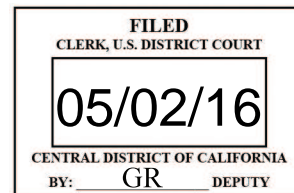


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NOTE: CHANGES MADE BY THE COURT

6 Attorneys for Defendants
 7 JANSSEN PHARMACEUTICALS, INC.;
 JANSSEN RESEARCH & DEVELOPMENT, LLC;
 8 JANSSEN ORTHO LLC; and JOHNSON & JOHNSON

9
 10 **UNITED STATES DISTRICT COURT**
 11 **CENTRAL DISTRICT OF CALIFORNIA**
 12 **WESTERN DIVISION**

13 LORIS FURLOW,) Case No. 2:16-cv-01386-JAK (RAOx)
) Hon. John A. Kronstadt
 14 Plaintiff,)
) **STIPULATED PROTECTIVE ORDER**
 15 v.)
 16 JANSSEN RESEARCH &)
 DEVELOPMENT L.L.C. f/k/a/)
 17 JOHNSON & JOHNSON)
 PHARMACEUTICAL RESEARCH AND)
 18 DEVELOPMENT L.L.C.; JOHNSON &)
 JOHNSON; JANSSEN)
 19 PHARMACEUTICALS, INC. f/k/a)
 ORTHO-MCNEIL-JANSSEN)
 20 PHARMACEUTICALS, INC.; JANSSEN)
 ORTHO L.L.C.; MITSUBISHI TANABE)
 21 PHARMA CORPORATION; AND JOHN)
 DOES 1-50, Defendants)
 22 Defendants.)
 23

TUCKER ELLIS LLP
 Cleveland ♦ Columbus ♦ Denver ♦ Los Angeles ♦ San Francisco

[PROPOSED] STIPULATED PROTECTIVE ORDER

1
2 The undersigned counsel for Defendants and Plaintiff (collectively, the “Parties”
3 and each, a “Party”) in the above captioned action agree that the Parties and non-parties
4 will be required to produce or disclose in this proceeding certain information and
5 documents that are subject to confidentiality limitations on disclosure under applicable
6 laws and regulations and applicable privacy rights. Such documents, described in more
7 detail below, include information that is a trade secret or other confidential research,
8 development, or commercial information or is of a private or personal nature. Disclosure
9 of such information without reasonable restriction on the use of the information may
10 cause harm, damage, loss, embarrassment, or disadvantage to the Producing Party or
11 nonparty.

12 Accordingly, the Parties desire entry of an order, pursuant to the Federal Rules of
13 Civil Procedure 26(c), and other applicable laws and rules, that will facilitate the prompt
14 resolution of concerns or disputes over confidentiality, that will adequately protect
15 material believed in good faith to be confidential and ensure that protection is afforded
16 only to material so entitled and that will address any inadvertent production of documents
17 or information protected from disclosure by the attorney-client privilege, work-product
18 immunity, or other applicable privilege:

19 Therefore, the Parties hereby STIPULATE, subject to the Court’s approval, and
20 the Court, for good cause shown and after having an opportunity to discuss this
21 Protective Order with the Parties, hereby ORDERS that the following procedures shall be
22 followed in this proceeding to facilitate the orderly and efficient discovery of relevant
23 information while minimizing the potential for unauthorized disclosure or use of
24 confidential or proprietary information and documents.

25 1. **Purpose.** The Parties recognize that preparation for any trial of this action
26 may require the discovery of certain information that a Designating Party, as defined
27 below, reasonably and in good faith believes should be subject to confidential treatment
28 under a protective order. The designation of a document, material, or information
(whether written, graphic or electronic) as being subject to the terms and conditions of
this Protective Order, is intended solely to facilitate prompt discovery and the preparation
for trial of this action.

2. **Scope**

- a. This Protective Order shall govern all hard copy and electronic materials, the information contained therein, and all other information including all copies, excerpts, summaries, or compilations thereof, whether revealed in a document, deposition, other testimony, discovery response, or otherwise,

1 that any party to this proceeding (the “Producing Party” or “Designating
2 Party) produces to any other party (the “Receiving Party”) and that the
3 Producing Party designates as confidential under this Protective Order.

- 4 b. This Protective Order is binding upon all Parties and their counsel in this
5 proceeding , upon all signatories to Exhibit A, and upon (as applicable) their
6 respective corporate parents, subsidiaries, and affiliates, including their
7 successors, and their respective attorneys, principals, experts, consultants,
8 representatives, directors, officers, employees, and others as set forth in this
9 Protective Order.
- 10 c. If additional parties are added other than parents, subsidiaries or affiliates of
11 current parties to this litigation, their ability to receive a document protected
12 by this Protective Order will be subject to their being bound, by agreement
13 or Court Order, to this Protective Order.
- 14 d. Third Parties who are obligated to produce Confidential Material in this
15 Action and who so elect may avail themselves of, and agree to be bound by,
16 the terms and conditions of this Protective Order and thereby become a
17 Producing Party for purposes of this Protective Order.
- 18 e. The entry of this Protective Order does not preclude any Party from seeking
19 further order of this Court, including modification of this order, or from
20 objecting to discovery that the Party believes to be improper.
- 21 f. Nothing herein shall be construed as an admission or concession by any
22 Party that designated Confidential Material, or any Document or Information
23 derived from Confidential Material, constitutes material, relevant, or
24 admissible evidence in this matter.

25 3. **Definitions.** In this Order, the terms set forth below shall have the following
26 meanings:

- 27 a. “Proceeding” or “Action” means the above-entitled proceeding.
- 28 b. “Court” means the Honorable Judge currently assigned to this proceeding or
any other judge to which this proceeding may be assigned, including Court
staff participating in such proceedings.
- c. “Document” or “Documents” shall have the meaning set out in Federal Rule
of Civil Procedure 34(a) and, for purposes of this order, shall include
electronically stored information.

