filled under State sponsored programs, and it did not contain reliable information as to the total number of prescriptions filled in the State from all sources. Therefore, it would require too much speculation on the part of the Court to attempt to tie the penalties to the total number of prescriptions filled in the State.

ii. **Dear Doctor Letter**

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The Dear Doctor Letter, issued in November of 2003, was clearly an effort by the Company to manipulate the message about Risperdal. Specifically, the letter was sent during the same time period that the FDA was requiring a class label change, which required that all atypical anti-psychotics include in their labels a warning concerning the dangers of these drugs and their increased risk of diabetes. A careful review of the e-mail threads, both before and after the publication of that letter (which are replete in the record), indicate a conscious effort by the company to "spin" the message, driven by marketing considerations, about Risperdal.

The manner in which the letter was written indicates to this Court evidence of a clever effort to deliver a deceptive message to prescribing physicians. Specifically, I am referring to the use of eight studies listed, by themselves, on the final page of the letter, some of which do not support the premise of the letter itself. Examples of the clever deception included in the letter include the effort to contrast itself with Zyprexa. This was done after the FDA had directed the Defendants not to do so, and there was no mention of ERI or Study 113. This is true particularly in light of the information which the Defendants were concealing from public disclosure or consideration. The continued reference by the Defendants to Study 113 as a "failed study" during the ten years that it was concealed; then, after the patent for Risperdal was lost in 2009, to release this as a properly conducted study, illustrated the level of deception to which the Defendants stooped. I note no mention, to the public or the FDA, of the Study 113 during the years that it was concealed. The effort to hide these studies (113,275 & ERI) even continued despite a request from the FDA, in May 2000, for the Defendants to make available all information that they had in possession concerning hyperglycemia and diabetes risks to Risperdal users. The Defendants submitted voluminous responses to that request, but did not disclose the top line results of study 113 or ERI; apparently, because those results were

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unfavorable to their marketing message. While this is not a "fraud on the FDA" case, this concealment shows that the Company employed procedures and methods which almost guarantee repetition and further endangerment of the public.

I could not agree more with the Janssen executive, Scott Reines, who characterized the Dear Doctor Letter in an unfavorable light and railed against those in the Company who wrote, approved and distributed the Letter. He said in his e-mail of April 28, 2004, referring to the Dear Doctor Letter, "But no competent person would have let it go out." He then went on to say, "It's really a black mark for J&J."

This Court finds that the actions of the Company in regards to this Letter exhibited extreme bad faith. It was a conscious effort to deceive and was unfair in the manner in which it was composed and delivered. Additionally, it was done in such a fashion so as to directly influence the prescribing decisions of doctors. Who knows how many of those mothers, fathers and patients referenced in their Credo, to be owed their best, were influenced into making incorrect decisions concerning their drug therapy?

An example of the subtle manner in which the Letter was used to deliver only a "certain" message to physicians is evident in the fact that the November Letter was placed in the folios of the detail persons who visited the doctors, so that it could be shown and emphasized to each doctor on every visit. However, later, when the FDA required that a corrective letter be mailed, the corrective letter was not placed in the detail person's folios to be shown to the doctors on every visit.

B. Injury to the public

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It is noted that the issues involved in this Case do not require direct proof of any specific injury to the public. Rather, the SCUTPA requires a showing that the unfair or deceptive act is capable of repetition, which shows that the violation would have an effect on the public's interest. I quote from my charge on the subject:

"IN ADDITION, THE PLAINTIFF MUST PROVE THAT THE UNFAIR TRADE PRACTICE OR ACT AFFECTED PERSONS OTHER THAN THE PARTIES TO THE TRANSACTION IN WHICH THE ACT COMPLAINED OF OCCURRED. EXPRESSED DIFFERENTLY, THE PLAINTIFF MUST PROVE THAT THE UNFAIR TRADE PRACTICE OR ACT HAS AN IMPACT ON THE PUBLIC'S INTEREST. THE PLAINTIFF MUST PROVE THE ADVERSE EFFECT OR IMPACT ON THE PUBLIC INTEREST BY SPECIFIC FACTS.

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AN ACTION HAS AN IMPACT ON THE PUBLIC INTEREST IF IT IS SHOWN BY THE PREPONDERANCE OF THE EVIDENCE THAT THE UNFAIR TRADE PRACTICE OR ACT IS CAPABLE OF REPETITION.¹

SHOWING THAT AN ACT IS CAPABLE OF REPETITION CAN BE SHOWN IN SEVERAL WAYS, BUT IT CAN BE SHOWN IN TWO SPECIFIC WAYS:

- (1) BY SHOWING THE SAME KIND OF ACTION HAS OCCURRED IN THE PAST, THUS MAKING IT LIKELY THEY WILL CONTINUE TO OCCUR ABSENT DETERRENCE; OR
 - (2) THE COMPANY'S PROCEDURES CREATE A POTENTIAL FOR REPETITION.
- THESE ARE WAYS TO SHOW THE POTENTIAL FOR REPETITION, BUT NOT THE

¹ Burbach v. Investors Mgmt. Corp., 326 S.C. 492, 484 S.E.2d 119 (Ct. App. 1997).

