GARDY & NOTIS, LLP
Mark C. Gardy
James S. Notis
Jennifer Sarnelli
Charles A. Germershausen
560 Sylvan Avenue
Englewood Cliffs, NJ 07632
Tel: 201-567-7377
Fax: 201-567-7337

Attorneys for Plaintiff
[Additional Counsel on Signature Page]

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

THE GEORGE LEON FAMILY TRUST, Derivatively and on Behalf of JOHNSON & JOHNSON, Plaintiff, v. MARY SUE COLEMAN, PH.D., JAMES G. CULLEN, IAN E. L. DAVIS, MICHAEL M.E. JOHNS, M.D., ARNOLD G. LANGBO, SUSAN L. LINDQUIST, PH.D., ANNE M. MULCAHY, LEO F. MULLIN, WILLIAM D. PEREZ, CHARLES O. PRINCE, III, DAVID SATCHER, M.D., PH.D., RONALD A. WILLIAMS, and WILLIAM C. WELDON, Defendants, – and – JOHNSON & JOHNSON, a New Jersey Corporation, Nominal Defendant.	No. 12-cv-4401-JAP-TJB **FIRST AMENDED** **VERIFIED SHAREHOLDER** **<u>DERIVIATIVE COMPLAINT</u>** **<u>JURY TRIAL DEMANDED</u>**

Plaintiff, The George Leon Family Trust ("Plaintiff"), by its undersigned counsel, alleges the following upon personal knowledge as to itself and upon information and belief as to all other matters. The allegations based upon information and belief were formed after an inquiry reasonable under the circumstances.

INTRODUCTION

1. This is a verified shareholder derivative action, seeking relief on behalf of nominal party Johnson & Johnson ("J&J" or the "Company") against certain current and former members of J&J's Board of Directors (the "Board").

2. Plaintiff is a J&J shareholder.

3. Defendants are Mary Sue Coleman, Ph.D., James G. Cullen, Ian E. L. Davis, Michael M.E. Johns, M.D., Arnold G. Langbo, Susan L. Lindquist, Ph.D., Anne M. Mulcahy, Leo F. Mullin, William D. Perez, Charles O. Prince, III, David Satcher, M.D., Ph.D., Ronald A. Williams, and William C. Weldon. Defendants are/were each directors/members of the Board during the relevant time period discussed herein.

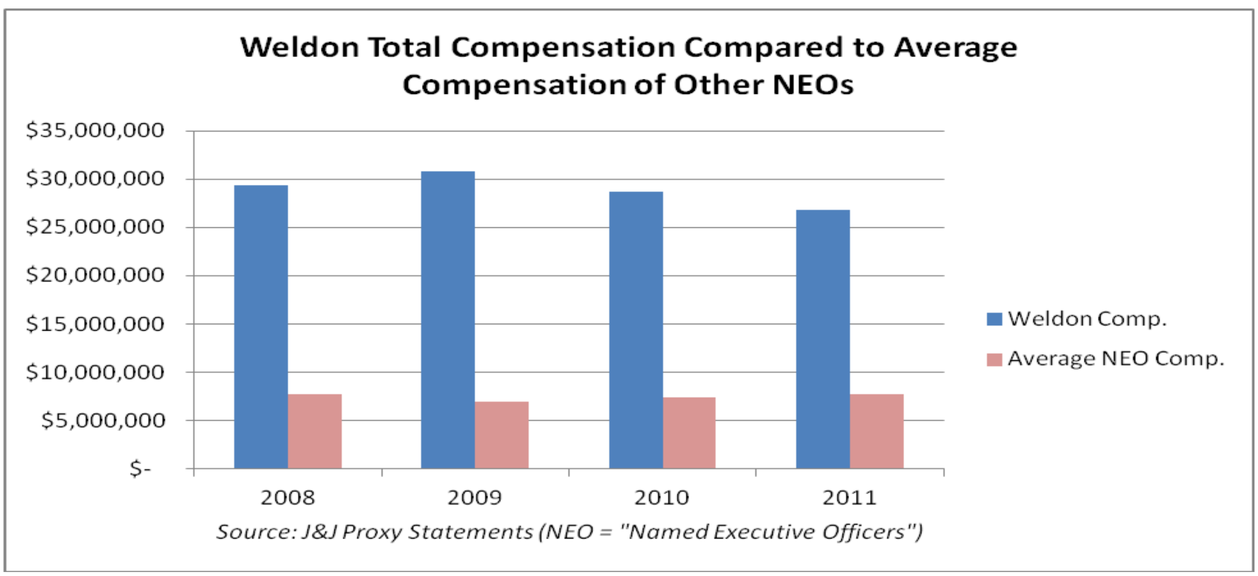
4. Recently, the Board formally rejected Plaintiff's demands (attached hereto as Exhibit A) that the Board take action to remedy the Board's failure to follow J&J's Credo-based executive compensation policies. Defendants seek protection under New Jersey law for the Board's rejection of Plaintiff's demands, after having had the opportunity to present all their evidence in support the Board's decision. Defendants have plainly not met their burden under New Jersey law. Therefore, judicial scrutiny is appropriate concerning the Board's investigations and its decision, and whether Defendants violated the law causing harm to J&J.

5. Since at least February 2010, the Board has been investigating and responding to a series of formal shareholder demands (Plaintiff's counsel believes there are a total of 12 formal demands and supplements, including Plaintiff's) concerning the negative fallout following J&J's

extraordinary compliance and quality problems that occurred under the leadership of J&J's former Chairman and CEO, William C. Weldon ("Weldon"). The Board has conducted two separate but related investigations. Following the first investigation, the Board adopted new and improved Credo-based compliance and quality policies/systems in connection with the settlement of shareholder derivative litigation in the case *In re Johnson & Johnson Derivative Litig.*, No. 10-cv-2033 (D.N.J.). The executive compensation claims pertaining to Plaintiff's demands were expressly excluded from the settlement of that action.

6. J&J executive compensation policies require the Board to adhere to J&J's Credo through both conventional "pay for performance" measures and, additionally, through evaluation of the manner in which the executive achieves that "performance" relative to the Credo (i.e., "manner of performance"). This case stems from the Board's failure to follow J&J's "manner of performance" compensation policies, particularly in connection with awards to Weldon.

7. At J&J, Weldon was often paid around ***four times*** the average amount of compensation as the next most-highly paid J&J "named executive officers" ("NEOs")[1]:



[1] For example, in 2009, Weldon was compensated over $30 million while the ***combined compensation of the next four most-highly-paid J&J executives*** was less than $28 million.

8. Such extraordinary compensation should go hand-in-hand with extraordinary levels of responsibility and positive performance. In truth, however, Weldon either (i) did not maintain anywhere near a level of responsibility commensurate with this level of lavish compensation; and/or (ii) was ultimately responsible and accountable for leading J&J into the gauntlet of problems that did not adhere to the J&J Credo, that will cost J&J billions in lost sales and remediation, and that harmed J&J's reputation. In either case, Weldon's lavish compensation was wholly detached from Weldon's true "manner of performance," adherence to the Credo, and the heightened responsibilities placed upon him as CEO.

9. Plaintiff brings this action for the benefit of J&J based upon:

(a) The continuing and immediate need to address the Board's flawed execution of J&J's "manner of performance" executive compensation policies and practices, to correct proxy disclosures, and to recoup the resulting over-compensation of Weldon;

(b) The Board's failure to conduct an independent investigation of the essential elements of Plaintiff's shareholder demands with good faith, due care and reasonableness, necessary to achieve business judgment protection under New Jersey law; and

(c) The Board's failure to adequately weigh the alternatives of pursuing litigation, resolving Plaintiff's demands outside of litigation, and rejecting the demands outright.

10. Plaintiff is proceeding with its claims on the basis that its demands were wrongfully refused because essential elements of Plaintiff's demands have not been addressed by the Board in either its investigation or rejection. Most notably, Plaintiff demanded that the Board employ its previous investigation, completed in 2011, bearing on adherence to Credo values and other "manner of performance" issues germane to executive compensation. The fruits of this previous investigation are essential to Plaintiff's demand that the Board pursue, on behalf of J&J, viable claims, remediation, corrective disclosures, and recoupment from Weldon.

11. The Board's previous investigation culminated in a "Report of the Special Committee of the Board of Directors of Johnson & Johnson" (hereinafter "Special Committee Report"), accepted by the Board in July 2011. *See In re Johnson & Johnson Derivative Litig.*, Case No. 10-cv-2033 (D.N.J.), Doc. No. 149-1, filed July 18, 2011. The Special Committee Report is supported by evidence (already compiled) bearing on "manner of performance" issues in Plaintiff's demands. Thus, the Board's previous investigation and evidence bearing on "manner of performance" issues is not only readily-available, it is essential to learning whether or not J&J's executive compensation policies and practices were properly executed, through consideration of the true responsibilities and "manner of performance" of J&J executives, including Weldon. This evidence, however, was not used to investigate Plaintiff's demands.

12. The previous investigation bearing on "manner of performance" was conducted by the members of the Board's Compensation Committee, with the assistance of the Lowenstein Sandler PC law firm. The Lowenstein Sandler PC investigation was more comprehensive and bears more directly on "manner of performance" issues that were likely not considered by the Board's more recent investigation performed by K&L Gates, LLP:

	Board Special Investigation Counsel	
	Lowenstein Sandler PC	K&L Gates LLP
Interviews (3 witnesses overlap: Mr. Weldon; Presiding Director Cullen; J&J counsel Douglas Chia)	61	24
Deposition Transcripts Reviewed	6	0
Pages of Documents	≈ 21,000,000 (database supplied by outside counsel) ≈ 1,000,000 (database compiled by Special Committee; i.e., members of the Compensation Committee)	≈ 17,000 (supplied mostly by J&J)
Hours of Investigation	≈ 10,000	≈ 1,800
Common focus bearing on Credo-based conduct	J&J policies and procedures, including its Credo, Policy on Business Conduct, Code of Business Conduct and Ethics for Members of the Board of Directors and Executive Officers, and related governance documents	

13. The fruits of the Lowenstein Sandler PC investigation are essential to Plaintiff's demand because that investigation developed important evidence concerning the numerous and extraordinary compliance failures, regulatory, consumer and quality issues faced by J&J that are relative to "manner of performance" Credo-value issues, including the following:

(a) McNeil manufacturing debacle (Weldon accepted responsibility and blame in his Congressional testimony);

(b) dozens of rolling product recalls and the notorious "phantom" recall (Weldon testified that the decision to secretly recall product without notifying the FDA was a "mistake" and "we would certainly be more transparent")[2];

(c) closure of the Ft. Washington plant in 2010 (the plant remains closed today);

(d) 93,000 defective DePuy hip replacements (could cost J&J $3 billion);

(e) multiple instances of off-label marketing; and

(f) Department of Justice/whistleblower litigation concerning Omnicare kickbacks.

14. The Board's investigation of Plaintiff's demand makes no reference to the Lowenstein Sandler PC investigation and does not provide any meaningful inquiry into the depth of the "manner of performance" issues germane to J&J's executive compensation policies and Plaintiff's demands that were covered by that previous investigation.

15. It is undisputed that the Board is duty-bound to adhere to "manner of performance" pay principles as a way of enforcing Credo compliance. Under this rubric, "manner of performance" and the level of executive compensation should go hand-in-hand at

[2] The Credo states that "mistakes [are] paid for."

J&J. And, that is exactly what the Board says it will do in the proxy statements that the Board issues to J&J shareholders. Yet, in its executive compensation decisions, the Board has historically turned a blind eye to the variety and depth of negative "manner of performance" issues that have plagued J&J. Now the Board is similarly turning a blind eye to Plaintiff's demand that the Board look to the most comprehensive investigation and evidence bearing on "manner of performance" to properly evaluate Plaintiff's claims and demands.

16. The Board's willful exclusion of its most comprehensive investigation and evidence of "manner of performance" issues when investigating executive pay lacks good faith, due care, is unreasonable, and leaves the Board's rejection of Plaintiff's demands fundamentally flawed – particularly when Plaintiff expressly demanded this essential step in connection with its demands. In sum, the Board has cherry-picked its investigation and response, ignoring the highly-material and readily-available "manner of performance" evidence that the Board's previous investigation has uncovered. This "manner of performance" evidence is essential and material to Plaintiff's demands, exposing flaws in the Board's compensation of Weldon.

17. This action arises from Defendants' failure to follow J&J's philosophies and guiding principles for executive compensation. In failing to follow J&J's executive compensation policies and procedures, Defendants have breached their duty of loyalty to J&J and candor to J&J shareholders, by allowing the Board to substitute its own *ad hoc* "protect the CEO" philosophies to replace J&J's "manner of performance" principles that purport to give teeth to the Credo. The Board is not entitled to business judgment protection for its pay decisions because it turned a blind eye to J&J's executive compensation philosophies, J&J's guiding principles for executive compensation, and J&J's executive compensation policies and procedures, as they were represented to J&J shareholders in proxy statements.

