

Local Rule *229. The stipulation and Summary Judgment Order have been entered on the docket as evidenced by the docket entries attached as Exhibit “B”.

By appealing from the Order entered October 21, 2016, Plaintiffs appeal all previously non-final Orders that merged into the Judgment and were made appealable by its entry on the docket.¹ This includes appeal of the Order entered May 2, 2014, granting Defendants’ Motion for Partial Summary Judgment as the Plaintiffs’ Claims for Punitive Damages (attached as Exhibit “C”). This also includes appeal of the trial court’s Order entered July 18, 2014, denying Plaintiff’s Motion for Reconsideration (attached as Exhibit “D”).

The May 2 and July 18 Orders were entered on the general docket for Risperdal litigation rather than the docket of the instant case. *See Risperdal Global Docket* (attached as Exhibit “E”). However, the Orders are appealable in the instant CASE by virtue of Case Management Order No. 1 of *In re: Risperdal Litigation*, Phila CCP, March Term 2010, No. 296, entered May 26, 2010 (“CMO 1”) (attached as Exhibit “F”).

By way of background, CMO 1 governs all Risperdal cases filed in Philadelphia County. It establishes a mass tort program for cases filed in Philadelphia County involving allegations of personal injury resulting from ingestion of the prescription drug Risperdal. It establishes a global docket “for the filing of pleadings, motions, orders, and other documents common to the Risperdal®/Risperidone cases.” *Id.* In particular, CMO 1 provides that once a document is filed in the global docket, the document may be “incorporated by reference” within another document filed in an individual Risperdal case. The relevant language provides:

¹ A final judgment subsumes and renders appealable all previously interlocutory orders. *See K.H. v. J.R.*, 826 A.2d 863, 70-71 (Pa. 2003) (merger of interlocutory orders following trial); *Betz v. Pneumo Abex LLC*, 44 A.3d 27, 54 (Pa. 2012) (merger of orders following summary judgment).

Once a pleading, motion, order or other document is filed on this docket and copies are provided to all other interested counsel involved in the Risperdal®/Risperidone litigation, the pleadings, motion, order, or other document may be incorporated by reference, either orally before the Court, or within another properly filed pleadings, motion, order, or other document.

Id. at p.1. Thus, CMO 1 provides a mechanism for incorporating by reference documents filed in the global docket into the docket of an individual Risperdal case.

This case is part of the Risperdal Mass Tort Program and is subject to CMO 1. Under CMO 1, Plaintiffs hereby incorporates by reference the following documents that were filed on the global docket for Risperdal litigation into this Notice of Appeal, such that those filings are deemed to have been filed in the instant case and are part of the record on appeal for this case:

- Defendants' Motion for Partial Summary Judgment as to Plaintiffs' Claims for Punitive Damages, filed Feb. 10, 2014;
- Plaintiffs' Response to Defendants Motion for Partial Summary Judgment, filed March 24, 2014;
- Defendants' Reply in Support of Motion for Partial Summary Judgment, filed March 31, 2014;
- Order granting Motion for Partial Summary Judgment, entered May 2, 2014;
- Plaintiffs' Motion for Reconsideration, filed June 3, 2014;
- Defendants Opposition to Plaintiffs' Motion for Reconsideration, filed June 9, 2014;
- Plaintiffs Reply in Support of Motion for Reconsideration, filed June 12, 2014
- Order denying Motion for Reconsideration, entered July 18, 2014.

Under CMO 1, each of these documents is deemed to have been filed within the instant case and to be part of the record on appeal within the meaning of Pa.R.A.P. 1921.

In summary, Plaintiffs appeal from the summary judgment Order entered in this case on October 21, 2016. The judgment subsumes and makes appealable all prior Orders in the case. Pursuant to CMO 1, the orders merged into the Judgment include the interlocutory Orders entered on the Risperdal Global Docket on May 2, 2014 and July 18, 2014.

Respectfully submitted,

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Dated: November 21, 2016

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IN RE: RISPERDAL® LITIGATION

C.W., et al.,

Plaintiff,

v.

JANSSEN PHARMACEUTICALS, Inc., et al.

Defendants.

:
:
: **PHILADELPHIA COUNTY**
: **COURT OF COMMON PLEAS**
: **TRIAL DIVISION**
:
:
: **APRIL TERM 2013**
:
: **No. 2104**
:
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:

STATEMENT REGRADING TRANSCRIPTION

In conjunction with the attached Notice of Appeal, it is hereby stated that no oral argument was conducted in relation to the Orders under appeal and therefore no verbatim transcript has been or need be ordered.

Respectfully submitted,

KLINE & SPECTER, P.C.

Dated: November 21, 2016

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Notice of Appeal and Statement Regarding Transcription have been served on the following persons in the manner indicated below:

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