- 1 d. “Testimony” means all depositions, declarations or other pre-trial testimony
2 taken or used in this Proceeding.
- 3 e. “Information” means the content of Documents or Testimony, as well as any
4 matter derived therefrom or based thereon.
- 5 f. “Confidential Material” or “Confidential Discovery Material” means any
6 Document (electronic or hard copy), Testimony, or Information that a
7 Designating Party reasonably and in good faith believes to be entitled to
8 confidential treatment under Federal Rule of Civil Procedure 26 and/or other
9 applicable laws and that the Party designates as such in accordance with the
10 provisions of this Order. “Confidential Materials includes, but is not limited
11 to:
- 12 i. A plaintiff’s personal identifying information, financial information,
13 medical/insurance information, and, with respect to any Party, any
14 other information believed in good faith by the Designating Party to
15 be subject to protection from disclosure by a natural person’s right of
16 privacy under applicable privacy laws or regulations;
- 17 ii. A defendant’s or non-party’s trade secrets (as defined in the Uniform
18 Trade Secrets Act) and other proprietary or confidential business
19 information of commercial value and believed in good faith to be
20 subject to protection from disclosure under Federal Rule of Civil
21 Procedure 26 and/or applicable statutes, laws, or regulations.
- 22 iii. All material, data, and information obtained, derived, or generated
23 from “Confidential Material,” to the extent the same are not publicly
24 available or otherwise subject to the exclusions herein.
- 25 iv. Specifically excluded from the definition of “Confidential Material”
26 are:
- 27 1. Any Documents, Testimony, or Information that have been, or
28 in the future will be, designated as “not confidential” by order
of any court;
2. Any Documents, Testimony, or Information obtained, in the
past or in the future, by any person or entity through procedures
established under the Freedom of Information Act or other
public records request. In the event of a dispute as to whether a
Document, Testimony, or Information is available through the
Freedom of Information Act or other public records request, the
issue will be resolved by Plaintiffs’ counsel making an

appropriate request for the release of such material from the appropriate governmental agency and the granting of such request by the agency or a court.

- g. The phrase “Confidential Material—Attorney Eyes Only” refers to Confidential Material that the Designating Party believes in good faith to contain highly confidential information the disclosure of which to the Party’s competitors would cause the Designating Party serious competitive and commercial harm. As used in this Order, and unless otherwise specified, “Confidential Material” shall encompass “Confidential Material—Attorney Eyes Only.”
- h. “Designating Party” means the Party or non-party that designates Documents, Testimony, or Information as Confidential Material.
- i. “Disclose,” “Disclosed” or “Disclosure” means to reveal, divulge, give, or make available Documents, Testimony, or any part thereof, or any Information contained therein.

4. **Designations of Confidential Material.**

a. **Designation of Documents.**

- i. Documents Produced in TIFF-Image Format. With respect to any Document produced in TIFF-image format, a Designating Party may designate the Document as Confidential Material or Confidential Material—Attorney Eyes Only by placing a stamp or marking on each page of the Document stating the following: **CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER, PRODUCED BY [PARTY NAME] IN [NAME OF LITIGATION] or CONFIDENTIAL—ATTORNEY EYES ONLY, SUBJECT TO PROTECTIVE ORDER, PRODUCED BY [PARTY NAME] IN [NAME OF LITIGATION]**. Such markings shall not obscure, alter, or interfere with the legibility of the original document.

- 1. All copies, duplicates, extracts, summaries, or descriptions (hereinafter referred to collectively as “copies”) of Confidential Material produced in TIFF-image format shall be marked with the same confidential stamp or marking as contained on the original, unless the original confidential stamp or marking already appears on the copies.

- ii. Documents Produced in Native Format. With respect to any Document produced in native format (“Native-Format Document”), a

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1 Designating Party may designate the Document as Confidential
2 Material or Confidential Material—Attorney Eyes Only by renaming
3 the Document to include, at the end of the file name and prior to the
4 file extension, the following language: **CONFIDENTIAL,**
5 **SUBJECT TO PROTECTIVE ORDER, PRODUCED BY**
6 **[PARTY NAME] IN [NAME OF LITIGATION] or**
7 **CONFIDENTIAL—ATTORNEY EYES ONLY, SUBJECT TO**
8 **PROTECTIVE ORDER, PRODUCED BY [PARTY NAME] IN**
9 **[NAME OF LITIGATION].**

- 10 1. Native-Format Documents may have to be copied or duplicated
11 for use in a litigation-support review application. Any such
12 copy or duplicate shall retain the full file name as originally
13 produced.
 - 14 2. For use outside a litigation-support review application,
15 Receiving Parties may make native-format copies or duplicates
16 of a Native-Format Document solely (a) for use with experts or
17 consultants who are retained in this Action and who are
18 Qualified Persons as defined below or (b) for use as deposition
19 or trial exhibits. Any such copy or duplicate shall retain the full
20 file name as originally produced.
 - 21 3. All other copies or duplicates of Native-Format Documents
22 (*e.g.*, TIFF-image, PDF, hardcopy) and all extracts, summaries,
23 or descriptions of Native-Format Documents shall contain a
24 stamp or marking on each page of the Document stating the
25 following: **CONFIDENTIAL, SUBJECT TO**
26 **PROTECTIVE ORDER, PRODUCED BY [PARTY**
27 **NAME] IN [NAME OF LITIGATION] or**
28 **CONFIDENTIAL—ATTORNEY EYES ONLY, SUBJECT**
TO PROTECTIVE ORDER, PRODUCED BY [PARTY
NAME] IN [NAME OF LITIGATION]. Such markings shall
not obscure, alter, or interfere with the legibility of the original
document.
- b. Designation of Deposition Transcripts.
- i. During depositions, Confidential Material may be used or marked as exhibits, but shall remain subject to this Order and may not be shown to the witness unless such witness is a Qualified Person as describe below