18. Plaintiff hereby seeks this Court's ruling that Defendants have not met their burden of proof concerning the Board's rejection of Plaintiff's demand, and permission to now pursue certain claims and facts on behalf of J&J that were not addressed by the Board in connection with Plaintiff's demands.

19. This action seeks to hold Defendants liable for breaches of their fiduciary duties of candor, and good faith and loyalty, including the issuance of false and misleading statements that require corrective disclosures, in J&J's annual proxy statements on Schedule 14A filed with the Securities and Exchange Commission ("SEC") in 2010, 2011, and 2012.

JURISDICTION AND VENUE

20. This Court has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331 because this is a civil action arising under the laws of the United States. In addition, this Court has exclusive jurisdiction over this action pursuant to Section 27 of the Securities Exchange Act, 15 U.S.C. § 78aa, because this action asserts claims under Section 14(a) of the Exchange Act, 15 U.S.C. § 78n(a), and has supplemental jurisdiction over the non-federal claims asserted herein under 28 U.S.C. § 1367(a). This action is not a collusive action designed to confer jurisdiction on a court of the United States that it would not otherwise have.

21. This Court has jurisdiction over each Defendant because each Defendant has sufficient minimum contacts with this District so as to render the exercise of jurisdiction by the courts of this District permissible under traditional notions of equity and substantial justice.

22. Venue is proper in this District pursuant to 28 U.S.C. § 1391(a). Substantial acts in furtherance of the alleged wrongdoing and/or their effects have occurred within this District, and Nominal Defendant J&J's headquarters are in this District.

BACKGROUND

23. J&J is a credo-based company. Robert Wood Johnson, J&J's former Chairman from 1932 to 1963 and member of the founding family, crafted the J&J "Credo" in 1943. The Credo challenges J&J to put first the needs and well-being of the doctors, nurses, patients, and customers that it serves. Likewise, J&J's "Code of Business Conduct & Ethics for Members of the Board of Directors and Executive Officers" obligates all J&J officers and directors to comply with all laws consistent with J&J's Credo values.

24. The J&J Board is responsible for compensation of J&J's senior executives and the Board determines and approves the CEO's compensation. The Board is duty-bound by J&J corporate policies to connect executive compensation to J&J executives' "manner of performance" relative to the Credo, and the Board represents to J&J shareholders that it does so.

25. For example, the Board represented to J&J shareholders in its proxy statement filed with the SEC on March 16, 2011 (the "2011 Proxy"), that "manner of performance" pay principles "in alignment with the Company's Credo values" were at the heart of executive compensation decisions:

> Pay for performance is an essential element of the Company's guiding principles, and the executive officers are assessed on their performance against long-term strategic objectives as well as annual business goals. **In alignment with the Company's Credo values, it is important that the Company recognize its executive officers not only for the results they achieve, but also for the manner in which they achieve them.**

2011 Proxy at 22.[3] The Proxy Statement filed in March 2010 (the "2010 Proxy") similarly stated:

> Pay for performance is an essential element of the Company's guiding principles. **In alignment with the Company's Credo values, it is important that the Company recognize its executive officers for the results they achieve as well as the manner in which they achieve them.**

[3] Emphasis is added throughout this complaint unless otherwise stated.

2010 Proxy at 20.

26. In connection with the annual shareholder advisory vote, the Board emphasizes in proxy statements issued to J&J shareholders that the Board connects Credo values to "manner of performance" because the Credo is the "overarching" consideration concerning J&J executive pay principles:

> The Board recognizes that executive compensation is an important matter for our shareholders. The guiding principles of the Johnson & Johnson's executive compensation philosophy and practice continue to be: Competitiveness; Pay for Performance; Accountability for Short- and Long-Term Performance; and Alignment to Shareholders' Interests. **Overarching these principles is adherence to Our Credo values, which emphasize the manner in which our financial and strategic objectives are achieved.**

2011 Proxy at 62; *See also* J&J proxy statement filed with the SEC in March 14, 2012 ("2012 Proxy") at p. 65 (similar language).

27. J&J's actual pay practices, however, have revealed that the Board does not follow the J&J mandate of "manner of performance" pay principles, and that Credo-values are not the overarching consideration in executive pay. The primary reason for this disconnect is a corporate culture at J&J whereby the overriding considerations in executive pay are *ad-hoc*, makeshift considerations to address the immediate moment (i.e., Credo-optional). For example, the Board's investigation notes that an overarching consideration for bonuses is the fact that bonus reductions for executives are "unprecedented" in the J&J culture regardless of "manner of performance." Also, impacts to CEO pay can be overridden by considerations of whether or not the pay will be viewed as a "vote of no confidence." As a result, the J&J executive compensation policy is at odds with the J&J culture and therefore ripe for failure because there are no meaningful pay consequences to executives for their negative "manner of performance."

28. The Board was well aware of the extraordinary number and variety of negative "manner of performance" issues facing the Company since the late 1990s. In July 2011, the

Special Committee Report prepared by the members of its Compensation Committee recited a series of compliance failures, improper acts, and failures to adhere to the J&J Credo that resulted in immeasurable harm to J&J's vaunted reputation. The Special Committee Report found numerous compliance and other negative "manner of performance" issues and proposed extensive changes to J&J compliance structures that would address a wide variety of those issues, including the following topics (based on the Special Committee Report table of contents):

- Quality issues at McNeil OTC
    - The Motrin recall
    - The B. Cepacia issue
    - The "Musty Odor" issue
    - The Closing of Ft. Washington, related recalls and additional 483 observations
    - The Consent Decree
- Quality issues regarding DePuy hips
- Acuvue contact lenses recall
- Off-label promotions by J&J:
    - Risperdal
    - Natrecor
    - Topamax
    - Biliary Stents
- Kickback issues
    - Issues at DePuy
    - Omnicare issues
        - Rebates from the Drug Supply Agreements

  - Kickbacks to Omnicare, including “covert rebates”
  - Grants, educational funding, and sponsorship fees

- Alleged violations of the Foreign Corrupt Practices Act
- The Deferred Prosecution Agreement

29. As reported by the *The Wall Street Journal*, the Special Committee Report also revealed core causes, dating back years, under Weldon’s leadership as CEO, including:

> In 2007, J&J cut its world-wide quality-and-compliance staff by 35% to 28 from 43 workers, and reduced its worldwide health-care compliance staff by 25% to 12 from 16 workers. Some of these staffs’ functions were transferred to individual J&J divisions.
>
> The report said the restructuring of J&J’s corporate quality and compliance staffs in 2007 was a “potential contributing factor to the apparent failure of the checks and balances” when it came to overseeing McNeil.
>
> At McNeil’s manufacturing plants, “there seemed to be a lack of attention to product quality” by certain non-quality control workers, such as engineering and operations, which produced tension between quality control and operations, the report said.
>
> “Periodic head-count freezes and an emphasis on production volume may have contributed to this situation,” the report said.

30. Congress subpoenaed Weldon for his testimony surrounding the extraordinary gauntlet of issues faced by J&J. Weldon testified that, among other things, “**I know that we let the public down**” and “**I accept full accountability for the problems at McNeil.**” Weldon added: “**And our Credo, our first responsibility is to the people who use our products. I stated, and I would state again that we have let them down. There is absolutely no doubt we let them down. This was not one of our best moments**.” Weldon’s *mea culpa* was a reiteration of an earlier interview with *Fortune* that, “**we have done a disservice to . . . our Credo . . . . And I think it’s – it’s something I have to apologize for, and as a corporation, we have to apologize for.**” Weldon’s acceptance of responsibility is believable. The Board had

historically represented to J&J shareholders that Weldon was by far the most responsible executive at J&J – paying Weldon about ***four times*** the average pay of the next four most highly paid J&J executives.[4]

31. Inexplicably, the Board's Compensation Committee and Presiding Director concluded (and the Board has accepted this conclusion) that Weldon's testimony really meant that he was not *personally responsible* for Credo violations, including the problems at McNeil for which Weldon accepted blame. This conclusion is inexplicable because of the Board's contrasting statements concerning Weldon's level of responsibility, Weldon's acceptance of responsibility (under oath and otherwise), and the Board's compensation of Weldon that was approximately four times the amount of the next most-highly paid J&J executives.

32. Moreover, in another bizarre twist, the Board simultaneously concluded that Weldon was *responsible* for addressing the problems at McNeil – problems for which Weldon accepted blame and for which he felt compelled to personally apologize. In fact, this anomalous conclusion resulted in a 3% raise for Weldon immediately following his *mea culpa*! The Board cannot have it both ways in its decisions to pay Weldon: either Weldon was responsible as CEO for the good, the bad and the ugly at McNeil and other J&J operations – or he was not. Either way, Weldon should have been paid accordingly.

33. The Board's justifications for its decisions to award Weldon record compensation are unreasonable. For example, despite numerous obvious problems and Weldon's testimony, the Board says that Weldon's damning admissions were not a negative factor but somehow

[4] The Board told J&J's shareholders that "Mr. Weldon's compensation is higher than that of the Company's other executive officers due to the level of responsibility of his position." *See* 2011 Proxy at 39; 2010 Proxy at 37; and March 11, 2009 Proxy ("2009 Proxy") at 38. Weldon received approximately four times the amount of compensation as the next four most-highly-paid J&J executives. In 2009, Weldon was compensated over $30 million while the combined compensation of the next four most-highly-paid J&J executives totaled less than $28 million.

"exemplified Credo values." Again, when juxtaposed with Weldon's statements, the Board's rationale is flawed and substitutes the Credo as the overarching consideration in executive pay. The Board's practices demonstrate that there are circumstances where the Credo is not the overarching decision in executive pay, leaving room for alternative, *ad hoc*, and makeshift pay considerations and policies – all in violation of J&J policies.

34. What should have been obvious to the Board was clear to credible commentators, who made Weldon a poster-CEO for excessive, inexplicable compensation. For example:

(a) NBC News counted Weldon among "America's most overpaid chief executives."

(b) Jim Cramer called Weldon a "Worst CEO in 2010" saying "I think Weldon would be right at home on the Wall of Shame, having squandered a good franchise with manufacturing problems no less."

(c) *The New York Times* counted Weldon among "The Worst C.E.O.s of 2011" and *Forbes* counted Weldon among "The Biggest CEO Screw-ups of 2011."

(d) CBS News reported: "It's good that Johnson & Johnson (JNJ) feels worried enough to send a letter to its shareholders defending CEO William Weldon's $28.7 million pay packet, because it creates an opportunity to learn exactly why chief executives continue to be rewarded even when they fail. Weldon's compensation structure, for example, is rigged to make sure he is always paid more than the average pay of executives at similar companies."

(e) Institutional Shareholder Services, a shareholder watchdog group, stated: "Shareholders are concerned when CEO pay levels continue to be high despite flat returns and financial metrics, and significant ongoing challenges to a company's reputation and industry leadership--as has been the case at JNJ due to product recalls and manufacturing issues."

(f) The American Federation of State, City and Municipal Employees ("AFSCME") criticized the Board's compensation of Weldon, saying: "The Board is crediting Weldon for leading the company out of trouble that happened under his watch. There is a disconnect between giving Weldon the credit for good news while assigning no blame for bad news."

(g) AFSCME also announced that "JNJ also benchmarks its executive pay above the pay of its peers. 'This might work for Garrison Keillor,' added [AFSCME President] McEntee, 'but we are clearly not in Lake Wobegon here. Bill Weldon does not deserve pay far above his peers after Johnson & Johnson's reputation has been damaged and shareholder value destroyed on his watch.' McEntee added: 'The JNJ Board needs to get its hearing checked.'"

(h) Warren Buffet observed that J&J "obviously messed up in a lot of ways in the last few years. . . . They have some wonderful products and a wonderful balance sheet, but too many mistakes have been made at Johnson & Johnson. Clearly, they have not lived up to their standards." Mr. Buffett demonstrated this belief with his wallet – Berkshire Hathaway sold 64% of its J&J shares in the second quarter 2012.

(i) The Associated Press reported that "Johnson & Johnson raised compensation 8 percent last year for outgoing CEO William Weldon, despite a seemingly endless string of product recalls, mediocre 2011 results and ongoing lawsuits and government probes over some products and marketing practices."

(j) 24/7 Wall Street reported, in naming Weldon its seventh most overpaid CEO: "Johnson & Johnson has been battered by product recalls that have hurt the company's sales and tarnished its brand – one that was once among the most valuable in the world. In a period that ended last April, J&J had 22 product recalls in 19 months. Among the products recalled were widely sold Motrin and Children's Tylenol. Last year's damage has already spilled into this year's results."

35. The critical connection between failed Credo enforcement and the harm suffered by J&J was also highlighted by Judge Freda Wolfson at the Final Approval Hearing for settlement of the related derivative cases. In Judge Wolfson's view, the Credo must be more than simply a statement of aspired-to values for the Credo to be effective:

> A "credo" by itself meant nothing. I know Johnson & Johnson used that credo in many cases, by the way. But to me that means nothing without what is behind it; and, clearly, with that simple credo in place, as I pointed out in an opinion that I issued about it a year ago now, there were a number of troubling things that have occurred in J&J.

