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17 Attorneys for the United States of America

18 UNITED STATES DISTRICT COURT
 19 NORTHERN DISTRICT OF CALIFORNIA
 20 SAN FRANCISCO DIVISION

21 UNITED STATES <i>ex rel.</i> STROM,)	No. C 05-3004 CRB
22 Plaintiffs,)	STIPULATION AND REQUEST TO VACATE CASE MANAGEMENT CONFERENCE; PROPOSED ORDER
23 v.)	
24 SCIOS, INC. and)	
25 JOHNSON & JOHNSON,)	CMC Date: April 9, 2010
26 Defendants.)	Time: 8:30 a.m.
		Courtroom 8, 19 th Floor

27 Plaintiffs, the United States of America and Relator Joe Strom, and Defendants,
 28 Scios, Inc. and Johnson & Johnson, through their undersigned counsel of record, hereby stipulate

STIPULATION, No. C 05-3004 CRB

1 and agree as follows:

2 1. At the March 12, 2010 case management conference, the Court ordered a phased
3 discovery schedule, with the first phase limited to two issues: (1) Defendants' affirmative
4 defense of reliance on advice of counsel; and (2) Johnson & Johnson's liability as a corporate
5 entity.

6 2. Defendants have filed a Second Amended Answer that withdraws and waives any
7 right to assert the defense of reliance on advice of counsel.

8 3. Defendant Johnson & Johnson hereby agrees to guarantee and indemnify any
9 judgment against Defendant Scios, Inc. or any settlement amount agreed to between Plaintiffs
10 and Defendant Scios, Inc. in the above-captioned case.

11 4. Plaintiffs will continue to pursue discovery regarding Johnson & Johnson's alleged
12 direct liability under the False Claims Act and the common law theory of unjust enrichment.

13 5. Given the withdrawal of the advice of counsel defense and the payment guarantee by
14 Johnson & Johnson, the parties agree that phased discovery is no longer necessary.

15 6. The parties agree that all parties may take discovery on all issues in the case beginning
16 on the date of this Order.

17 7. The parties agree that each side (Plaintiffs and Defendants) may take up to 60
18 depositions of fact witnesses.

19 8. The parties request the following discovery schedule:

20 Fact discovery cut-off:	Sept. 30, 2011
21 Designation of experts:	October 31, 2011
22 Designation of rebuttal experts:	November 30, 2011
23 Expert discovery cut-off:	January 31, 2012
24 Dispositive motions - last day for hearing:	April 6, 2012

25 9. Defendants requested, and the Court scheduled, a further case management conference
26 on April 9, 2010 to discuss revising the discovery plan. Given the parties' agreement on a new
27 discovery plan, we now request that, if the Court agrees with the parties' stipulated discovery
28

1 plan, the April 9 case management conference be vacated. Should the Court disagree with the
2 parties' stipulated discovery plan, we request that the case management conference be held as
3 scheduled in order for the parties and the Court to discuss the plan.
4

5 IT IS SO STIPULATED.

6 Respectfully submitted,

7 TONY WEST
8 Assistant Attorney General

9 JOSEPH P. RUSSONIELLO
10 United States Attorney

11 Dated: April 2, 2010

12 By: /s/ signature on file
13 SARA WINSLOW
14 JULIE A. ARBUCKLE
15 Assistant United States Attorneys

16 Dated: April 2, 2010

17 By: /s/ signature on file
18 JOYCE R. BRANDA
19 PATRICIA R. DAVIS
20 RENÉE S. ORLEANS
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22 Civil Division, U.S. Department of Justice

23 Attorneys for the United States
24 NOLAN & AUERBACH, P.A.
25 LAW OFFICES OF MATTHEW PAVONE

26 Dated: April 2, 2010

27 By: /s/ signature on file
28 KENNETH J. NOLAN, Esq.
MARCELLA AUERBACH, Esq.
MATTHEW B. PAVONE, Esq.
Attorneys for *Qui Tam* Plaintiff Joe Strom

QUINN EMANUEL URQUHART OLIVER &
HEDGES, LLP

Dated: April 2, 2010

By: /s/ signature on file
CHRISTOPHER TAYBACK, Esq.
Attorneys for Defendants Scios, Inc. and
Johnson & Johnson Inc.

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~~PROPOSED~~ ORDER

Pursuant to stipulation, the discovery plan for this case shall be as set out above, and the case management conference scheduled for April 9, 2010 is hereby vacated.

IT IS SO ORDERED.

Dated: April 2, 2010