- 1 ii. If deposition Testimony or exhibits contain or refer to Confidential
2 Material, or if they contain or refer to Documents, Testimony, or
3 Information to be designated as Confidential Material, the
4 Designating Party, by and through counsel, shall either
5
6 1. On the record at the deposition, designate the Testimony or
7 exhibit(s) as Confidential Material or, as applicable, identify
8 already-designated Confidential Material, or
9
10 2. No later than thirty (30) days after receiving a copy of the
11 deposition transcript, inform the deposing counsel and counsel
12 for other Parties that the Testimony or exhibit(s) constitute
13 Confidential Material; during the thirty-day period, the entire
14 deposition testimony, transcript, and exhibits shall be treated as
15 Confidential Material under this Order.
16
17 iii. When a Party designates testimony as Confidential Material during
18 the deposition, counsel for that Party may exclude from the deposition
19 all persons who are not Qualified Persons under this Order.
20
21 iv. When portions of a deposition transcript or its exhibits are designated
22 for protection, the transcript or exhibit pages containing Confidential
23 Material shall be separately bound by the court reporter, who must
24 affix to the top of each page the legend “**CONFIDENTIAL,
25 SUBJECT TO PROTECTIVE ORDER IN [NAME OF
26 LITIGATION]**” or **CONFIDENTIAL—ATTORNEY EYES
27 ONLY, SUBJECT TO PROTECTIVE ORDER IN [NAME OF
28 LITIGATION]**.
- c. Written Pleadings, Motion Papers, and Discovery Materials. A party may designate as Confidential Material portions of interrogatories and interrogatory answers, responses to requests for admissions and the requests themselves, requests for production of documents and things and responses to such requests, pleadings, motions, affidavits, and briefs that quote, summarize, or contain Confidential Material. To the extent feasible, such Confidential Material shall be prepared in such a manner that it is bound separately from material not entitled to protection.
- d. Designation of Other Confidential Material. With respect to Confidential Material produced in some form other than as described above, including, without limitation, compact discs or DVDs or other tangible items, the Designating Party must affix in a prominent place on the exterior of the container or containers in which the Information or item is stored the legend

1 “CONFIDENTIAL, SUBJECT TO PROTECTIVE ORDER,
2 PRODUCED BY [PARTY NAME] IN [NAME OF LITIGATION]” or
3 CONFIDENTIAL—ATTORNEY EYES ONLY, PRODUCED BY
4 [PARTY NAME] IN [NAME OF LITIGATION]. If only portions of the
5 Information or item warrant protection, the Designating Party, to the extent
6 practicable, shall identify the portions that constitute “Confidential
7 Materials.”

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12 e. With respect to Documents or Information produced or disclosed by a non-
13 party, either the non-party or a Party may designate the Documents or
14 Information as Confidential Material pursuant to this Order. A Party so
15 designating material produced by a non-Party shall notify all other Parties
16 within 30 days of receipt of such Document or Information that the same or
17 portions thereof constitute or contain Confidential Material. Until the
18 expiration of 30 days, such Document or Information produced or disclosed
19 by any such non-party shall be treated as Confidential Material under this
20 Order.

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28 5. **Required Treatment of Confidential Material.**

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- a. Except as specifically provided in this Order, counsel shall keep all Confidential Material disclosed or produced to them within their exclusive possession and control, shall take all necessary and prudent measures to maintain the confidentiality of such materials and information, and shall not permit unauthorized dissemination of such materials to anyone.
 - b. Confidential Material shall not be disclosed in any way to anyone for any purpose other than as required for the preparation of trial in this action or other related actions as defined in Paragraph 10, below.
 - i. Nothing in this Order shall preclude a Party from introducing into evidence at trial or evidentiary hearing any Confidential Material that is admissible under applicable law. The Parties shall meet and confer regarding the procedures for use of Confidential Material at trial or any evidentiary hearing and shall move the Court for entry of an appropriate order. At trial or evidentiary hearings, the Court may take such other measures or enter separate orders, as the Court deems appropriate or upon request by any Party, to protect the claimed Confidential Material sought to be introduced or admitted.
 - c. Access to and disclosure of Confidential Material shall be limited to those persons designated as Qualified Persons, below. Any Qualified Person who examines any Confidential Material shall not disseminate orally, or by

1 any other means, any protected information other than as permitted by
2 this Order.

- 3 d. Confidential Material shall not be used for any business, competitive or
4 other non-litigation purpose without the express written consent of counsel
5 for the Designating Party or by order of the Court.
- 6 i. Nothing in this Protective Order shall limit any Designating Party's
7 use of its own documents or shall prevent any Designating Party from
8 disclosing its own Confidential Material to any person for any
9 purpose.
 - 10 ii. Nothing herein shall prevent Plaintiffs from viewing or receiving and
11 retaining copies of their own medical records and from disclosing
12 such medical records to, and sharing them with, their physicians.
 - 13 iii. Nothing herein shall prevent Defendants from viewing or retaining
14 copies of medical records of Plaintiffs that are in their possession or
15 control or from disclosing such records to other Qualified Persons,
16 regardless of whether or not the documents have been designated as
17 Confidential Material.
 - 18 iv. Disclosures described in the above sub-paragraphs shall not affect any
19 confidential designation made pursuant to the terms of this Protective
20 Order so long as the disclosure is made in a manner that is reasonably
21 calculated to maintain the confidentiality of the designated
22 Information, Testimony, and/or Document.
- 23 e. To avoid security risks inherent in certain current technologies and to
24 facilitate compliance with the terms of this Order, and unless otherwise
25 ordered or agreed upon in writing by the Designating Party whose
26 Confidential Material is at issue, all Qualified Persons with access to
27 Confidential Material shall comply with the following:
- 28 i. They shall use secure means to store and transmit Confidential
Material whether stored or transmitted physically or electronically.
 - ii. Qualified Persons shall be prohibited from storing or transmitting any
Confidential Material in or via any online or web-based storage
location or service managed or maintained outside the United States.
Any party using the services of a third-party service provider, shall
use a reputable litigation support service provider with a secure
domestic document hosting facility that uses encrypted web-enabled

1 software that allows for the secure and protected sharing and
2 collaboration of said Protected Material among Qualified Persons.