In re Johnson & Johnson Derivative Litig., No. 10-cv-2033 (D.N.J.), Oct. 18, 2012 Transcript of Proceedings, Doc. No. 232 at p. 20. Plaintiff posits that there is nothing behind the Credo unless it is properly enforced through J&J's "manner of performance" executive compensation policies.

36. The Board's decisions to depart from J&J's executive compensation philosophies and guiding principles, by repeatedly awarding Weldon such lavish compensation regardless of his responsibilities and manner of performance, while leading J&J to extraordinary reputational harm, were not valid exercises of business judgment, but were unreasonable and disloyal acts which lacked good faith.

37. The overcompensation of Weldon can be quantified by using reference to a reduced multiple of CEO compensation relative to the other named executive officers ("NEOs"). Under that analysis, Plaintiff estimates that the harm to J&J caused by the Board's executive compensation decisions to be almost $40 million using a highly-conservative and generous 3.0 times multiple of the average NEO compensation as a basis for computing CEO compensation

(instead of the 4.0 multiple that resulted from the Board's compensation decisions) to reflect Weldon's reduced responsibilities and/or negative manner of performance issues:[5]

Year	Weldon – Total Reported Compensation	Other NEOs – Average Total Compensation	Weldon – Pro Forma Compensation for Reduced Responsibilities and Manner of Performance Issues *(3.0x Avg. Other NEO Total Compensation)*	Reduction of Weldon Total Compensation for Better Alignment with J&J Pay Policies
2008	$ 29,392,224	$ 7,719,008	$ 23,157,024	$ 6,235,200
2009	30,813,844	6,987,169	20,961,507	9,852,337
2010	28,720,491	7,434,992	22,304,976	6,415,515
2011	26,797,939	7,746,969	23,240,907	3,557,032
2012	29,838,259	5,916,723	17,750,169	12,088,090
Totals	$ 145,562,757	$ 35,804,861	$ 107,414,583	$ 38,148,174

HISTORY OF PLAINTIFF'S CLAIMS AND DEMANDS TO THE J&J BOARD

38. Plaintiff first filed a derivative shareholder action on September 2, 2011, in this Court, Case No. 3:11-cv-05084-JAP-DEA seeking remedies for on behalf of J&J due to the continuing disconnect between J&J's executive pay policies and J&J's actual pay practices ("2011 Action"), including reference to Weldon's *mea culpa* and the Special Committee Report.

39. J&J represented in pleadings that it would be investigating two other related shareholder demands concerning executive pay problems, the disconnect between represented and actual pay practices, and the alleged over-compensation of Weldon. Based on this representation, the parties to the action stipulated to Plaintiff's voluntary dismissal of the 2011 Action, without prejudice, for purposes of allowing Plaintiff to also make a formal demand upon the Board. On January 30, 2012, the parties stipulated to Plaintiff's voluntary dismissal of the

[5] The appropriate multiple of average NEO pay can be determined following discovery.

2011 Action for purposes of making a formal demand on the Board, and the Court entered that stipulation by Order dated January 31, 2012.

40. On March 28, 2012, Plaintiff made its demands upon the Board to take the following actions relative to Plaintiff's claims, emphasizing the essential elements of the review to include (paraphrased):

(a) To initiate litigation on behalf of J&J against Defendants for claims arising from J&J's failed pay practices;

(b) To remedy failed pay practices that have "disconnected the Credo from manner of performance pay practices;

(c) To identify all facts in the Special Committee Report that constitute failure to meet the values embodied in the Credo;

(d) To correct disclosures to J&J shareholders concerning Weldon's manner of performance in light of identified Credo violations and Weldon's testimony that he was responsible for Credo violations;

(e) To follow J&J executive pay policies by adjusting Weldon's then-current compensation downwards and adjusting his retirement compensation;

(f) To retain an independent compensation consultant going forward to test J&J executive compensation against adherence to J&J Credo values; and

(g) To resolve the claims raised in the 2011 Action.

41. After making its demands, Plaintiff awaited communication from J&J and/or the Board concerning investigation of Plaintiff's demand. After allowing the Board over three months to address Plaintiff's essential demands, Plaintiff was surprised to learn (independently) that the Board had authorized the settlement of related derivative claims in the 2010 Action based in large part on the findings and reforms in the Special Committee Report (an essential

element of Plaintiff's demands). The settlement adopted new and improved Credo-based compliance and quality policies and systems, filling the leadership vacuum in these areas under Weldon's responsibilities as CEO.

42. Plaintiff also learned through its analysis of the settlement papers filed in the 2010 Action that the Board had *expressly excluded* Plaintiff's 2011 Action by name from any relief in the settlement of the 2010 Action. This decision by the Board to exclude the 2011 Action by name also did not address Plaintiff's essential demand, in its letter to the Board, that the Board resolve Plaintiff's claims outside of litigation.

43. Thus, the Board was aware of Plaintiff's claims (by virtue of expressly excluding its claims from settlement) but chose to not communicate with Plaintiff (effectively rejecting Plaintiff's demand). As a result, Plaintiff refiled its shareholder derivative action on July 13, 2012 (the "2012 Action"). Plaintiff agreed to stay its action based on representations that there was a misunderstanding and that the investigation required more time.

44. Almost a year after Plaintiff re-filed its action, in June 2013, the Board rejected Plaintiff's demand based entirely on:

(a) An investigative report prepared by the K&L Gates law firm;

(b) Redacted Board minutes (that reflected the Board's decisions to (i) retain Rosemary Alito (a partner at K&L Gates) and (ii) reject the Plaintiff's demands); and

(c) The Declaration of Rosemary Alito.

45. The Board has now had the full opportunity to present to the Court the evidence it believes necessary for protection of its judgment to reject the demands outright.

THE BOARD'S INVESTIGATION AND RESPONSE DOES NOT MEET LEGAL REQUIREMENTS FOR BUSINESS JUDGMENT PROTECTION

46. Defendants have failed to prove that the Board conducted an independent investigation of the most essential elements of Plaintiff's shareholder demands with the requisite good faith, due care and reasonableness, as required by New Jersey law.

The Board Did Not Utilize the Special Committee Report or Its Related Investigation

47. As stated above, there is no evidence that the Board reasonably considered the Special Committee Report and supporting Lowenstein Sandler PC investigation in connection with the Board's investigation of Plaintiff's demands. There is no evidence that the Board attempted, in good faith, due care and reasonableness, to meaningfully identify negative "manner of performance" facts whereby executives failed to adhere to Credo values, and how those facts may have impacted executive pay decisions. This step is required by J&J's executive pay policies and practices, and was also expressly required by Plaintiff's demands but not addressed in the Board's authorization of the investigation or in the Board's rejection of Plaintiff's demands. The applicable Board resolutions rejecting Plaintiff's demand do not refer to the Special Committee Report, or its related investigation, in connection with investigating Plaintiff's demands.

48. Through its previous investigation, the Board was aware of a wide variety of negative "manner of performance" issues that are germane to executive compensation decisions and the leadership vacuum that existed in quality and compliance under Weldon's leadership. Further, the evidence derived from the previous investigation is readily-available to the Board in document databases. The Board, however, did not impute its previous investigation or relevant evidence into either its executive compensation decisions at the time those decisions were made, nor did the Board meaningfully consider its previous investigation in response to Plaintiff's

demand. In failing to make this fundamental and necessary connection between "manner of performance" and executive compensation, the Board has violated J&J compensation policies and principles and has failed to conduct an investigation worthy of business judgment protection.

49. Had the Board considered the facts, circumstances and readily-compiled evidence supporting the Special Committee Report, the executive pay decisions concerning Weldon and other executives would have been materially different, requiring adjustment to compensation, and correction of previous proxy disclosures.

50. There is no legitimate basis for the Board's failure to address Plaintiff's essential demand that the Board's previous investigation be evaluated for Credo-based "manner of performance" issues. This failure to consider such an essential element of Plaintiff's demand – that goes to the heart of identifying the negative "manner of performance" factors impacting executive pay – is unreasonable, inexcusable and lacks good faith, causing the investigation to be extremely restricted in scope, shallow in execution and inherently conflicted. On this basis alone, the Board has failed to fulfill its burden of proof in asserting business judgment protection for its denial of Plaintiff's shareholder demands.

The Board Did Not Investigate and Analyze Bases to Recoup Compensation from Weldon

51. Recoupment and reduction of retirement pay from Weldon is an essential element of Plaintiff's demands.

52. Without the analysis of the evidence supporting the aforementioned Special Committee Report, it is impossible to discern all bases for recoupment from Weldon, including reduction of Weldon's retirement pay.

53. The Board and its counsel, K&L Gates, LLP did not analyze whether or not there were opportunities for recoupment from Weldon or reduction of retirement pay – essential elements of Plaintiff's demands.

54. Avenues for recoupment may exist and the viability of those avenues can be tested following discovery. For example, recoupment may be available under the "Principal Elements of a Leading Recoupment Policy" based upon the work done by J&J along with five other pharmaceutical companies and a dozen institutional investors.

55. Recoupment from Weldon may also be available using the Board's authority under J&J's Excess Pension Plan, under which Weldon is a participant with holdings subject to the terms of the Excess Pension Plan.

56. The Board lacked due care and reasonableness in its investigation by allowing the investigation to be inexplicably delayed and to post-date Weldon's departure from J&J, making recoupment more difficult or improbable.

The Board Did Not Investigate Bases to Remediate J&J's Executive Compensation Practices

57. Remediation is an essential element of Plaintiff's demands.

58. The Board and its counsel, K&L Gates, LLP did not analyze whether or not there were opportunities for remediation of the complained-of disconnect between negative "manner of performance" factors impacting executive pay decisions.

59. The settlement of the 2010 Action resulted in governance reforms that filled the leadership vacuum in the J&J compliance and quality functions. This settlement was reached concurrent with Plaintiff's demand, when the Board did not exercise due care in communicating with Plaintiff concerning its demand. Moreover, the Board has not similarly remediated the "manner of performance" executive pay practices that would complement and enforce concurrent compliance and quality changes to ensure that those changes had the necessary teeth in the executive suites of J&J.

60. Further, the Board did not address Plaintiff's essential demand that it discuss resolution of the 2011 Action, which would include remediation, when it had an opportunity to do so concurrent with the settlement of *In re Johnson & Johnson Derivative Litig.*, Case No. 10-2033 (D.N.J.). Given the Board's extensive involvement in crafting compliance reforms to address manner of performance issues, it lacks good faith, due care and is unreasonable for the Board to not also address how those manner of performance issues translate to executive compensation considerations.

The Board's Reliance on the K&L Gates, LLP Report is Suspect and May Not Be Justified

61. In February 2012, the Board authorized the retention of Rosemary Alito, a partner with K&L Gates, LLP. Either by written agreement or otherwise, the Board was aware that K&L Gates, LLP would be materially involved in conducting an investigation of Plaintiff's claims and would provide recommendations to the Board concerning those claims.

62. The Board either knew, or was reckless in not knowing, that K&L Gates, LLP may be conflicted as to material matters pertaining to the investigation of Plaintiff's claims and demands, for at least the following reasons (and possibly others):

(a) K&L Gates, LLP defended Omnicare in the DOJ/whistleblower litigation referred to in Plaintiff's complaint and in the Special Committee Report, giving rise to an actual and/or apparent conflict of interest for both the Board and K&L Gates, LLP, undermining the Board's reliance on K&L Gates, LLP to identify and assess "manner of performance" issues in the Special Committee Report – an essential demand of Plaintiff.

(b) K&L Gates, LLP has demonstrated a bias against "say on pay" matters and related shareholder derivative litigation concerning executive compensation, as evidenced in information that was publically-available to the Board, including:

i. An April 2012 K&L Gates executive pay presentation saying that it can be "tempting" for a board to ignore shareholder say-on-pay votes;

ii. An March 2012 K&L Gates publication that stated "We believe that these [say-on-pay] lawsuits should generally be meritless . . . ."

iii. According to a February 2013 interview with the K&L Gates, LLP managing partner, there is a "single profit pool" at the firm with "no interior profit borders or firewalls." Therefore, it would not matter which K&L Gates, LLP partners might have conducted the investigation for the Board, since their financial incentives are likely the same and tied to the views of a law firm that strongly disfavors shareholder challenges to executive compensation.

(c) K&L Gates, LLP's significant legal work for JPMorgan, where Weldon is a director overseeing the London Whale/derivatives trading losses.

(d) K&L Gates, LLP's previous representation of J&J subsidiary Janssen in connection with Risperdal intellectual property.

63. Defendants have provided no evidence that either Rosemary Alito or K&L Gates, LLP was independent *throughout the entire investigation* they performed for the Board. The Board minutes accepting the recommendations of Ms. Alito and the K&L Gates, LLP firm provide no indication that either Ms. Alito or K&L Gates, LLP were independent at the time the recommendations were made to, and adopted by, the Board.

