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2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4 (OAKLAND DIVISION)
5

6 McKESSON CORPORATION, a Delaware
corporation,

7 Plaintiff,

8 v.

9 FAMILYMEDS GROUP, INC., f/k/a
DRUGMAX, INC., a Nevada corporation,

10 Defendant.

11 FAMILYMEDS GROUP, INC., f/k/a
DRUGMAX, INC., a Nevada corporation,

12 Counterclaimant,

13 v.

14 McKESSON CORPORATION, a Delaware
corporation,

15 Counterdefendant.
16

CASE NO. CV-07-5715 WDB

Related to Case No. CV-08-2850 WDB

**STIPULATION RELATING TO ENTRY OF
SATISFACTION OF JUDGMENT AND
DISMISSAL OF COUNTERCLAIM IN
CASE NO. CV-07-5715 WDB; AND**

ORDER THEREON

[FRCP 41(a)(1)(A)(ii), 41(c), and 54(b)]

Complaint filed:	Nov. 9, 2007
Counterclaim filed:	Dec. 17, 2007
Cross-Complaint Filed:	Dec. 17, 2007
Trial date:	None set

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18 This "Stipulation Relating to Entry of Satisfaction of Judgment and Dismissal of
19 Counterclaim in Case No. CV-07-5715 WDB" (this "Stipulation") is entered into by and between
20 Familymeds, Inc., a Connecticut corporation and Familymeds Group, Inc. a Nevada corporation,
21 f/k/a Drugmax, Inc., a Nevada corporation (collectively, "Familymeds") on the one hand, and
22 McKesson Corporation, a Delaware corporation ("McKesson") on the other (collectively, the
23 "Parties," and individually, each a "Party") pursuant to the terms of an "Agreement and General
24 Release" (the "Settlement Agreement") entered into by the Parties (and by an affiliate of
25 McKesson) on October 16, 2008. The Parties, through their respective counsel, each hereby
26 stipulate and agree that the conditions precedent have been satisfied with respect to (a) the right of
27 McKesson pursuant to the Settlement Agreement to file a satisfaction of judgment on account of the
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CV-07-5715 WDB
STIPULATION RE ENTRY OF SATISFACTION OF JUDGMENT
AND DISMISSAL OF COUNTERCLAIM;
ORDER THEREON
EXHIBIT A

1 "Judgment" granted by the Court in favor of McKesson on September 9, 2008 (the "McKesson
2 Judgment") in Case No. CV-07-5715 WDB (the "First Action") as set forth in the Settlement
3 Agreement, and (b) the obligation of Familymeds to dismiss with prejudice its Counterclaim in the
4 First Action (the Cross-Complaint of Familymeds, Inc. having previously been dismissed pursuant
5 to an "Order Dismissing 'Cross-Complaint' Without Prejudice" issued by the Court on August 4,
6 2008). The Parties further stipulate and agree as follows (without modifying the Settlement
7 Agreement):

8 1. Pursuant to the Settlement Agreement, McKesson is entitled to submit a satisfaction
9 of judgment in the First Action in substantially the form of Exhibit A to this Stipulation which shall
10 resolve the matters raised in the Complaint commencing the First Action;

11 2. The "Counterclaim for Specific Performance of Contract and Accounting; Cross-
12 Complaint for Accounting" filed on December 17, 2007 (the "Counterclaim"), by Familymeds
13 Group, Inc. in the First Action shall be and is hereby dismissed with prejudice pursuant to Rules
14 41(a)(1)(A)(ii) and 41(c) of the Federal Rules of Civil Procedure, each party to bear its own costs
15 and attorneys' fees incurred with regard to the Counterclaim except as may have been provided in
16 the Settlement Agreement; and

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1 3. The prior dismissal of the "Cross-Complaint" is agreed by the Parties to be a
2 dismissal with prejudice or to otherwise have the effect of a dismissal with prejudice and that the
3 order dismissing the Cross-Complaint should be amended to reflect the same, each party to bear its
4 own costs and attorneys' fees incurred with regard to the Counterclaim except as may have been
5 provided in the Settlement Agreement.

6 DATED: January 23, 2009

JEFFER, MANGELS, BUTLER & MARMARO LLP
ROBERT C. GEBHARDT
MICHAEL A. GOLD
MATTHEW S. KENEFICK

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8
9 By: /s/ Matthew S. Kenefick

MATTHEW S. KENEFICK

10 Attorneys for FAMILYMEDS, INC., a Connecticut
11 corporation and FAMILYMEDS GROUP, INC. a
12 Nevada corporation, f/k/a DRUGMAX, INC., a
Nevada corporation

13 DATED: January 23, 2009

HENDERSON, CAVERLY, PUM & CHARNEY LLP

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15 By: /s/ Maria K. Pum

MARIA K. PUM

16 Attorneys for MCKESSON CORPORATION, a
Delaware corporation

17 I attest that I have obtained concurrence in the filing of this document from Maria K. Pum.

18 /s/ Matthew S. Kenefick

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20 **ORDER**

21 PURSUANT TO THE FOREGOING STIPULATION, IT IS ORDERED that:


22 (1) the Satisfaction of Judgment in the form of Exhibit A may be submitted by
23 McKesson to be approved by the Court;

24 (2) the "Counterclaim for Specific Performance of Contract and Accounting; Cross-
25 Complaint for Accounting" filed on December 17, 2007 the "Counterclaim"), by Familymeds in the
26 First Action shall be and is hereby dismissed with prejudice pursuant to Rules 41(a)(1)(A)(ii) and
27 41(c) of the Federal Rules of Civil Procedure, each party to bear its own costs and attorneys' fees

1 incurred with regard to the Counterclaim except as may have been provided in the Settlement
2 Agreement; and

3 (3) the previously-issued "Order Dismissing 'Cross-Complaint' Without Prejudice"
4 executed by the Court on August 4, 2008 shall be amended pursuant to Rule 54(b) of the Federal
5 Rules of Civil Procedure to constitute a dismissal of the "Cross-Complaint" with prejudice.

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8 DATED: 1/26/09


9 THE HONORABLE WAYNE D. BRAZIL
10 UNITED STATES MAGISTRATE JUDGE