3 iii. Notwithstanding the foregoing provision, Qualified Persons, as
4 defined in the following paragraph, shall not be prohibited from
5 transmitting Confidential Material to any other Qualified Person
6 through electronic mail, as attachments to an electronic mail in the
7 form of separate PDF files or zip files, through tools provided by a
8 reputable litigation support service as described herein, or via FTP file
9 transfer, as long as the person transmitting the Protected Material
10 takes reasonable steps to protect the confidentiality of the Confidential
11 Material.

12 6. **Qualified Persons With respect to Confidential Material.** Confidential
13 Material (as distinct from Confidential Material—Attorney Eyes Only, covered in
14 Paragraph 7 below) may be disclosed only to the following persons (referred to as
15 “Qualified Persons” throughout this Order):

- 16 a. When produced by any defendant in the action: all other defendants, their
17 inside and outside counsel and insurers, as applicable, the defendants’
18 employees (including partners, directors, and officers), and the Plaintiffs and
19 their attorneys in the action;
- 20 b. When produced by Plaintiffs: all defendants (including partners, directors,
21 officers, and employees of defendants) and their inside and outside counsel
22 and insurers;
- 23 c. With respect to Qualified Persons encompassed by the preceding two
24 paragraphs (a) and (b), such persons include the attorneys’ employees and
25 agents (*e.g.*, outside copy services, organizations involved in organizing,
26 filing, coding, converting, storing, or retrieving data or designing programs
27 for handling data connected with this action, including the performance of
28 such duties in relation to a computerized litigation support system, and
stenographers);
- d. Experts and consultants (“Consultants”) whose assistance is necessary to
assist counsel in the preparation of this Proceeding, whether or not the
Consultant is designated as an expert and retained to testify, with the
following qualifications:
- i. Disclosure shall not be made to any consultant who, as described in
Paragraph 9, is employed by or a consultant to a competitor of the
Designating Party;

- 1 ii. Disclosure shall not be made to any consultant if counsel for the Party
2 retaining that consultant has actual knowledge that the consultant has
3 been found to have violated the terms of a protective order in any
4 litigation or legal proceeding; and
- 5 iii. Any expert or consultant to whom disclosure of Confidential Material
6 is authorized must be informed of this Protective Order and must sign
7 a copy of the Non-Disclosure Agreement attached hereto as Exhibit
8 “A.”
- 9 e. A deponent or a witness at a deposition or pre-trial hearing, provided there is
10 a reasonable basis to believe that the witness will give relevant testimony
11 regarding the Confidential Material or that disclosure of Confidential
12 Material is necessary to prepare the witness for the testimony.
- 13 i. If a Party wishes to disclose Confidential Material to such a deponent
14 or witness during a deposition or pre-trial hearing, the deponent or
15 witness must be informed of this Protective Order and the fact that the
16 material is confidential. No Confidential Material may be left with
17 such a deponent or witness unless he or she has signed a copy of the
18 Non-Disclosure Agreement attached hereto as Exhibit A.
- 19 ii. If a Party wishes to disclose Confidential Material to a treating
20 physician deponent before a deposition¹, the treating physician must
21 be informed of this Protective Order and the fact that the material is
22 confidential. No Confidential Material may be left with the physician
23 deponent unless he or she has signed a copy of the Non-Disclosure
24 Agreement attached hereto as Exhibit A. The Parties expressly agree
25 that all documents shown to any treating physician witness by any
26 party (other than the provider’s own treatment records relating to the
27 patient) and all documents provided to any treating physician witness
28 by any party shall be disclosed to the other parties. The disclosure
 should include the documents, cover letters, letters about scheduling
 and letters about compensation to the treating physician. If the copies
 shown to or provided to the treating physician have markings,

¹ The Parties expressly agree that this Protective Order is not intended to modify the regularly applicable law regarding ex parte contact with any such treating physician. Accordingly, Plaintiff is not consenting for Defendants to have ex parte contact with treating physicians beyond what applicable law allows. Likewise, Defendants are not agreeing that ex parte contact or sharing of Confidential Materials with a treating physician is appropriate or permissible, and Defendants expressly reserve the right to challenge any such contact or proposed sharing of Confidential Materials pursuant to this paragraph on all bases other than the existence of this Protective Order.

1 highlighting or tabs affixed to them, these should be disclosed. The
2 disclosure shall be within seven days after the document has been
3 shown to or provided to the treating physician, or at least 48 hours
4 before any deposition of the healthcare provider, whichever comes
5 first.

- 6
- 7 iii. The Parties agree that this provision does not preclude the Designating
8 Party from objecting to or moving to preclude disclosure to any
9 deponent or witness, or to seek amendment of this provision in the
10 future, if it believes it has a good faith basis for such objection or
11 motion;
- 12 f. A person identified in the Confidential Material as an author, source,
13 addressee, or recipient of the communication, or who already has a copy of
14 the Confidential Material;
- 15 g. Any mediators or arbitrators selected to assist in resolution of this matter,
16 and their personnel who are actively engaged in assisting them;
- 17 h. The Court or any Court personnel, including any court reporters; and
- 18 i. Any person mutually agreed upon among the Parties, provided that such
19 person has been informed of this Protective Order and has signed a copy of
20 the Non-Disclosure Agreement attached hereto as Exhibit "A."