64. These facts, individually and in the aggregate, were publically-available to the Board, and demonstrate that the Board's reliance on K&L Gates, LLP to provide balanced, independent and objective was not justified without further inquiry into whether or not K&L Gates, LLP could render independent and objective legal advice to the Board throughout the entirety of the investigation.

65. In any event, the Board also did not properly consider and follow the advice of K&L Gates, LLP to conduct an independent investigation of the essential elements of Plaintiff's shareholder demands with good faith, due care and reasonableness, necessary to achieve business judgment protection under New Jersey law; and did not follow K&L Gate's advice to weigh the alternative of resolving Plaintiff's demands outside of litigation.

66. The Board also could not reasonably rely upon only the K&L Gates, LLP Report because the Board knew, or was reckless in not knowing, that the K&L Gates, LLP investigation did not substantially overlap or include the previous and highly-relevant investigation and evidence developed by the Lowenstein Sandler PC law firm, as described further herein.

67. The burden is on the Board to demonstrate how it ensured for the benefit of J&J that the K&L Gates firm was actually independent, objective and not biased, so that its reliance on K&L Gates, LLP in these circumstances, to provide a balanced investigation and report, was justified.

The Board Failed to Adequately Weigh the Alternatives of Either Pursuing Litigation, Resolving Plaintiff's Demands Outside of Litigation, and Rejecting the Demands Outright

68. As K&L Gates, LLP advised the Board, the Board was duty-bound to adequately weigh the alternative of resolving Plaintiff's demands outside of litigation. There is no evidence that the Board weighed the alternatives of pursuing litigation, resolving Plaintiff's demands outside of litigation, and rejecting the demands.

69. In fact, the Board failed to communicate with Plaintiff during the pendency of Plaintiff's demands while simultaneously resolving related shareholder derivative demands and litigation.

70. The Board failed to follow the advice of its counsel, instead treating Plaintiff's demands as strictly a decision of litigation vs. no litigation.

71. The Board's resolution to invoke powers to decide the demand regardless of the recommendations of its so-called independent counsel are illusory and ineffective as operative corporate powers, to the extent that the Board did not follow the advice of its counsel.

THE PARTIES

Plaintiff

72. Plaintiff The George Leon Family Trust is a current shareholder of J&J common stock and has continuously held J&J stock since November 2008. Plaintiff makes the allegations contained herein based upon personal knowledge as to Plaintiff, and to all other matters upon information and belief, including the investigation of Plaintiff's counsel and their review of J&J corporate documents; SEC filings, media, court files, and related analyses.

Nominal Defendant

73. Nominal party J&J is a New Jersey corporation with its principal place of business located at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933. J&J manufactures and sells pharmaceutical products, medical devices and consumer packaged goods.

Defendants

74. Defendant Mary Sue Coleman, Ph.D. ("Coleman") has been a J&J director, and has been a member of the Board's Audit Committee and the Science & Technology Advisory Committee, since 2003. Coleman assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Coleman also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Coleman executed and issued the J&J 2008, 2009, 2010, 2011 and 2012 annual reports on Form 10-K. Coleman was a member of the Board when the decision was made to expressly exclude Plaintiff's claims from

the settlement of the 2010 Action. Coleman received Plaintiff's demand concurrent with her involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Coleman also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with her investigation of, and vote to reject, Plaintiff's demands.

75. Defendant James G. Cullen ("Cullen") has been a J&J director since 1995 and is J&J's Presiding Director of the Board and Chairman of the Board's Audit Committee. Cullen has been a member of the Audit Committee since 1997 and the Nominating & Corporate Governance Committee since 2004. Cullen assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Cullen also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Cullen executed and issued the J&J 2008, 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Cullen was a member of the Board when the decision was made to expressly exclude Plaintiff's claims from the settlement of the 2010 Action. Cullen received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Cullen also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of Plaintiff's demands.

76. Defendant Ian E. L. Davis ("Davis") has been a J&J director, and has been a member of the Board's Audit Committee and the Public Policy Advisory Committee, since July 2010. Davis retired from McKinsey & Company (management consulting) in 2010 as a Senior Partner, having served as Chairman and Worldwide Managing Director from 2003 until 2009.

As Chairman and Worldwide Managing Director at McKinsey & Co., Inc., in 2006 Davis was responsible for consulting work provided to J&J pursuant to a Corporate Center Review ("CCR") conducted in 2006. The CCR restructured and diluted J&J's compliance activities and philosophies by causing worldwide compliance oversight of operating companies to be passive, not active. For example, following the CCR, worldwide J&J health care compliance staff was reduced by 25% to just 12 employees, and worldwide J&J quality and compliance was reduced by 35% to just 28 employees – all to cover J&J's worldwide compliance efforts involving approximately 114,000 employees at over 250 companies in 57 countries. Davis assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Davis executed and issued the J&J 2010 and 2012 annual report on Form 10-K. Davis received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Davis also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of, and rejection of, Plaintiff's demands.

77. Defendant Michael M.E. Johns, M.D. ("Johns") has been a J&J director since 2005, and has been a member of the Board's Compensation & Benefits Committee (hereinafter "Compensation Committee") and the Science & Technology Advisory Committee since 2006. Johns is also a member of the Board's Special Committee (described below). Johns assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Johns also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and

Weldon's compensation. Johns executed and issued the J&J 2008, 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Johns received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Johns also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of, and rejection of, Plaintiff's demands.

78. Defendant Arnold G. Langbo ("Langbo") was a J&J director from 1991 to 2010 and was chairman of the Board Compensation Committee and a member of the Nominating & Corporate Governance Committee until 2010. Langbo assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Langbo executed and issued the J&J 2008 and 2009 annual reports on Form 10-K.

79. Defendant Susan L. Lindquist, Ph.D. ("Lindquist") has been a J&J director, and has been a member of the Board's Science & Technology Advisory Committee and the Public Policy Advisory Committee, since 2004. Lindquist assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Lindquist also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Lindquist executed and issued the J&J 2008, 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Lindquist received Plaintiff's demand concurrent with her involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Lindquist also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with her investigation of, and vote to reject, Plaintiff's demands.

80. Defendant Anne M. Mulcahy ("Mulcahy") has been a J&J director, and a member of the Board's Compensation Committee and the Nominating & Corporate Governance Committee, since 2009. Mulcahy is also a member of the Board's Special Committee. In January 2011, Mulcahy acknowledged in an interview on CNBC that the repeated instances of J&J recalls and related misconduct have "been painful from a reputational perspective." Mulcahy has been and currently is the defendant in numerous shareholder suits, including cases stemming from corporate waste while serving as CEO of Xerox Corp. and on the boards of directors for Fannie Mae and Citigroup, Inc., where she served on the board of directors with Defendant Prince. Mulcahy assisted in and/or authorized the issuance of J&J's false and misleading March 17, 2010 Proxy Statement, 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Mulcahy executed and issued the J&J 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Mulcahy received Plaintiff's demand concurrent with her involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Mulcahy also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with her investigation of, and vote to reject, Plaintiff's demands.

81. Defendant Leo F. Mullin ("Mullin") has been a J&J director since 1999, and has been a member of the Board's Audit Committee since 2000, the Public Policy Advisory Committee since 2006, and the Nominating & Corporate Governance Committee from 2000 to 2005. Mullin assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Mullin also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive

compensation practices and Weldon's compensation. Mullin executed and issued the J&J 2008, 2009, 2010, and 2012 annual reports on Form 10-K. Mullin received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Mullin also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of, and rejection of, Plaintiff's demands.

82. Defendant William D. Perez ("Perez") has been a J&J director, and has been a member of the Board's Compensation Committee since 2007, and was a member of the Public Policy Advisory Committee from 2007 to 2010. Perez has also been a member and chairman of the Nominating & Corporate Governance Committee since 2010. Perez is also a member of the Board's Special Committee. Perez assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Perez also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Perez executed and issued the J&J 2008, 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Perez received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Perez also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of, and rejection of, Plaintiff's demands.

83. Defendant Charles O. Prince, III ("Prince") has been a J&J director since 2006, has been a member of the Board's Compensation Committee since 2007, and its committee Chairman since 2010. Prince has also been a member of the Nominating & Corporate Governance Committee since 2007 and its committee Chairman from 2008 to 2010. Prince is also a member

and Chairman of the Board's Special Committee. Prince has been and currently is the defendant in numerous shareholder suits, including cases stemming from his granting of excessive compensation to himself and others while CEO of Citigroup, Inc., where he served on the board of directors with Mulcahy. Prince assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Prince also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Prince executed and issued the J&J 2008, 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Prince received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Prince also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of, and rejection of, Plaintiff's demands.

84. Defendant David Satcher, M.D., Ph.D. ("Satcher") was a J&J director from 2002 until 2013, and was Chairman of the Science & Technology Advisory Committee from 2003 to 2013, and was a member of the Public Policy Advisory Committee. Satcher assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Satcher also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Satcher executed and issued the J&J 2008, 2009, 2010, 2011, and 2012 annual reports on Form 10-K. Satcher received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Johns also received the Special Committee Report and did not exercise

due care and reasonableness in considering that report in connection with his investigation of Plaintiff's demands.

85. Defendant Ronald A. Williams ("Williams") has been a J&J director since 2011 and has been a member of the Compensation and Benefits Committee since 2011. Williams also assisted in and/or authorized the issuance of J&J's false and misleading 2012 Proxy, which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Williams executed and issued the J&J 2011 and 2012 annual report on Form 10-K. Williams received Plaintiff's demand concurrent with his involvement in the Board's express exclusion of Plaintiff's claims from the 2012 derivative shareholder settlement. Williams also received the Special Committee Report and did not exercise due care and reasonableness in considering that report in connection with his investigation of, and rejection of, Plaintiff's demands.

86. Defendant Weldon was elected to the Board and named Vice Chairman of the Board in 2001 and assumed his current responsibilities as Chairman of the Board and Chief Executive Officer in April 2002. Weldon joined J&J in 1971 as a sales representative at McNeil Pharmaceutical. In 1989, he became Vice President, Sales and Marketing for Janssen. He was appointed to the Executive Committee and named Worldwide Chairman, Pharmaceuticals Group, in 1998, and became Chairman of the Executive Committee in 2002. Weldon assisted in and/or authorized the issuance of J&J's false and misleading proxy statements filed with the SEC in 2008, 2009, and 2010. Weldon also assisted in and/or authorized the issuance of J&J's false and misleading 2011 Proxy, its April 19, 2011 amendment and the 2012 Proxy, all of which recommended that J&J shareholders vote in favor of J&J's executive compensation practices and Weldon's compensation. Weldon executed and issued the J&J 2008, 2009, 2010, and 2011 annual reports on Form 10-K. Each of these Forms 10-K contained a certification by Weldon

that J&J management was responsible for establishing and maintaining adequate internal control over financial reporting and that management had concluded that J&J's internal control over financial reporting was effective.

87. Weldon's executive and director responsibilities at J&J make Weldon the primary executive officer at J&J responsible for ensuring J&J's compliance with the J&J Credo:

(a) In 2001, Weldon was elected to the Board and named Vice Chairman that year;

(b) In 2002, he became Chairman of the Board of Directors, CEO, and Chairman of the Executive Committee;

(c) According to the Board, as represented in J&J proxy statements filed with the SEC, Weldon has "vast knowledge of the Company's business, structure, history and culture . . . ." 2011 Proxy at 9; 2010 Proxy at 9;

(d) Weldon was Chairman of the Board's Finance Committee since at least 2007 and a member of J&J's Management Compensation Committee;

(e) Weldon was responsible for the review, evaluation and certification of J&J's disclosure controls, including statements that J&J "used the criteria established by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)" that includes a proper "tone at the top" controls culture at J&J; and

(f) According to the Board, "Mr. Weldon's compensation is higher [approximately four times higher] that that of the Company's other executive [most highly-paid] officers due to the level of responsibility of his position." *See* 2011 Proxy at 39; 2010 Proxy at 37.

DEFENDANTS' DUTIES

88. By reason of their positions as directors and fiduciaries of J&J, and because of their ability to control the business and corporate affairs of J&J, Defendants owed J&J and its shareholders fiduciary obligations of care, good faith, loyalty and candor, and were and are required to use their utmost ability to control and manage J&J in a fair, just, honest and equitable manner. Defendants were and are required to act in furtherance of the best interests of J&J and its shareholders so as to benefit all shareholders equally, and not in furtherance of their personal interest or benefit. Each director and officer of the Company owes to J&J and its shareholders the fiduciary duty to exercise good faith and diligence in the administration of the affairs of the Company and in the use and preservation of its property and assets, and the highest obligations of fair dealing. Defendants' fiduciary duty of loyalty obligates each of the Defendants to act and govern in a manner that adheres to J&J's Credo values, and prohibits them from acting in bad faith as well as making false statements to J&J's shareholders about, among other things, its executive compensation practices and/or pay-for-performance executive compensation policy.

89. Defendants, because of their positions of control and authority as directors of J&J, were able to and did, directly and/or indirectly, exercise control over the wrongful acts complained of herein. Because of their directorial positions with J&J, each of the Defendants had knowledge of material, non-public information regarding the Company.