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ONLY WAYS, THAT THE POTENTIAL FOR REPETITION MAY BE SHOWN. IT MAY BE SHOWN BY OTHER MEANS."

My charge went on to say, "Since these two ways are not the only means for showing the potential for repetition or public impact, each case must be evaluated on its own merits to determine what a plaintiff must show to satisfy the potential for the repetition/public impact prong of the SCUTPA. Daisy Outdoor Advertising, Inc. v. Abbott, 322 S.C. 489, 497, 473 S.E.2d 47, 51 (1996). Nevertheless, a plaintiff has proven an adverse effect on public interests if he proves, by the preponderance of the evidence, and by specific facts, the potential for repetition exists". Id. at 493, 473 S.E.2d at 49.

In this Case, the Jury found that the actions of the Defendants did affect the public interest and were capable of repetition. Such a finding was necessary in order for the Jury to reach the verdict that they did. In considering the principles that are at issue in this Case, this Court finds that these issues involved are of critical importance to the public, which use and consume prescription drugs in general. Additionally, it is the belief of this Court that this group constitutes a large percentage of the total population. The public's interest in requiring that drug manufacturers fully disclose all information available to them concerning the effects of their drugs in a fair and non-deceptive manner is of paramount importance to the health and safety of those using the drugs. Only when full honest and fair disclosure is done, can doctors and patients make fully informed decisions concerning possible side effects that may be suffered as a result of the drug therapy to be used by the patient. Therefore, the public interest affected by the actions of these Defendants is enormous.

C. Desire to eliminate the benefits derived from a violation

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Quite frankly, in this Case, it would be virtually impossible to accurately determine the degree to which the Defendants benefitted from their actions. It is clear to this Court, that if the aim of these actions by the Defendants was to protect the market share of Risperdal; then it succeeded, in that the share did not suffer as a result of the ever expanding warnings. The purpose of this Court is to penalize the actions of the Defendants and is not intended to award damages based upon any measure of damages or ill-gotten gain. It is clear from the information stated below that the profits from this drug, to the Defendants, were enormous, and the penalties set by this Court represent a relatively small percentage of the overall profits generated by the companies. In determining this percentage, I note the relatively small percentage of the Defendant's business conducted in South Carolina in comparison to the overall worldwide scope of that business.

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D. The necessity of vindicating the authority of the agency involved

The SCUTPA was enacted by the legislature as a consumer protection measure. The Attorney General has been granted broad powers to enforce that Act, particularly when a willful violation of the Act has occurred. Here, the Jury determined that a willful violation of the Act occurred. In doing so, the Jury has determined that the public interest was affected by those wrongful actions and that those actions by the Defendants were willful and intentional.

It is clear, that when a company comes into this State and conducts its business in such an unfair manner, so as to deceive the public in the conduct of its trade or commerce, that there is a need for a central authority to challenge those actions and protect the public's interest. This protection of the public's interest should be done in such a manner so as to deter future violations of the Act, and to protect the public's interest to the extent necessary. The Legislature has

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clearly placed this burden and duty upon the Attorney General and it is the responsibility of that office to vindicate the public's interest in this Case.

E. The Defendant's ability to pay

In setting a penalty, it is necessary to consider what level of penalty is necessary to make the wrongdoer take notice of the problem and correct its future actions. Obviously, the level of the penalty will vary depending upon the financial ability of the wrongdoer to pay. This Court is aware that this is not a case involving the award of punitive damages, where the amount of punitive damages must bear some relationship to the amount of actual damages suffered. In those cases, the financial ability of the defendant alone will not support an award that far exceeds the actual damages suffered.

In this Case, however, the issue is the level of penalties that is appropriate to punish wrong. I am limited by the statute as to the amount of penalties that can be assessed per occurrence. Where the number of wrongs is extremely large and the profits derived enormous, the penalties must have a direct relationship to those numbers. Where deterrence and punishment is the aim, the financial ability of the wrongdoer is clearly a factor to be considered

The Defendant's, which were found to have been responsible for the unfair or deceptive acts or practices in the conduct of the defendant's trade or business, are wholly owned subsidiaries of the Johnson & Johnson Corporation. Janssen, itself, reports no separate financial information of which this Court was made aware. Therefore, the publically disclosed financial information, which was made available to this Court, is in the form of the annual report to shareholders of the parent corporation. It does not contain any separate financial information for the Defendants. It does contain information that was specific to Risperdal and some information

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specific to pharmaceutical operations. Profits for the Corporation and net cash and cash equivalents are reported for Johnson & Johnson and not its individual subsidiaries. The information considered by this Court in making a determination of the ability of the Defendants to pay includes:

Annual Sales of Risperdal worldwide per annual reports of Johnson & Johnson, Inc.:

- 1994 \$ 0.172 Billion
- 1995 \$ 0.343 Billion
- 1996 \$ 0.502 Billion
- 1998 \$ 0.588 Billion
- 1999 \$ 0.892 Billion
- 2000 \$ 1.083 Billion
- 2001 \$ 1.845 Billion
- 2002 \$ 2.146 Billion
- 2003 \$ 2.512 Billion
- 2004 3.05 Billion
- 2005 3.552 Billion
- 2006 4.180 Billion
- 2007* 4.697 Billion
- 2008 1.309 Billion
- 2009 1.425 Billion
- 2010 1.50 Billion

Total for the period.....29.796 Billion.

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*Patent for Risperdal expired in 2007.

Testimony at trial indicated that the profit margin for sales of Risperdal was 97% or \$28.90 Billion for the period of 1994-2010.

Earnings: The 2010 Annual report for Johnson & Johnson, the parent corporation, indicates worldwide sales of \$61.6 billion which generated a free cash flow of \$14 billion. Johnson and Johnson, Inc. Annual Report 2010, p. 1.

The Pharmaceutical Division reported sales and operating profits of \$7.086 billion for the year 2010. Form 10-K for 2010, Filed with the Securities and Exchange Commission

Number of Violations:

A. Label

It is clear that the label was published with each sample distributed to the public. Clearly, there were other occasions when the label would have been published, such as through the Physician's Desk Reference or on the Defendants website; however, to find violations from those sources would require this Court to speculate as to the number of violations. Each distributed sample clearly contains a copy of the label and would be the most likely source of information for patients who are considering entering into an ongoing therapy with the drug. For purposes of this discussion, the Court considers each publication of the Risperdal label (package insert), by way of sample, to prescribers in the State of South Carolina until April 23, 2007, to be a separate violation.

- Sample Boxes Distributed 509,499

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This court finds the appropriate average penalty to be \$300.00 per violation:
\$152,849,700.00.

B. Dear Doctor Letter:

- Letters mailed 7,184
- Sales calls where letter published.....36,372

Total publications of letter.....43,556.

The Court finds the appropriate penalty to be \$4,000.00 per violation: \$174,224,000.00.

Based on the record of the Case, and the above, it is hereby, **ORDERED**, that the Defendants shall pay, to the State of South Carolina, through its Attorney General, Alan Wilson, penalties in the sum of Three hundred twenty-seven million, seventy-three thousand, seven hundred and 00/100 dollars. (\$327,073,700.00)

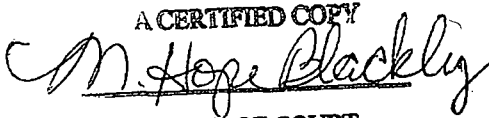
IT IS SO ORDERED.



Roger L. Couch, Circuit Court Judge

Spartanburg, S.C.

June 3, 2011

A CERTIFIED COPY


CLERK OF COURT
SPARTANBURG COUNTY
BY  D.C.
DATED 6/3/11

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG)

Ex. Rel. Alan Wilson in his capacity)
as Attorney General of the State of South)
Carolina,)

C.A.No.: 07-CP-42-1438

Plaintiff)

v.)

Ortho-McNeil-Janssen Pharmaceuticals,)
Inc., f/k/a Janssen Pharmaceutica, Inc.,)
And/or Janssen, L.P., And Johnson)
& Johnson, Inc.,)
Defendants.)

VERDICT AS TO ORTHO-MCNEIL-JANSSEN PHARMACEUTICA,
INC., f/k/a JANSSEN PHARMACEUTICA, INC., and/or JANSSEN L.P.

1. As to the question of whether or not the above Defendant engaged in unfair or deceptive acts or practices in the conduct of any trade or commerce in the "dear doctor" letter of November 10, 2003, we the jury unanimously find for:

_____ The Defendant

✓ _____ The Plaintiff

(If you found for the Plaintiff on Question #1 then you must answer question 1A.)

1A. Were the violations of the Unfair Trade Practices Act, by the Defendant willful?

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☒ Yes

☐ No

2. As to the question of whether or not the above Defendant engaged in unfair or deceptive acts or practices in the conduct of any trade or commerce in its label (package insert), we the jury unanimously find for:

☐ The Defendant

☒ The Plaintiff

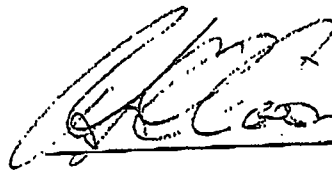
(If you found for the Plaintiff on Question #2 then you must answer question 2A.)

2A. Were the violations of the Unfair Trade Practices Act, by the Defendant, willful?

☒ Yes

☐ No

The above verdicts are the unanimous verdict of the jury, this 22 day of March, 2011.


Robert Ellison
FOREPERSON