21 **7. Qualified Persons With respect to Confidential Material—Attorney
22 Eyes Only.**

23 Confidential Material—Attorney Eyes Only may be disclosed only to the
24 following Qualified Persons:

- 25
- 26 a. Attorneys of record in this action, and their paralegals or their other
27 employees or agents (including litigation-support services) who require
28 access to Confidential Material—Attorney Eyes Only for the purpose of
litigation of this action;
- b. Plaintiffs, provided that their counsel believe in good faith that disclosure is
necessary to the prosecution of the action;
- c. Consultants who are Qualified Persons described in Paragraph 6.d and its
sub-paragraphs above;

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- d. A person identified in the Confidential Material—Attorney Eyes Only as an author, source, addressee, or recipient of the communication, or who already has a copy of the Confidential Material;
- e. Any mediators or arbitrators selected to assist in resolution of this matter, and their personnel who are actively engaged in assisting them;
- f. The Court or any Court personnel, including any court reporters; and
- g. Any person mutually agreed upon among the Parties, provided that such person has been informed of this Protective Order and has signed a copy of the Non-Disclosure Agreement attached hereto as Exhibit “A.”

8. **Further Requirements With Respect to Qualified Persons.**

- a. Before being given access to any Confidential Material, each Qualified Person, other than the Court, the employees and staff of the Court, counsel of record, and the direct employees of counsel of record, and other than as set forth above with respect to those witnesses to whom Confidential Material is disclosed or shown at a deposition or pre-trial hearing as set forth in Paragraph 6(e), shall be advised of the terms of this Order, shall be given a copy of this Order, shall agree in writing to be bound by the terms of this Order by signing a copy of the Non-Disclosure Agreement attached hereto as Exhibit “A,” and shall consent to the exercise of personal jurisdiction by this Court in any proceeding(s) to determine if the signatory violated this Order. Counsel for each Party shall maintain a list of all Qualified Persons to whom they or their client(s) have provided any Confidential Material, which list shall be available for inspection by the Court.
- b. The witness who is a Qualified Person pursuant to Paragraph 6(e) but who has not signed a copy of the Non-Disclosure Agreement attached hereto as Exhibit “A” may be shown Confidential Material during his or her testimony, but shall not be given a copy of the Confidential Material to keep. Before reviewing his or her transcribed testimony containing the Confidential Material for purposes of completing the errata sheet, such witness shall sign a copy of the Non-Disclosure Agreement attached hereto as Exhibit “A” and shall consent to the exercise of personal jurisdiction by this Court in any proceeding(s) to determine if the signatory violated this Order.
- c. Any Confidential Material distributed or disclosed to a Qualified Person who is a signatory of Exhibit “A” shall be returned to the Party’s counsel who provided it to the Qualified Person or shall be destroyed at the

1 completion of the Qualified Person’s consultation or representation in this
2 case. Upon the request of the Designating Party or the Court, each such
3 Qualified Person shall execute an affidavit stating that all such Confidential
4 Material and copies thereof have been returned or destroyed as required.

- 5 d. The Court shall retain jurisdiction over any person or organization
6 authorized, as set forth above, to receive Confidential Material as necessary
7 to enforce the provisions of this Order.

8 9. **Non-Disclosure to Competitors.** Notwithstanding the foregoing, without
9 express written consent or court order, in no event shall any disclosure of a defendant’s
10 Confidential Material or Confidential Material—Attorney Eyes Only be made to any
11 known Competitor of that defendant or to any person who, upon reasonable and good
12 faith inquiry, could be determined to be a current employee thereof (whose job
13 responsibilities include work on medical treatments for diabetes mellitus) or consultant
14 doing research for a competitor of a designating defendant (whose research relates to
15 diabetes mellitus) irrespective of whether such consultant or person is retained as an
16 expert in this action. A “Competitor,” in the context of this Proceeding, shall mean any
17 manufacturer of, or manufacturer involved in the sale of, medications or other medical
18 treatments for diabetes mellitus or any current employee of such entity.

- 19 a. In the case of an expert or consultant, the expert or consultant is best suited
20 to know whether he or she is a Competitor of a defendant, or if he or she is a
21 current employee of or consultant doing research for a Competitor of the
22 designating defendant. Thus, Plaintiffs will be required by the Protective
23 Order to make a full inquiry of the expert or consultant and to obtain a
24 declaration from him or her on these topics before any information is shared
25 with the expert or consultant.
- 26 b. To this end, the expert or consultant shall provide written certification
27 whether he or she is a Competitor of a defendant, whether he or she is
28 currently employed by a Competitor, and whether he or she is contracted
with a Competitor and doing research for such Competitor.
- c. Plaintiffs shall not disclose a defendant’s Confidential Material to any expert
or consultant who certifies that he or she is a Competitor of a defendant, is
currently employed by a Competitor, or is contracted with a Competitor and
doing research for such Competitor.
- d. Plaintiffs shall maintain each respective expert’s or consultant’s certification
under this paragraph for the duration of the litigation so they may be
submitted to the Court for *in camera* review in the event of a dispute
between the parties.

