

Jonathan L. Abram  
Raymond A. Kurz  
HOGAN & HARTSON LLP  
555 Thirteenth Street, N.W.  
Washington, D.C. 20004  
Tel: (202) 637-5681  
Fax: (202) 637-5910

Attorneys for Defendants

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

JOHNSON & JOHNSON and JOHNSON &  
JOHNSON CONSUMER COMPANIES, INC.,

Plaintiffs,

v.

THE AMERICAN RED CROSS, LEARNING  
CURVE INTERNATIONAL, INC., MAGLA  
PRODUCTS, LLC, WATER-JEL  
TECHNOLOGIES, INC., and FIRST AID  
ONLY, INC.,

Defendants.

Case No. 07-CV-7061 (JSR/DCF)

**ECF CASE  
ELECTRONICALLY FILED**

**DECLARATION OF JONATHAN L. ABRAM IN SUPPORT OF DEFENDANT'S  
RESPONSE TO PLAINTIFFS' STATEMENT OF UNDISPUTED FACTS AND  
DEFENDANTS' COUNTER-STATEMENT OF MATERIAL FACTS**

Jonathan L. Abram declares as follows:

1. I am a member of the bar of this Court, admitted pro hac vice, and a partner in the law firm of Hogan & Hartson, LLP. I am counsel for Defendants The American Red Cross, Learning Curve International, Inc., Magla Products, LLC, Water-Jel Technologies, LLC, and First Aid Only, Inc. in the above-captioned action.

2. I submit this declaration in support of Defendants' Response to Plaintiffs' Rule 56.1 Statement of Undisputed Facts and Defendants' Counter-Statement of Material Facts based on my personal knowledge of this case from the initial filing of the complaint, and of the documents contained in the files that my law firm has received and reviewed concerning the above-mentioned Defendants, publicly available information, and other factual matters known to me.

3. On November 15, 2007, the non-ARC defendants served J&J with a copy of an Expert Report of Dr. Itamar Simonson. Dr. Simonson will present expert testimony at trial on behalf of these defendants establishing the functional or generic nature of the symbol in the area of first aid and wound care.

4. Attachment A to this declaration is an index of Exhibits 1 through 7.

5. Attached as Exhibit 163 is a true and correct copy of excerpts of the Deposition of Allison Carpinello (Nov. 9, 2007) 157-158.

6. Attached as Exhibit 164 is a true and correct copy of excerpts of the Deposition of Howard Hirsch (Nov. 8, 2007) 142-145.

7. Attached as Exhibit 165 is a true and correct copy of the Statutes of the International Red Cross and Red Crescent Movement, Preamble and Article 1 (2006).

8. Attached as Exhibit 166 is a true and correct copy of a web-site page entitled "What is ICRC's relationship with national Red Cross and Red Crescent societies?," <http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/5fmjhl?opendocument>.

9. Attached as Exhibit 167 is a true and correct copy of excerpts of the Deposition of Julie Ortmeier (Nov. 14, 2007) 16-17, 29-30, 149, 164.

10. Attached as Exhibit 168 is a true and correct copy of excerpts of the Deposition of Jennifer Niyangoda (Nov. 16, 2007) 58-61, 115.

11. Attached as Exhibit 169 is a true and correct copy of excerpts of the Deposition of Andrea Morisi (Nov. 9, 2007) 10, 21-24, 29-32.

12. Attached as Exhibit 170 is a true and correct copy of excerpts of the Deposition of Amlin Kotei (Nov. 6, 2007) at 35, 105.

13. Attached as Exhibit 171 is a true and correct copy of excerpts of the Deposition of Jeffrey Tolonen (Nov. 7, 2007) at 112-113, 148-149.

14. Attached as Exhibit 172 is a true and correct copy of excerpts of Pls' Response to Defs' First Set of Requests for Admission, Response to RFA Nos. 1, 4, 8.

I declare the foregoing to be true and correct under penalty of perjury. This declaration is executed by me in Washington, D.C. this 5th day of December, 2007.

s/ Jonathan L. Abram  
Jonathan L. Abram

**CERTIFICATE OF SERVICE**

Pursuant to the Federal Rules of Civil Procedure, I hereby certify that on the 5th day of December, 2007, I caused a true and correct copy of the foregoing, together with the attachments listed, to be served upon the following via the Court's ECF Notification System:

Gregory L. Diskant  
Sarah Elizabeth Zgliniec  
Patterson, Belknap, Webb & Tyler LLP  
1133 Avenue of the Americas  
New York, NY 10036  
Tel: (212) 336-2710  
Fax: (212) 336-2222  
E-mail: gldiskant@pbwt.com  
E-mail: sezgliniec@pbwt.com

Richard Zachary Lehv  
Roger L. Zissu  
Fross Zelnick Lehrman & Zissu, P.C.  
866 United Nations Plaza  
New York, NY 10004  
Tel: (212) 813-5900  
Fax: (212)-813-5901  
E-mail: rlehv@frosszelnick.com  
E-mail: rzissu@frosszelnick.com

s/ Jonathan L. Abram  
Jonathan L. Abram