90. Defendants also knew or should have known that the Board's recommendations to J&J shareholders to approve J&J's 2010, 2011, and 2012 executive compensation practices were false and misleading when made, as further described below.

91. To discharge their duties, the officers and directors of J&J were required to exercise reasonable and prudent supervision over the management, policies, practices and controls of the Company. By virtue of such duties, the officers and directors of J&J were

required to, among other things, exercise good faith and diligence to ensure the affairs of J&J were conducted legally, honestly, and efficiently, taking particular care to identify and correct misconduct and to prevent its recurrence.

92. The Board is obligated, by virtue of adopting the J&J Policy on Business Conduct, to ensure compliance with such policy by J&J directors, officers and employees.

93. Defendants were also each obligated to comply, and annually certify such compliance, with the J&J Code of Business Conduct & Ethics for Members of the Board of Directors and Executive Officers.

94. Defendants were involved in the following matters germane to the Board's response to Plaintiff's demand:

Defendant	Received Special Committee Report (and results of Lowenstein Sandler PC investigation)	Received Plaintiff's Demand	Excluded Plaintiff's Claims from Derivative Settlement	Rejected Plaintiff's Demand
Coleman	✓	✓	✓	✓
Cullen	✓	✓	✓	Absent
Davis	✓	✓	✓	✓
Johns	✓	✓	✓	✓
Langbo				
Lindquist	✓	✓	✓	✓
Mulcahy	✓	✓	✓	✓
Mullin	✓	✓	✓	✓
Perez	✓	✓	✓	✓
Prince	✓	✓	✓	✓
Satcher	✓	✓	✓	Not on Board
Weldon	No; excluded	✓	No; excluded	Retired Mar. '13
Williams	✓	✓	✓	✓

95. Defendants (excluding Weldon) were compensated as directors with cash and stock in the following amounts:

Director	2006	2007	2008	2009	2010	2011	2012	Totals
Coleman	$199,687	$202,631	$239,317	$229,978	$229,940	$239,972	$274,913	$1,616,438
Cullen	219,687	222,631	239,317	229,978	229,942	274,974	309,913	1,726,442
Davis					114,580	219,974	254,913	589,467
Johns	197,489	201,683	238,690	229,978	222,442	232,474	274,913	1,597,669
Langbo	209,687	214,131	249,317	232,478	142,442			1,048,055
Lindquist	204,687	202,631	219,317	211,678	212,142	222,174	258,913	1,531,542
Mulcahy				79,995	212,142	222,474	254,913	769,524
Mullin	209,687	212,631	249,317	239,978	239,942	249,974	291,579	1,693,108
Perez		114,540	232,879	229,978	239,942	252,474	294,913	1,364,726
Prince	141,987	198,906	222,438	219,978	224,942	257,474	294,913	1,560,638
Satcher	209,687	212,631	229,317	239,978	239,942	249,974	284,913	1,666,442
Williams						127,060	254,913	381,973
TOTAL	$1,592,598	$1,782,415	$2,119,909	$2,143,997	$2,308,398	$2,548,998	$3,049,709	$15,546,024

AIDING AND ABETTING AND CONCERTED ACTION

96. In committing the wrongful acts particularized herein, Defendants have pursued or joined in the pursuit of a common course of conduct, and have acted in concert with one another in furtherance of their common plan or design. In addition to the wrongful conduct particularized herein as giving rise to primary liability, Defendants further aided and abetted and/or assisted each other in breach of their respective duties.

97. Each of Defendants aided and abetted and rendered substantial assistance in the wrongs detailed herein. In taking such actions to substantially assist the commission of the wrongdoing detailed herein, each Defendant acted with knowledge of the primary wrongdoing, substantially assisted the accomplishment of that wrongdoing and was aware of his or her overall contribution to and furtherance of the wrongdoing.

SUBSTANTIVE ALLEGATIONS

The J&J Executive Compensation Philosophy

98. J&J has long represented that it employs an executive compensation philosophy that adheres to the following guiding principles, including "Pay for Performance" and "Credo Values":

- *Competitiveness* – All components of compensation should be set competitively as compared against appropriate peer companies so that the Company can continue to attract, retain and motivate high performing executives in an environment where companies are increasingly competing for high caliber talent.

- *Pay for Performance – All components of compensation should be tied to the performance of the individual executive officer* and his or her specific business unit or function *and/or the Company overall*.

- *Credo Values – The manner in which financial and strategic objectives are achieved is important*. While not always quantifiable, *the manner in which employees achieve results should also be a key element* of the individual performance review process. *During the performance review process, the Company's set of core values – trustworthiness, respect, responsibility, fairness, caring and citizenship – as set forth in Our Credo, should be used to assess how objectives are achieved*.

- *Accountability for Short- and Long-Term Performance* – Annual performance bonuses and long-term incentives *should reward an appropriate balance of short-and long-term financial and strategic business results, with an emphasis on managing the business for the long term*.

- *Alignment to Shareholders' Interests* – Annual performance bonuses and long-term incentives should align the interests of individual executive officers *with the long-term interests of the Company's shareholders*.

See 2011 Proxy at 25; 2010 Proxy at 23 (similar language).

99. The Board has nevertheless consistently represented that "Pay for Performance" is essential and necessary to J&J's executive compensation practices and philosophy:

(a) "As a result of the review, we identified that shareholders and other key stakeholders wanted to see an enhanced link of pay and performance embedded in the design of our programs. . . . The new program enhances the alignment of pay and performance by discontinuing the use of longstanding cash-based long-term incentives and introducing PSU's." 2012 Proxy at 29-30.

(b) "Pay for performance is an essential element of the Company's guiding principles, and the executive officers are assessed on their performance against long-term strategic objectives as well as annual business goals." 2011 Proxy at 22; 2010 Proxy at 20 (similar language).

(c) "Pay for Performance – All components of compensation should be tied to the performance of the individual executive officer and his or her specific business unit or function and the Company overall." 2011 Proxy at 25; 2010 Proxy at 23 (similar language).

(d) "The Company's formal individual performance assessment process is designed to . . . [f]oster a pay for performance culture . . . ." 2011 Proxy at 33; 2010 Proxy at 32.

(e) "The guiding principles of the Johnson & Johnson's executive compensation philosophy and practice continue to be: Competitiveness; Pay for Performance; Accountability for Short- and Long-Term Performance; and Alignment to Shareholders Interests." 2011 Proxy at 62.

100. Central to J&J's "Pay for Performance" compensation philosophy is the manner in which performance is achieved, as expressed in J&J's "Importance of Credo Values":

> *For more than 65 years, the Johnson & Johnson Credo has guided us in fulfilling our responsibilities to our customers, employees, communities, and shareholders*. In assessing our named executive officers' contributions to Johnson & Johnson's performance, the Committee not only looks to results-oriented measures of performance, *but also considers how those results were achieved – whether the decisions and actions leading to the results were consistent with the values embodied in the Credo – and the long-term impact of a named executive officer's*

> *decisions*. Credo-based behavior is not something that can be precisely measured; thus, there is no formula for how Credo-based behavior can, or will, impact an executive's compensation. *The [Compensation] Committee and the Chairman/CEO use their judgment and experience to evaluate whether an executive's actions were aligned with the Company's Credo values*.

See 2012 Proxy at 33; 2011 Proxy at 25 (similar language); 2010 Proxy at 23 (similar language).

101. J&J's mission statement states:

> At the heart of everything we do at Johnson & Johnson is our Credo. In 1943, Robert Wood Johnson wrote Our Credo, a document that outlines our responsibilities to our customers, employees, the community and our shareholders. Johnson & Johnson's adherence to the ethical principles embodied in the Credo have resulted in numerous awards and accolades which recognize the Company as an employer and a good corporate citizen.

102. According to the J&J website, the J&J Credo is essentially the soul of J&J:

> The values that guide our decision making are spelled out in Our Credo. Put simply, Our Credo challenges us to put the needs and well-being of the people we serve *first*.
>
> Robert Wood Johnson, former chairman from 1932 to 1963 and a member of the Company's founding family, crafted Our Credo himself in 1943, just before Johnson & Johnson became a publicly traded company. This was long before anyone ever heard the term "corporate social responsibility." *Our Credo is more than just a moral compass. We believe it's a recipe for business success. The fact that Johnson & Johnson is one of only a handful of companies that have flourished through more than a century of change is proof of that.*

103. The J&J Credo, which is carved into stone at corporate headquarters, reads:

Our Credo

We believe our first responsibility is to the doctors, 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.
We must constantly strive to reduce our costs
in order to maintain reasonable prices.
Customers' orders must be serviced promptly and accurately.
Our suppliers and distributors must have an opportunity
to make a fair profit.

We are responsible to our employees,
the men and women who work with us throughout the world.
Everyone must be considered as an individual.
We must respect their dignity and recognize their merit.
They must have a sense of security in their jobs.
Compensation must be fair and adequate,
and working conditions clean, orderly and safe.
We must be mindful of ways to help our employees fulfill
their family responsibilities.
Employees must feel free to make suggestions and complaints.
There must be equal opportunity for employment, development
and advancement for those qualified.
We must provide competent management,
and their actions must be just and ethical.

We are responsible to the communities in which we live and work
and to the world community as well.
We must be good citizens — support good works and charities
and bear our fair share of taxes.
We must encourage civic improvements and better health and education.
We must maintain in good order
the property we are privileged to use,
protecting the environment and natural resources.

Our final responsibility is to our stockholders.
Business must make a sound profit.
We must experiment with new ideas.
Research must be carried on, innovative programs developed
and mistakes paid for.
New equipment must be purchased, new facilities provided
and new products launched.
Reserves must be created to provide for adverse times.
When we operate according to these principles,
the stockholders should realize a fair return.

Johnson & Johnson

104. The J&J Credo cannot be satisfied unless J&J operates in compliance with the laws of each country in which its companies do business. As explained in J&J's "Policy on Business Conduct" the importance of legal compliance in management's responsibility, stating:

> Consistent with our Credo and business philosophy, *it is the policy of Johnson & Johnson to comply with the laws of each country in which our companies do business. It is the responsibility of each company's management and employees to be familiar with the laws and regulations* which relate to their business responsibilities *and to comply with them.*
>
> The Law Department of Johnson & Johnson conducts periodic programs to help our companies and employees understand and comply with applicable laws and regulations and is available to your company for this purpose. Additionally, the Law Department is always available for consultation on the laws which relate to

our businesses around the world. *However, it is the responsibility of each company's management to ensure compliance with applicable laws*.

105. Credo compliance (and thus legal compliance) is also critical to J&J's strategic objectives, including maintaining a strong reputation to "[e]nsure that the Company fulfills its responsibilities to its customers, employees, communities, and shareholders, as set forth in our Credo." *See* 2011 Proxy at 36. J&J's rationale for the "Reputation" strategic objective is to "*measure [ ] how well the Company is meeting its social responsibilities to its communities as outlined in the Credo*," is "*[k]ey to maintaining strong brands*," and "[b]uilding relationships with the investment community and media [because it] is important in helping investors, customers, and other stakeholders understand the Company's business model." *Id.*

The Board Forms a Special Committee (Consisting Solely of Members of the Compensation Committee) to Investigate Allegations of J&J Misconduct Under Weldon's Leadership

106. By April 2010, the Board privately established a Special Committee to investigate alleged wrongdoing at J&J, including violations of the Credo and reputational harm to J&J. The Board appointed Defendants and Compensation Committee members Johns, Mulcahy, Perez, and Prince (Chairman of the Special Committee). The Board charged the Special Committee "to investigate, review, and analyze the facts and circumstances surrounding the allegations raised in, and recommend any appropriate or necessary actions, if any, in connection with, the First, Second, and Third [shareholder] Demands." In June 2010, the Board expanded the Special Committee's authority to investigate two subsequent shareholder demands.

107. The Special Committee did not complete its investigation, nor report any findings to the Board before the Board had reached its conclusions regarding Weldon's 2010 performance and compensation, as represented in the 2011 Proxy and related amendment. That is, before the Special Committee reported its findings to the Board, the Board reached conclusions on executive compensation for 2010 that required assessment of factors relative to the Credo and

J&J's reputation. Thus, the Board reached conclusions concerning Weldon's performance (and the manner in which he performed) before it had all relevant information for purposes of awarding Weldon extravagant compensation for 2010. The failure to assess all material facts in determining executive compensation for the CEO was a breach of fiduciary duty and is not protected business judgment.

108. Alternatively, the Special Committee (*i.e.*, Compensation Committee) reached certain conclusions concerning Weldon's performance and manner of performance for purposes of 2010 compensation that are contained in its June 2011 Special Committee Report. Among other things, the Special Committee Report concluded:

- McNeil leadership "may not have had sufficient understanding of what was taking place at the plant level." Special Committee Report at 59.

- "At the [McNeil] plant level, there seemed to be a lack of attention to product quality by some non-quality personnel (especially in Engineering and Operations), which at times produced an adversarial relationship between Quality personnel and Operations." *Id*.