- 1 10. **Challenges to Designations.**
- 2 a. The Designating Party bears the burden of establishing confidentiality.
- 3 b. Nothing in this Order shall constitute a waiver of any Party’s right to object
- 4 to the designation or non-designation of Documents, Testimony, or
- 5 Information as Confidential Material.
- 6 c. If a Party contends that any Document, Testimony, or Information has been
- 7 erroneously or improperly designated as Confidential Material, or has been
- 8 improperly redacted, the material at issue shall be treated as confidential
- 9 under the terms of this Order until
- 10 i. the Parties reach a written agreement or
- 11 ii. this Court issues an order determining that the material is not
- 12 confidential and shall not be given confidential treatment.
- 13 d. In the event that counsel for a Party receiving Confidential Material in
- 14 discovery objects to such designation, said counsel shall advise counsel for
- 15 the Designating Party, in writing, of such objections, the specific
- 16 Confidential Material (identified by Bates number, if possible) to which each
- 17 objection pertains, and the specific reasons and support for such objections
- 18 (the “Designation Objections”). There shall be no time limit for which Party
- 19 is to make such objections.
- 20 e. Counsel for the Designating Party shall have 7 days from receipt of the
- 21 written Designation Objections to respond in writing as to whether the
- 22 designations will be maintained or withdrawn, provided that no more than
- 23 100 designations are challenged in any 30 day period.
- 24 f. If Designating Party does not de-designate the challenged Confidential
- 25 Material at issue, the parties shall meet in confer in good faith, by phone or
- 26 in-person, to discuss the Designation Objections and attempt to resolve the
- 27 dispute.
- 28 g. If, after meeting and conferring in good faith, the Parties are unable to
- resolve the dispute regarding the Designation Objections or after 14 days
- have passed since service of the Designation Objections, whichever comes
- first, the Party challenging the designations may file a motion with the Court
- seeking an order to de-designate (*i.e.*, to rule to be not confidential) the
- Confidential Material subject to the Designation Objections (the
- “Designation Motion”).

- i. Pending a resolution of the Designation Motion by the Court, the Designating Party is presumed to have designated the Confidential Material in good faith, and any and all existing designations challenged in such Motion shall remain in place.
- ii. The Designating Party shall have the burden of establishing the applicability of its “confidential” designation.
- iii. If there is no ruling on the Designation Motion within thirty (30) days, the parties shall jointly move before the Court for a ruling.

11. **Use of Confidential Material in Court Prior to Trial.** The Parties will use the following procedure, absent further Court Order, for disclosing Confidential Material to the Court prior to trial.

- a. Confidential Material is not to be filed with the Court except when required in connection with motions or other matters pending before the Court.
- b. The Party seeking to file Confidential Material or a document reflecting or including Confidential Material in support of a motion or other proceeding pending before the Court may first notify the Designating Party of its intent and seek agreement to de-designate such material or otherwise consent to its filing..
- c. Absent any such agreement, if Confidential Material or a document reflecting or including Confidential Material is submitted to or otherwise disclosed to the Court in connection with a motion or other proceeding pending before the Court, such Confidential Material shall be separately filed under seal with the clerk of the Court in an envelope marked: “CONFIDENTIAL – FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER AND WITHOUT ANY FURTHER SEALING ORDER REQUIRED” or **CONFIDENTIAL—ATTORNEY EYES ONLY – FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER AND WITHOUT ANY FURTHER SEALING ORDER REQUIRED** to the extent permitted by the rules of this Court. On the outside of the envelope, a copy of the caption page of the applicable pleading shall be attached. No Confidential Material, nor any part thereof, shall be included in such caption page nor otherwise be revealed on the outside of the envelope.
- d. Once filed under seal, the Designating Party will comply with the Court’s rules regarding sealing.

- 1 e. When this litigation has concluded, the Clerk of Court may return to counsel
2 for the Designating Party, or may destroy, any Confidential Material filed
3 under seal pursuant to the provisions of this Order.

4 12. **Redactions**

- 5 a. To protect against unauthorized disclosure of Confidential Discovery
6 Material, and to comply with all applicable state and federal laws and
7 regulations, the Producing Party may redact from produced documents,
8 materials and other things, the following items, or any other item(s)
9 protected from disclosure by statute or decisional authority or agreed upon
10 by the parties or ordered by the Court:
- 11 i. The names, street addresses, Social Security numbers, tax
12 identification numbers, and other personal identifying information of
13 patients, health care providers, and individuals in clinical studies or
14 adverse event reports. Other general identifying information, however,
15 such as patient or health provider numbers, shall not be redacted
16 unless required by state or federal law.
 - 17 ii. The Social Security numbers, tax identification numbers and other
18 personal identifying information of employees in any records.
- 19 b. Defendants reserve the right to redact information that is nonresponsive
20 (including but not limited to proprietary financial material and products
21 unrelated to this litigation). Such responsiveness redactions may only be
22 applied to materials not discoverable pursuant to Federal Rule of Civil
23 Procedure 26(b)(1).
- 24 c. Pursuant to 21 C.F.R. §§ 314.430(e) & (f) and 20.63(f), the names of any
25 person or persons reporting adverse experiences of patients and the names of
26 any patients that are not redacted shall be treated as Confidential, regardless
27 of whether the document containing such names is designated as
28 Confidential Material.
- d. Notwithstanding any of the foregoing provisions, nothing contained herein
shall be construed as a waiver of a party's ability to challenge such
redactions pursuant to the procedures set forth in Section 11 herein. The
burden as to the propriety of any redaction remains on the Designating Party
at all times.

1 13. **Subpoena by Other Courts or by Agencies.**

- 2 a. If another court or an administrative agency requests, subpoenas, or orders
3 the disclosure of Confidential Material from a Party that has obtained such
4 material under the terms of this Order, the Party so requested, subpoenaed,
5 or ordered shall notify the Designating Party by electronic mail transmission,
6 express mail, or overnight delivery to counsel of record for the Designating
7 Party not later than ten (10) days prior to producing or disclosing any
8 Confidential Material, and shall furnish such counsel with a copy of the
9 requests, subpoena, or order. The recipient of the Subpoena shall not
10 disclose any Confidential Material pursuant to the Subpoena prior to the date
11 specified for production on the Subpoena.
- 12 b. Upon receipt of this notice, the Designating Party may, in its sole discretion
13 and at its own cost, move to quash or limit the request, subpoena, or order,
14 otherwise oppose the disclosure of the Confidential Material, or seek to
15 obtain confidential treatment of such Confidential Material, to the fullest
16 extent available under law, by the person or entity issuing the request,
17 subpoena, or order. The Party who received the request, subpoena, or order
18 shall not oppose or otherwise interfere with the Designating Party's effort to
19 quash or limit the request, subpoena, or order.