- "J&J's acquisition of Pfizer Consumer Healthcare ("PCH") in December 2006 had a major impact on McNeil OTC, as PCH's OTC product lines were added to those of McNeil. PCH was J&J's largest acquisition to date, bringing to J&J over 3000 Stock Keeping Units of products. Given that 25% of PCH's total sales were of products made at manufacturing sites that would not be conveyed to J&J, product lines were added to Fort Washington and Las Piedras, increasing the volume and complexity of their operations and distracting from quality system improvements. [Quality and Compliance] headcount may not have increased sufficiently to adjust to this added complexity. Las Piedras, in particular, was not equipped for the changes needed as a result of the PCH acquisition." *Id*.

- A 2007 internal inspection of Las Piedras had rated the site overall as "unsatisfactory." *Id*. at 60.

- 2008 and 2009 internal audits of McNeil plants at Fort Washington and Las Piedras reported highly-negative scores under the category of "Focused Assessments/Internal Audits" but those negative scores were allowed to be averaged against other more positive scores so that the findings did not reach a "critical" status. *Id*. at 62.

- "A virtual hiring freeze in 2008-2009 made it difficult to hire additional McNeil Quality personnel. There was no compliance group within the McNeil Quality organization to conduct internal cGMP audits; such audits were performed by personnel from other plants. There was a single Quality Site Leader for Fort Washington and Lancaster during 2009, and part of 2010; the Quality Site Leader position at Las Piedras was open for more than four months during 2009. Although the Vice President for Quality of McNeil OTC (Robert Miller) was well regarded, he spent a significant amount of his time focusing on other matters (the integration of PCH into McNeil OTC in 2007-2008, and the enterprise-wide supply chain initiative (Project Rubik) in 2009). Two of his senior direct reports were out on sick leave for part of 2009." *Id*. at 60.

- "[I]nternal audits conducted by the McNeil Quality organization and by one outside consultant in 2007 revealed some cGMP issues that went uncorrected for long periods of time. The observations resulting from the internal audits were supposed to be incorporated into Management Action Plans ("MAPs"), which were periodically reported to the McNeil Management Board, but the MAPs were incomplete, and the due dates for corrective actions were frequently postponed, yielding the impression that everything was under control." *Id*.

- "A potential contributing factor to the apparent failure of the checks and balances built into the J&J Q&C Worldwide organization and operation may also trace back to the restructuring of the J&J Corporate Center in early 2007, pursuant to the Corporate Center Review conducted in 2006. As previously noted, that restructuring reduced the headcount at the corporate Q&C Worldwide organization by 35%, took away the authority to conduct unannounced Q&C audits at operating companies, and assigned responsibility for reviewing management's compliance with MAPs to the GOCs [Group Operating Companies]. With the benefit of hindsight, it appears that the restructuring may have been imperfectly executed by the Consumer GOC. Among other things, the Consumer GOC should have paid more attention to Q&C, and exercised more management oversight of McNeil. With reduced central oversight and tasked with implementing the Pfizer Healthcare acquisition, some McNeil employees may have lost focus and commitment to maintain quality standards. And the change in the corporate Q&C audit function meant that cGMP issues at McNeil had more of a chance to develop until they reached a critical point." *Id*. at 63.

109. Notably, the Compensation Committee (*i.e.*, Special Committee) and the Board had actual or constructive knowledge of Weldon's September 2010 testimony before a Congressional Committee investigating J&J misconduct whereby Weldon testified that "I accept full accountability for the problems at McNeil." Nevertheless, the Board failed to disclose this

material factor to Weldon's compensation in the 2011 Proxies, and continued to over-compensate Weldon for 2010. Further, the material omissions necessarily made false and misleading the Board's recommendation to shareholders in the 2011 Proxies that they vote in favor of the Board practices that violated J&J executive compensation philosophies and guiding principles, resulting in overcompensation of Weldon.

110. On July 18, 2011, the Board voted unanimously to adopt the recommendations of the Special Committee Report. The Special Committee Report confirmed Weldon's failures and/or lack of performance, leadership, and responsibility as outlined in this complaint.

The J&J 2010 Proxy Statement

111. On or about February 8, 2010, the Board determined its compensation awards for Weldon for the year 2009. In connection with that determination, the Board either knowingly or recklessly gave little, if any, true weight to negative "manner of performance" factors, commensurate with Weldon's responsibilities and accountability as CEO during 2009 and preceding years.

112. On or about March 17, 2010, Defendants (except Davis and Williams) filed the 2010 Proxy with the SEC. The 2010 Proxy was solicited by the Board.

113. With respect to Weldon's compensation, the Board stated in the 2010 Proxy:

> *Overview*
>
> The Board believes that Mr. Weldon generally exceeded expectations despite substantial economic, political, regulatory and competitive challenges as well as significant patent expirations. As referenced in the table above, the Company delivered solid financial results and positioned itself for future growth.

2010 Proxy at 36.

114. The statements that, "The Board believes that Mr. Weldon generally exceeded expectations" and "the Company delivered solid financial results and positioned itself for future growth" were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon generally exceeded expectations" because Weldon was a direct cause of numerous J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, related regulatory misconduct actions directed at J&J, and extensive personal injury litigation directed at J&J; and

(b) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "the Company delivered solid financial results and positioned itself for future growth" because the manner in which those results were achieved involved illegal and other improper activities, including bribery of foreign officials, off-label marketing of drugs, and sale of products that were unfit for the purposes under which they were marketed. These illegal and improper activities were in violation of the J&J Credo and damaged J&J's reputation. Weldon, as Chairman/CEO of J&J, was a direct cause of the manner in which these results were achieved.

115. With respect to Weldon's compensation, the Board stated in the 2010 Proxy that "[t]he Company continued to maintain a strong reputation through Mr. Weldon's commitment to Our Credo, focus on sustainability, transparency in investor relations and philanthropic activities." 2010 Proxy at 37. These illegal and improper activities were in violation of the J&J Credo and damaged J&J's reputation. Weldon, as Chairman/CEO of J&J, was a direct cause of the manner in which these results were achieved.

116. The 2010 Proxy also contained a shareholder proposal (submitted by Walden Asset Management) that recommended an annual shareholder advisory vote on executive compensation. The Board recommended a vote against this proposal.

The J&J 2011 Proxy Statements

117. On or about January 10, 2011, the Board determined its compensation awards for Weldon for the year 2010. In connection with that determination, the Board either knowingly or recklessly gave little, if any, true weight to negative "manner of performance" factors, commensurate with Weldon's responsibilities and accountability as CEO during 2010 and preceding years.

118. On or about March 16, 2011, Defendants (except Langbo and Williams) caused the 2011 Proxy to be filed with the SEC. The 2011 Proxy was solicited by the Board.

119. With respect to Weldon's compensation, the Board stated in the 2011 Proxy:

> *Overview*
>
> The Board believes that Mr. Weldon generally met expectations during 2010, a year with many successes and very visible challenges. As referenced in the table above, in 2010 the Company delivered solid adjusted earnings per share, free cash flow and long-term total shareholder return, while operational sales declined and fell below the goals for the year. Mr. Weldon guided the Company through the last year while the Company's long-standing reputation was challenged and revenue was impacted by a series of operational, quality and compliance issues, most notably at McNeil Consumer Healthcare. Mr. Weldon was instrumental in the Company's response to these issues, including the implementation of a comprehensive remediation plan at McNeil and a new operating model for supply chain, quality, and compliance spanning the enterprise.

2011 Proxy at 38.

120. The statements that "The Board believes that Mr. Weldon generally met expectations during 2010 . . . [and] the Company delivered solid adjusted earnings per share, free

cash flow and long-term total shareholder return" were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon generally met expectations during 2010" because during 2010 Weldon was a direct cause of numerous J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, related regulatory misconduct actions directed at J&J, and extensive personal injury litigation directed at J&J; and

(b) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "the Company delivered solid adjusted earnings per share, free cash flow and long-term total shareholder return" because the manner in which those results were achieved involved illegal and other improper activities, including bribery of foreign officials, off-label marketing of drugs, and sale of products that were unfit for the purposes under which they were marketed. These illegal and improper activities were in violation of the J&J Credo and damaged J&J's reputation. Weldon, as Chairman/CEO of J&J, was a direct cause of the manner in which these results were achieved.

121. The statements that, "Mr. Weldon was instrumental in the Company's response to these [reputational and related] issues, including the implementation of a comprehensive remediation plan at McNeil and a new operating model for supply chain, quality, and compliance spanning the enterprise" were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon was instrumental in the Company's response to these [reputational and related] issues" because Weldon was a direct cause of "these issues" that occurred under his leadership, such as J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, regulatory misconduct actions directed at J&J and extensive personal injury litigation directed at J&J;

(b) It was false and misleading for the Board to represent, as a positive factor at the time these representations were made, that Weldon was responsible for "the implementation of a comprehensive remediation plan at McNeil and a new operating model for supply chain, quality, and compliance spanning the enterprise" because the so-called "comprehensive remediation plan" was a result of extraordinary actions taken by the FDA and the Department of Justice – in the interest of public safety – to force J&J through a consent decree to change its manufacturing misconduct, and subject J&J to invasive regulatory oversight, including at least five years of FDA inspections and compliance oversight at McNeil operations. This "comprehensive remediation plan" was hardly the result of Weldon working to improve J&J, but instead was the result of Weldon's repeated failure to offer effective leadership in the face of regulatory investigations and FDA warning letters.

122. With respect to Weldon's compensation, the Board stated in the 2011 Proxy:

> In line with the Company's long-standing approach to succession planning, Mr. Weldon also made significant organizational realignments at the Company's executive leadership level to ensure the Company is well-positioned for sustainable growth into the future and continues to develop its leadership talent.
>
> Under Mr. Weldon, the Company also saw a number of successes across the businesses in 2010, including the delivery of innovations in health care and progress in the Company's robust pipelines. Many of the Company's businesses performed well in light of the challenging macroeconomic environment. The Board believes that Mr. Weldon provided strong leadership during a very demanding year and has worked to resolve multiple challenging issues and position the Company for future growth. The Board's decisions on Mr. Weldon's compensation for 2010 reflect the Company's mixed performance, with short-term successes and disappointments, as well as continued strong positioning of the Company for long-term growth.

2011 Proxy at 38.

123. The statements that, "Mr. Weldon also made significant organizational realignments at the Company's executive leadership level to ensure the Company is well-positioned for sustainable growth into the future and continues to develop its leadership talent" were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon also made significant organizational realignments at the Company's executive leadership level to ensure the Company is well-positioned for sustainable growth into the future and continues to develop its leadership talent" because Weldon was a direct cause of the events that led to the resignation of Colleen Goggins, a long-time senior executive of J&J who was a strong internal candidate to replace Weldon. In fact, Weldon's actions created the appearance that Goggins was a scapegoat for the problems that J&J was experiencing at McNeil, when in fact it was Weldon who was ultimately accountable for J&J's problems at McNeil;

(b) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon also made significant organizational realignments at the Company's executive leadership level to ensure the Company . . . continues to develop its leadership talent" because the need to develop leadership talent in 2010 was necessitated by the resignation of Colleen Goggins – Weldon's scapegoat;

(c) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "The Board believes that Mr. Weldon provided strong leadership during a very demanding year and has worked to resolve multiple challenging issues and position the Company for future growth" because Weldon was a direct cause of "these issues" that occurred under his leadership, such as J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, regulatory misconduct actions directed at J&J, and extensive personal injury litigation directed at J&J;

(d) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "[t]he Board's decisions on Mr. Weldon's compensation for 2010 reflect the Company's mixed performance, with short-term successes and disappointments, as well as continued strong positioning of the Company for long-term growth" because Weldon was a direct cause of reputational damage to J&J that occurred under his leadership, such as J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, regulatory misconduct actions directed at J&J, and extensive personal injury litigation directed at J&J.

124. With respect to Weldon's compensation, the Board stated in the 2011 Proxy:

Strategic Results

- The Company's reputation was challenged and revenue impacted during 2010 primarily due to a series of product recalls at McNeil Consumer Healthcare. Mr. Weldon's leadership and engagement with employees, legislators, regulators, investors and the news media enabled the Company to deal with the issues.

- Under Mr. Weldon's leadership, the Company continued to strengthen the overall product pipeline, especially in the Pharmaceutical and Medical Devices & Diagnostics businesses. The Consumer pipeline results were mixed despite some successful new product launches.

- Manufacturing issues in 2010 triggered the need to make additional investments in the manufacturing operations. These additional investments began in 2010 and will continue in 2011.

- The Company enhanced its global presence by continuing to generate strong growth in emerging markets including Brazil, Russia, India, China and Mexico.

- Mr. Weldon played an effective role in shaping health care policy around the world, especially in the U.S. and Japan. Mr. Weldon's personal involvement with key leaders and organizations has ensured the interests of the Company are well represented.