20 14. **Disposition of Confidential Material.**

- 21 a. Upon the request of any Party after the final conclusion of this action
22 (including without limitation any appeals and after the time for filing all
23 appellate proceedings has passed), each Party so requested shall return all
24 Confidential Material to counsel for the Party that produced it, shall destroy
25 it, or otherwise shall comply with an applicable order of the Court, subject to
26 the exception described herein.
- 27 b. The return or destruction of Confidential Material under this paragraph shall
28 include, without limitation, all copies, and duplicates thereof, including
 copies on any litigation-support review application, which shall not be
 considered work product for purposes of this paragraph.
- c. The Parties shall certify, within 60 days of receipt of a written request for
 certification, that all Confidential Material required to be returned or
 destroyed have been so returned or destroyed.
- d. As an exception to the above requirements, and unless otherwise ordered by
 the Court, counsel may retain: (a) copies of pleadings or other papers that
 have been filed with the Court and that are Confidential Material or that

1 reflect, reference, or contain Confidential Material; (b) their work product;
2 and (c) official transcripts and exhibits thereto. The terms and provisions of
3 this Order shall continue to apply to any such materials retained by counsel.

4 ~~15. **Order Survives Termination of Action.** After the termination of this action~~
5 ~~by entry of a final judgment or order of dismissal, the provisions of this Order shall~~
6 ~~continue to be binding. This Order is, and shall be deemed to be, an enforceable~~
7 ~~agreement between the Parties, their agents, and their attorneys. The Parties agree that the~~
8 ~~terms of this Order shall be interpreted and enforced by this Court.~~

9 **16. No Waiver of Any Privilege Upon Inadvertent Production**

- 10 a. The Parties have agreed that, in discovery in this lawsuit, they do not intend
11 to disclose information subject to a claim of attorney-client privilege or
12 attorney work product protection.
- 13 i. This Order does not effect or constitute a waiver of any Party’s right
14 to withhold or redact information protected from disclosure by the
15 attorney-client privilege, physician-patient privilege, work product
16 doctrine, or any other applicable privilege, protection, law, or
17 regulation.
- 18 ii. Pursuant to Federal Rule of Evidence 502(d) and Federal Rule of
19 Civil Procedure 26(b)(5)(B), the production or disclosure of any
20 discovery material that a Party (the “Disclosing Party”) thereafter
21 claims should not have been produced or disclosed based on privilege
22 or work product protections (“Inadvertently Disclosed Information”),
23 shall not constitute or be deemed a waiver or forfeiture in whole or in
24 part—in this or any other action— of any claim of attorney-client
25 privilege or work product immunity that the Disclosing Party would
26 otherwise be entitled to assert with respect to the Inadvertently
27 Disclosed Information and its subject matter regardless of the
28 circumstances of the production or disclosure. As set forth below,
such Inadvertently Disclosed material shall be returned to the
Producing Party or destroyed upon request.
- b. **Attorney’s Ethical Responsibilities.** Nothing in this order overrides any
attorney’s ethical responsibilities to refrain from examining or disclosing
materials that the attorney knows or reasonably should know to be privileged
and to inform the Disclosing Party that such materials have been produced.
Any party receiving materials that, on their face, appear to be covered by a
privilege, shall not copy, distribute, or otherwise use in any manner such
materials and shall provide prompt notice of the disclosure to the Producing

1 Party to afford the Producing Party the opportunity to request return of the
2 materials, in accordance with the terms of this paragraph.

- 3 c. If a Disclosing Party notifies the Receiving Party of Inadvertently Disclosed
4 Information, the Receiving Party shall, within ten (10) court days: (i) return
5 or destroy (or in the case of electronically stored information, delete) all
6 copies of such information (including all notes or other work product of the
7 Receiving Party reflecting the contents of the Inadvertently Disclosed
8 Information) within their possession, custody, or control—including all
9 copies in the possession of experts, consultants, or others to whom the
10 Inadvertently Disclosed Information was provided—and (ii) provide a
11 certification of counsel that all such Inadvertently Disclosed Information has
12 been returned or destroyed. From the moment a Disclosing Party provides
13 notice of inadvertent production, a Receiving Party shall not copy, distribute,
14 or otherwise use in any manner the disputed documents or information, and
15 shall instruct all persons to whom the Receiving Party has disseminated a
16 copy of the documents or information that the documents or information are
17 subject to this Order and may not be copied, distributed, or otherwise used
18 pending a motion and further notice from the Court. For purposes of this
19 Order, Protected Information that has been stored by the Receiving Party on
20 a source of electronically stored information that is not reasonably
21 accessible, such as backup storage media, is sequestered. If such data is
22 retrieved, the Receiving Party must promptly take steps to delete the restored
23 protected information.
- 24 d. If the Receiving Party contests the claim of attorney-client privilege or work
25 product protection, the Producing Party shall—within thirty (30) business
26 days of receipt of the notice of disclosure—move the Court for a Protective
27 Order requiring return of the production of the Inadvertently Disclosed
28 Information (“Motion”). The Receiving Party shall not assert as a ground for
opposing such an Order the fact or circumstances of the inadvertent
production. Pending resolution of the Motion, the Receiving Party must not
use the challenged information in any way or disclose it to any person other
than those required by law to be served with a copy of the sealed Disclosure
Motion. On any such Motion, the Disclosing Party shall retain the burden of
establishing its privilege or work product claims. Nothing in this paragraph
shall limit the right of any Party to petition the Court for an *in camera*
review of the Inadvertently Disclosed Information.
- e. **Rule 502(b)**. The provisions of Federal Rule of Evidence 502(b) are
inapplicable to the production of Protected Information under this Order.