- Under Mr. Weldon's leadership, the Company continued its long-standing commitment to philanthropic activities and was recognized for social responsibility, inclusiveness, and environmental sustainability.

- Mr. Weldon continued to build a pipeline of future leaders. The Company retained key leaders, took concrete steps on senior leadership succession planning, and maintained leadership development programs that will produce long-term results for the Company.

2011 Proxy at 39.

125. These positive "strategic results" statements were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon's leadership and engagement with employees, legislators, regulators, investors and the news media enabled the Company to deal with the [McNeil and other] issues" because Weldon was a direct cause of the McNeil debacle and other "issues" that occurred under his leadership, such as J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, regulatory misconduct actions directed at J&J, and extensive personal injury litigation directed at J&J;

(b) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that, "[u]nder Mr. Weldon's leadership, the Company continued its long-standing commitment to philanthropic activities and was recognized for social responsibility, inclusiveness, and environmental sustainability" because Weldon was a direct cause of reputational damage to J&J that occurred under his leadership, such as J&J Credo violations, J&J's repeated failures to address FDA concerns over manufacturing, regulatory misconduct actions directed at J&J, and extensive personal injury litigation directed at J&J;

(c) It was materially false and misleading for the Board to represent, as a positive factor at the time these representations were made, that "Mr. Weldon continued to build a pipeline of future leaders" because Weldon was a direct cause of the events that led to the resignation of Colleen Goggins, who had long been groomed to replace Weldon.

126. In fact, the Board failed to give knowing or recklessly failed to give due weight to all of the negative factors bearing on Weldon's "manner of performance" during 2010. Instead, the Board knowingly overlooked the negative factors, instead justifying Weldon's inflated compensation by crediting Weldon for "outreach" and other communications concerning the Company problems Weldon had helped cause and was responsible for.

127. J&J's executive compensation policies were overridden by the Board when the Board substituted those policies with its judgment that negative impacts to Weldon's compensation might be viewed as a "vote of no confidence." The Board further usurped J&J executive compensation policies by claiming that Weldon's damning Congressional testimony exemplified Credo values and that Weldon was not personally responsible for the problems that he was given credit for fixing.

128. After the 2011 Proxy was issued, Institutional Shareholder Services Inc. recommended that J&J shareholders vote "no" with respect to J&J's 2010 executive compensation practices.

129. On or about April 19, 2011, the Board, knowing that it was in danger of losing the shareholder vote on executive pay, issued false and misleading supplemental correspondence to J&J institutional investors, that stated in part:

> As discussed on pages 21-22 and 37-38 in the CD&A of the 2011 Proxy Statement, the Company's performance in 2010 was decidedly mixed, with a number of significant achievements that position the Company for growth – including recognized robust pipelines, growth in key markets, and penetration in emerging markets, but also a number of significant disappointments that impacted the Company's reputation – most notably the well-publicized voluntary product recalls by the McNeil Consumer Healthcare business and the voluntary suspension of manufacturing at McNeil's Fort Washington, Pennsylvania facility. As a result, the Board faced a complex set of facts across the three business segments – Pharmaceuticals, Medical Devices and Diagnostics, and Consumer- when making decisions in January 2011 about the compensation for the Company's executive officers for performance in 2010. The Board lowered annual performance bonuses for 2010 in recognition of the mix of short-term performance successes and disappointments, while still providing competitive long-term incentives tied to the future growth of the Company in recognition of the Company's strengthened positioning for the long-term.
>
> * * *
>
> The Board's decisions on Mr. Weldon's compensation for 2010 reflect the Company's mixed performance, with short-term successes and disappointments, as well as continued strong positioning of the Company for long-term growth.
>
> * * *
>
> **The Board believes its compensation decisions clearly demonstrate the link of CEO pay to Company performance year-to-year, as well as the significant proportion of CEO pay that is tied to the long-term performance of the Company.** Accordingly, the Board has recommended that shareholders vote **FOR** approval of **ITEM 3: ADVISORY VOTE OF NAMED EXECUTIVE OFFICER COMPENSATION** for the upcoming Annual Meeting. We highly encourage shareholders to read the entire CD&A to be fully informed on this matter.

April 2011 Amendment at 3 (emphasis in original).

130. The April 2011 Amendment continued to mislead J&J shareholders in the following ways:

(a) J&J's statement that McNeil's product recalls were "voluntary" was materially false and misleading when made because J&J issued the recalls in reaction to pressures outside the Company, including regulatory pressures, FDA inspection reports, Congressional testimony, and adverse public relations. For example:

(i) Beginning in November 2009, J&J recalled lots of its products due to a musty odor, but only after the FDA issued a report noting that *J&J failed to report the product contamination and to respond to the concern*.

(ii) On January 15, 2010, J&J recalled large quantities of several of its products, *but only after the FDA issued it a warning letter relating to the Las Piedras plant*.

(iii) On April 30, 2010, J&J recalled several of its infant and children's products, *but only after the FDA issued a scathing inspection report on the Fort Washington plant*. Even in announcing the recall, the FDA followed up the next day to publicly state the true reason behind the recall: irregular active ingredients and foreign particle contamination.

(iv) On May 27, 2010, the U.S. House of Representatives Committee on Oversight and Government Reform held a hearing on J&J's recall problems. Dr. Joshua M. Sharfstein, Principal Deputy Commissioner of the FDA, prefaced his testimony by stating, "This is a story of an agency that identified a problem, confronted a company, and *eventually forced major challenges to protect the public*." Dr. Sharfstein identified J&J's "*reactive vs. proactive approaches to product quality problems*" as a "significant concern."

(v) On September 30, 2010, Dr. Sharfstein again testified before the Committee on Oversight and Government Reform, stating, "Although the agency is able to accomplish most drug recalls with the cooperation of the drug manufacturer, there are instances in which firms are reluctant or unwilling to conduct a recall, or to do so in a timeframe that FDA believes is necessary and appropriate to protect public health. If a firm refuses to recall, *FDA can pursue a remedy in Federal court*, like a seizure, but this can be time-consuming and cumbersome."

(vi) On December 9, 2010, J&J recalled its Rolaids® softchew products due to metal and wood particles in the product, *but only after the FDA issued its inspection report on the Fort Washington plant.*

(vii) On March 10, 2011, unimpressed with J&J's progress on product safety improvements, the FDA filed suit in federal court seeking an injunction against J&J's McNeil for violations of the Food, Drug, and Cosmetic Act. In its complaint, the FDA alleged:

1) That FDA inspectors discussed the violations with McNeil representatives, but "[n]evertheless, FDA investigators have continued to observe similar GMP violations at subsequent inspections."

2) That FDA representatives had multiple meetings with J&J and McNeil executives regarding the companies' corporate culture of compliance, yet "recent FDA inspections have confirmed that *violations persist and additional work is needed to fully address deficiencies and achieve sustained compliance with the law*."

3) That the FDA issued a Warning Letter to J&J and McNeil detailing the manufacturing violations and "the serious nature of the CGMP violations," yet "*sufficient corrections were not made*."

4) That "*unless restrained by this Court*, Defendants will continue to violate the Act."

(b) J&J's statement that the closure of McNeil's Fort Washington plant was "voluntary" was materially false and misleading when made because the plant was closed under threats from the FDA and Congress. Most FDA-regulated facilities are subject to periodic inspections, but the FDA accelerated its inspections at the Fort Washington plant "because of the history of compliance problems." This history of compliance problems included:

(i) At a meeting between FDA officials and executives from J&J and McNeil following the FDA's January 15, 2010 warning letter, the FDA told the companies to expect close oversight ongoing. Only after the FDA issued a scathing inspection report did J&J finally close the Fort Washington plant.

(ii) Much like its product recalls, J&J gave an impression that it was proactive in its closing of the Fort Washington plant, when in reality it was only reacting to FDA demands and pressure. When J&J made the statement itself, the plant was closed due to the consent decree forced upon J&J by the FDA. Even to this day, J&J could not "voluntarily" reopen the plant as doing so is subject to independent inspection and FDA approval – presumably meaning that violations would be continually noted.

131. On or about February 21, 2012, Defendants caused J&J to issue a current report on Form 8-K with the SEC. The current report announced that Weldon would retire as CEO of J&J, to be replaced by Gorsky, effective April 26, 2012, the date of the J&J 2012 annual meeting. The selection of Gorsky was significant because from October 1998 to October 2001, Gorsky was Janssen's vice president of marketing, and from October 2001 to early 2003, he was the Janssen president. During that time, he was responsible for selling Risperdal, and Omnicare was the biggest Risperdal® customer, placing him directly in the middle of some of J&J's most serious wrongdoing. "As vice president of marketing, and having previously worked closely with J&J's Medical Development group (which was responsible for developing clinical trial data for Risperdal), he was in a position to know why J&J chose not to inform Omnicare (or members of Janssen's own sales staff) that, in January 1999, the Food & Drug Administration had warned J&J that marketing Risperdal® as safe and effective in the elderly would be false and misleading because the drug had not been adequately studied in that population," the DOJ wrote in an attempt last spring to take his deposition in the federal Risperdal® case.

The J&J 2012 Proxy Statement

132. On or about January 17, 2012, the Board determined its compensation awards for Weldon for the year 2011. In connection with that determination, the Board either knowingly or recklessly gave little, if any, true weight to negative "manner of performance" factors, commensurate with Weldon's responsibilities and accountability as CEO in 2011 and preceding years.

133. On or about March 14, 2012, Defendants (except Langbo) caused a proxy statement to be filed with the SEC. The 2012 Proxy was solicited by the Board.

134. The 2012 Proxy indicated that Weldon would remain as Chairman of the Board and would continue to be an employee of the Company, with the duties of leading the Board, facilitating Board-Management communication, evaluating Board and CEO performance, assisting the CEO, building external relationships, and chairing the Finance Committee, which exercises the authority of the Board during the intervals between Board meetings.

135. The 2012 Proxy reported that only 61% of votes cast in the Company's first advisory vote known as "Say on Pay" voted in favor of the executive compensation disclosed in the 2011 Proxy, and that those results deviated significantly from the results of the average of peer companies in 2011. As a result, the Company initiated a review to get feedback from "key stakeholders" regarding the executive compensation programs. As a result of this outreach, the Company revised its long-term compensation program to discontinue the use of "cash-based long-term incentives" and replacing them with "performance share units." The Company took no other action.

136. In response to the 2012 Proxy and the changes made, combined with the actions taken with respect to 2011 bonuses, the "Say on Pay" advisory vote reported in a report on Form

8-K on April 27, 2012 showed only 57% of the votes cast in favor the executive compensation – less than the 61% from 2011.

137. The 2012 Proxy announced that Weldon's total compensation for 2011 was $26,797,939, which included a 3% increase in salary and a 19% increase in bonuses.

138. With respect to Weldon's compensation, the Board stated in the 2012 Proxy:

> Performance:
>
> The Board believes that Mr. Weldon performed well in 2011 to advance our mission as a global leader in health care. The Board's assessment of Mr. Weldon's performance is based primarily on the evaluation of company performance as summarized under "2011 Company Performance" on page 31 and pages 39 to 41. Mr. Weldon successfully managed our company through a challenging economic environment in 2011, marked by progress in stabilizing the business, while continuing to ensure our long-term success. In assessing Mr. Weldon's compensation, the Board reviewed the performance against a number of financial and strategic measures as highlighted below, including our product pipeline, quality and reputation, talent development and impact on healthcare legislation.
>
> Under Mr. Weldon's leadership, the company delivered solid financial results with 5.6% sales growth and a 28th consecutive year of adjusted earnings increases.
>
> In addition, under Mr. Weldon's leadership, the commitment to investing in the long term is realizing returns. Mr. Weldon positioned the company for a resurgent year in the Pharmaceuticals sector where the product pipeline was deemed as one of the most robust in the industry, and the 2011 productivity of new molecular entity approvals was the highest in the U.S. His oversight ensured we maintained our competitive position as the leading Medical Devices and Diagnostics company in the world with new product launches and strategic acquisitions. He helped ensure that our Consumer business stayed focused on remediation, while delivering strong results in skin care and oral care. All three sectors further built the foundation of new long-term growth platforms through portfolio management decisions, strategic acquisitions (e.g., Crucell and the pending acquisition of Synthes, Inc.) and strategic partnerships (e.g., Pharmacyclics), and investments in emerging markets.
>
> The Board recognizes that despite progress made on the quality front in 2011 with new quality and compliance procedures, continued focus is needed to address critical product supply and quality issues that impact our responsibility of being able to deliver products to patients and customers who need them.

> Mr. Weldon made significant progress on the talent front, most notably in developing excellent candidates for CEO succession, which ultimately led to an internal candidate being designated as our new CEO in April 2012. Under Mr. Weldon's leadership, retention of key talent also remained a high priority with overall very positive results. The Committee considered Mr. Weldon's commitment to leadership development and his continuing focus on advancement and retention of global, diverse talent.
>
> Mr. Weldon also demonstrated credible industry leadership. He worked with the U.S. government on understanding the impact of potential regulation and legislation on healthcare. He also demonstrated his commitment to improving healthcare around the world by participating in leadership forums such as the Asia Pacific Economic Cooperation (APEC).

2012 Proxy at 41-42.

139. The statements that "[t]he Board believes that Mr. Weldon performed well in 2011 to advance our mission as a global leader in health care" and "successfully managed our company through a challenging economic environment in 2011, marked by progress in stabilizing the business, while continuing to ensure our long-term success" were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to make these representations when made, because during 2011 Weldon was a direct cause of numerous J&J Credo violations, J&J suffered from numerous manufacturing issues and product defects and related regulatory misconduct actions directed at J&J that devastated its reputation, and cost the Company nearly all its income from operations; and

(b) It was materially false and misleading for the Board to represent as a positive factor at the time these representations were made, that "Mr. Weldon successfully managed our company through a challenging economic environment in 2011, marked by progress in stabilizing the business, while continuing to ensure our long-term success" because the manner in which those results were achieved involved illegal and other improper activities, including bribery of domestic and foreign officials, off-label marketing of drugs, and sale of products that were unfit for the purposes under which they were marketed. These illegal and improper activities were in violation of the J&J Credo and damaged J&J's reputation. Weldon, as Chairman/CEO of J&J, was a direct cause of the manner in which these results were achieved.

140. The statements that, "[u]nder Mr. Weldon's leadership, the company delivered solid financial results with 5.6% sales growth and a 28th consecutive year of adjusted earnings increases" was materially false and misleading for the following reasons:

(a) The manner in which those results were achieved involved illegal and other improper activities, including bribery of foreign officials, off-label marketing of drugs, and sale of products that were unfit for the purposes under which they were marketed. These illegal and improper activities were in violation of the J&J Credo and damaged J&J's reputation. Weldon, as Chairman/CEO of J&J, was a direct cause of the manner in which these results were achieved; and

(b) The "earnings" were nearly wiped out by the cost of fines and penalties assessed against J&J and the cost of recalls, accounted for as special items.

141. The statements that, "under Mr. Weldon's leadership, the commitment to investing in the long term is realizing returns" were materially false and misleading for the following reasons:

(a) It was materially false and misleading for the Board to make these representations when made, because during 2011 Weldon was not investing for the long term, but was a direct cause of numerous J&J Credo violations, J&J suffered from numerous manufacturing issues and product defects and related regulatory misconduct actions directed at J&J that devastated its reputation and cost the Company nearly all its income from operations; and

(b) It was materially false and misleading for the Board to make these representations as a positive factor at the time they were made, because the manner in which those results were achieved involved illegal and other improper activities, including bribery of foreign officials, off-label marketing of drugs, and sale of products that were unfit for the purposes under which they were marketed. These illegal and improper activities were in violation of the J&J Credo and damaged J&J's reputation. Weldon, as Chairman/CEO of J&J, was a direct cause of the manner in which these results were achieved.

142. The statements that, "despite progress made on the quality front in 2011 with new quality and compliance procedures, continued focus is needed to address critical product supply and quality issues that impact our responsibility of being able to deliver products to patients and customers who need them" were materially false and misleading, because progress had not been made on the quality front, because J&J repeatedly failed to address FDA concerns over manufacturing issues and product defects and continued to be plagued by recall issues over multiple product areas that devastated its reputation and contributed to offsetting nearly all the Company's income from operations.

143. The statements that, "Mr. Weldon made significant progress on the talent front, most notably in developing excellent candidates for CEO succession, which ultimately led to an internal candidate being designated as our new CEO in April 2012" were materially false and misleading, because Gorsky, the new CEO selected, was, while vice president of marketing and CEO of Janssen, directly responsible for the marketing and sale of Risperdal, which has cost the company dearly in terms of cost and reputation.

DAMAGES TO J&J

144. By this action, Plaintiff seeks to recover damages and other relief for J&J against Defendants for their breaches of fiduciary duty and corporate waste. Absent this action, as the

Board has already demonstrated, the Company's rights against its wayward fiduciaries will not be exercised, to the further detriment to the Company.

145. Damages to J&J include:

(a) Overcompensation of Weldon from 2008 to present in at least the tens of millions of dollars, including retirement compensation;

(b) Costs and fees incurred by J&J associated with issuing and correcting false proxy statements;

(c) Costs and fees incurred by J&J associated with soliciting institutional and other investors to vote "yes" in favor of J&J's executive compensation practices when those practices were misrepresented and not in accord with J&J's executive compensation philosophies and guiding principles; and

(d) Harm to J&J's reputation, lost sales and increased expenses due to overcompensating of Weldon, leaving Weldon in senior leadership, and incenting Weldon to create a compliance and quality culture that led to reputational harm to J&J.

DERIVATIVE ALLEGATIONS

146. Plaintiff incorporates all preceding and subsequent allegations as if fully set forth herein.

147. Plaintiff brings this action derivatively in the right and for the benefit of J&J to redress the breaches of fiduciary duty and other violations of law by the Defendants.

148. Plaintiff will adequately and fairly represent the interests of J&J and its shareholders in enforcing and prosecuting its rights.

149. On March 28, 2012, Plaintiff made written demands, a copy of which is attached hereto as Exhibit A, on the Board of Directors, to bring suit for the wrongdoing and breaches of duty alleged herein, employ the Special Committee Report in its investigation, to recoup

compensation from Weldon, correct disclosures and for remediation. As alleged herein, Defendants have wrongfully refused Plaintiff's demands. Further demands on the Board, after affording the Board more than sufficient time to investigate and respond to Plaintiff's further demands, would be a futile, wasteful and useless act, and is therefore legally excused.

COUNT I

Against Defendants for Violations of Section 14(a) of the Exchange Act

150. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

151. Rule 14a-9, promulgated pursuant to Section 14(a) of the Exchange Act, provides that no proxy statement shall contain "any statement which, at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading." 17 C.F.R. § 240.14a-9. Specifically, J&J's 2010-2012 Proxy Statements violated Section 14(a) and Rule 14a-9 because they contained materially false and misleading statements, and omitted material facts regarding the Company's compensation practices.

152. In addition to the misrepresentations and omissions of material fact described in the paragraphs above, the 2010-2012 Proxy Statements (including the April 2011 Amendment) were also each false and misleading when issued because they failed to disclose that the Special Committee had been charged with evaluating Credo violations and reputational harm at the Company, bearing on "manner of performance": executive pay issues and violations of its Credo, all of which was and is material information to a reasonable investor being asked to vote on executive compensation matters at the Company.

153. In the exercise of reasonable care, Defendants should have known that the 2010-2012 Proxy Statements were materially false and misleading when made.

154. The misrepresentations and omissions in these Proxy Statements were material to J&J shareholders, including Plaintiff, when considering "say on pay" in the 2010-2012 Proxies. These Proxy Statements were an essential link in the accomplishment of the continuation of Defendants' violation of the Company's compensation policies, and the Board's recommendation in connection with a shareholder proposal that shareholders not be given an opportunity to cast advisory votes on J&J executive compensation, as revelations of the truth would have immediately thwarted a continuation of shareholders' endorsement of the directors' positions, the advisory vote proposal, the executive officers' compensation and the Company's compensation policies. Likewise, the 2010-2012 Proxies were an essential link in the accomplishment of the continuation of Defendants' violation of the Company's compensation policies, and the shareholders advisory vote proposal whereby shareholders could cast advisory votes on J&J executive compensation practices as represented in proxy statements, as revelations of the truth would have immediately thwarted a continuation of shareholders' endorsement of the directors' positions, the advisory vote proposal, the executive officers' compensation and the Company's compensation policies.

155. The Company was damaged as a result of the material misrepresentations and omissions in the above-referenced Proxy Statements.

COUNT II

Against Defendants for Breach of Fiduciary Duty

156. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

157. Each of the Defendants named in this claim was a director and/or officer of J&J and as such owed to J&J the highest duty known to the law. Each of these Defendants agreed to and did participate in and/or aided and abetted one another in a deliberate course of action

designed to divert corporate assets in breach of the fiduciary duties these Defendants owed to J&J.

158. As demonstrated by the allegations above, the Defendants named herein breached their fiduciary duties of loyalty, good faith, candor and independence owed to J&J and its shareholders, and they failed to disclose material information and/or made material misrepresentations to shareholders regarding Defendants' scheme to unjustly award Weldon executive compensation.

159. These Defendants have violated fiduciary duties of care, loyalty, good faith, candor and independence owed to J&J and its shareholders, have engaged in unlawful self-dealing and have acted to put their personal interests and/or their colleagues' interests ahead of the interests of J&J and its shareholders. As directors of J&J, these Defendants participated in the wrongful acts of alleged herein. They thereby breached their fiduciary duties to J&J shareholders.

160. As corporate fiduciaries, the Defendants named herein owed to J&J and its shareholders a duty of candor and full and accurate disclosure. As a result of the conduct complained of, Defendants made, or aided and abetted the making of, numerous misrepresentations to and/or concealed material facts from J&J's shareholders despite their duty to, *inter alia*, disclose the true facts regarding J&J. Thus they have violated their duty of candor.

161. In committing the wrongful acts particularized herein, Defendants have pursued or joined in the pursuit of a common course of conduct, and have acted in concert with one another in furtherance of their common plan or design.

162. At all relevant times, Defendants collectively and individually initiated a course of conduct which was designed to and did: (i) conceal the fact that the Company was overpaying its Chairman/CEO via compensation premised on an illusory "pay-for-performance" executive

compensation scheme; and (ii) maintain Defendants' directorial and executive positions at J&J and the profits, power and prestige which Defendants enjoyed as a result of these positions. This misconduct included issuance of false and misleading proxy statements issued to J&J shareholders and filed with the SEC in 2010, 2011, and 2012.

163. Defendants' misconduct was not due to an honest error of judgment, but rather to their bad faith and was done knowingly, willfully, intentionally or recklessly.

164. By reason of the foregoing acts, practices and course of conduct, Defendants named herein have failed to exercise good faith and instead have acted knowingly or in reckless disregard of their fiduciary obligations toward J&J and its public shareholders, harming J&J.

COUNT III

Against Defendants for Corporate Waste

165. Plaintiff incorporates by reference and re-alleges each and every allegation set forth above, as though fully set forth herein.

166. By failing to properly consider the interests of the Company, by failing to conduct proper supervision, and by giving away tens of millions of dollars to J&J's Chairman/CEO via Defendants' executive compensation scheme, the Defendants named in this claim caused J&J to overpay its Chairman/CEO since at least 2006.

167. By reason of the foregoing, J&J and its shareholders have been damaged.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff demands judgment as follows:

A. Against all Defendants and in favor of J&J for the amount of damages sustained by the Company as a result of Defendants' violation of state law;

B. Extraordinary equitable and/or injunctive relief as necessary or permitted by law, equity and statutory provisions sued hereunder, including disgorgement, attachment, impoundment, imposition of a constructive trust on or otherwise restricting the disposition/exercise of improvidently awarded executive compensation that was disconnected with pay for performance principles, or the manner of performance, so as to ensure that Plaintiff on behalf of J&J has an effective remedy;

C. Order relief commensurate with the attached demand, including issuance of corrective proxy disclosures, the implementation and administration of internal controls and systems at J&J designed to prohibit and prevent excessive and/or unwarranted executive compensation payments to J&J's executive officers for, *inter alia*, failure to adhere to J&J's Credo values;

D. Awarding to Plaintiff the costs and disbursements of the action, including reasonable attorneys' fees, and accountants' and experts' fees, costs, and expenses;

E. Granting such other and further relief as the Court deems just and proper.

JURY DEMAND

Plaintiff demands trial by jury on all matters so triable.

Dated: October 7, 2012

GARDY & NOTIS, LLP

By: s/ James S. Notis
Mark C. Gardy
James S. Notis
Jennifer Sarnelli
Charles A. Germershausen
560 Sylvan Avenue
Englewood Cliffs, NJ 07632
Tel: 201-567-7377
Fax: 201-567-7337

HULETT HARPER STEWART LLP
Blake Muir Harper
225 Broadway, Suite 1350
San Diego, CA 92101
Tel: 619-338-1133
Fax: 619-338-1139

HUTTON LAW GROUP
Andrew W. Hutton
Austin J. Evans
12671 High Bluff Drive, Suite 130
San Diego, CA 92130
Tel: 858-793-3500
Fax: 858-793-3501

RYAN & MANISKAS, LLP
Richard A. Maniskas
995 Old Eagle School Road, Suite 311
Wayne, PA 19087
Tel: 484-588-5516
Fax: 484-450-2582

Attorneys for Plaintiff

VERIFICATION

I, George Leon, as Trustee for The George Leon Family Trust, under penalty of perjury, state as follows:

The George Leon Family Trust is the Plaintiff in the above-captioned action. As its Trustee, I have read the foregoing Complaint and authorized its filing on behalf of The George Leon Family Trust. Based upon the investigation of my counsel, the allegations in the Complaint are true to the best of my knowledge, information and belief.

DATED: 10/7/13

George Leon, Trustee for The George Leon Family Trust