17. **Inadvertent Production or Disclosure of Confidential Material.**

- 2 a. Inadvertent or unintentional disclosure, without the required confidentiality
3 designation, of any Document, Testimony, or Information that the
4 Disclosing Party intended to designate as Confidential Material
5 (“inadvertent production”) shall not be deemed a waiver in whole or in part
6 of the producing Party’s claim of confidentiality, either as to specific
7 documents and information disclosed or as to the same or related subject
8 matter.
- 9 b. In the event that a Designating Party makes such an inadvertent production,
10 that Party shall contact the receiving Party within 30 days of the discovery of
11 the inadvertent production, or as promptly as reasonably possible thereafter,
12 and inform the receiving Party or Parties in writing of the inadvertent
13 production and the specific material at issue.
- 14 c. Upon receipt of such notice, the receiving Party or Parties shall treat the
15 material identified in the notice as confidential until (i) the Parties agree to
16 non-confidential treatment of the subject material, or (ii) the Court, on
17 motion of any Party, issues an order addressing the appropriate treatment of
18 the subject material.
- 19 d. Within ten court days of receiving notice of the inadvertently disclosed
20 Confidential Material, the receiving Party shall return or destroy all copies
21 of such Confidential Material and provide a certification of counsel that all
22 such Confidential Material has been returned or destroyed. Each receiving
23 Party shall notify every person or organization that received copies of or
24 access to the material identified in the notice that such material contains
25 Confidential Material.
- 26 e. As promptly as reasonably possible thereafter, the Disclosing Party shall re-
27 produce the Confidential Material with the required legend.

28 18. Nothing in this Order shall be construed to circumvent any applicable law,
statute, or rule of federal civil procedure.

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DATED: April 27, 2016

TUCKER ELLIS LLP

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Attorneys for Defendants Janssen Research & Development LLC, Janssen Pharmaceuticals, Inc., Janssen Ortho, LLC and Johnson & Johnson

DATED: April 27, 2016

HEARD ROBINS CLOUD, LLP

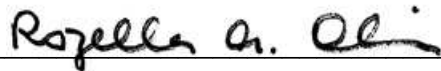
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Attorneys for Plaintiff Loris Furlow

IT IS SO ORDERED

DATED: May 2, 2016



UNITED STATES MAGISTRATE JUDGE

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

LORIS FURLOW,
Plaintiff,

v.

JANSSEN RESEARCH &
DEVELOPMENT L.L.C. f/k/a/
JOHNSON & JOHNSON
PHARMACEUTICAL RESEARCH AND
DEVELOPMENT L.L.C.; JOHNSON &
JOHNSON; JANSSEN
PHARMACEUTICALS, INC. f/k/a
ORTHO-MCNEIL-JANSSEN
PHARMACEUTICALS, INC.; JANSSEN
ORTHO L.L.C.; MITSUBISHI TANABE
PHARMA CORPORATION; AND JOHN
DOES 1-50, Defendants
Defendants.

) Case No. 2:16-cv-01386-JAK (RAOx)
) Hon. John A. Kronstadt

**EXHIBIT A – ENDORSEMENT OF
PROTECTIVE ORDER**

EXHIBIT A
ENDORSEMENT OF PROTECTIVE ORDER

I hereby attest to my understanding that information or documents designated as Confidential Discovery Material are provided to me subject to the Protective Order dated _____, 2016 (the “Order”), in the above-captioned litigation (“Litigation”); that I have been given a copy of and have read the Order; and, that I agree to be bound by its terms. I also understand that my execution of this Endorsement of Protective Order,

[PROPOSED] STIPULATED PROTECTIVE ORDER

1 indicating my agreement to be bound by the Order, is a prerequisite to my review of any
2 information or documents designated as Confidential Discovery Material pursuant to the
3 Order.

4 I further agree that I shall not disclose to others, except in accord with the Order,
5 any Confidential Discovery Material, in any form whatsoever, and that such Confidential
6 Discovery Material may be used only for the purposes authorized by the Order.

7 I further agree to return all copies of any Confidential Discovery Material or any
8 document or thing containing Confidential Discovery Material I have received to counsel
9 who provided them to me, or to destroy such materials, upon completion of the purpose
10 for which they were provided and no later than the conclusion of this Litigation.

11 I further agree and attest to my understanding that my obligation to honor the
12 confidentiality of such Confidential Discovery Material will continue even after this
13 Litigation concludes.

14 I further agree and attest to my understanding that, if I fail to abide by the terms of
15 the Order, I may be subject to sanctions, including contempt of court, for such failure. I
16 agree to be subject to the jurisdiction of the Central District of California, for the
17 purposes of any proceedings relating to enforcement of the Order. I further agree to be
18 bound by and to comply with the terms of the Order as soon as I sign this Agreement,
19 regardless of whether the Order has been entered by the Court.

20 Date: _____

21 By: _____

CERTIFICATE OF SERVICE

I, Cynthia M. Harris, declare that I am a citizen of the United States and a resident of Los Angeles, California or employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Tucker Ellis LLP, 515 South Flower Street, Forty-Second Floor, Los Angeles, California 90071-2223.

On **April 27, 2016**, I served the following: **[PROPOSED] STIPULATED PROTECTIVE ORDER** on the interested parties in this action by:

- (X) **ELECTRONICALLY VIA ECF:** the above-entitled document to be served electronically through the United States District Court, Southern District ECF website, addressed to all parties appearing on the Court’s ECF service list. A copy of the “Filing Receipt” page will be maintained with the original document in our office.
- (X) I declare that I am employed in the office of the Bar of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on **April 27, 2016**, at Los Angeles, California.

/s/ Cynthia M. Harris
Cynthia M. Harris