



Plaintiff argues that its tactics are permissible under the Court's ruling with respect to Merck. This argument is misplaced. In considering Merck's motion for a protective order, neither the Special Master nor Judge Kruger was asked to consider whether Wisconsin's discovery rules may be used to circumvent the law in other jurisdictions. Nor does the Merck ruling give Plaintiff the unfettered right to compel witnesses to travel to Wisconsin in all circumstances. To the contrary, the Special Master expressly urged the parties to make reasonable accommodations and to work together cooperatively to complete discovery.

Plaintiff characterizes the J&J Defendants' motion as frivolous; indeed, it says "it is difficult to imagine a more insubstantial motion." Given the circumstances leading up to this motion, this statement speaks volumes as to why a protective order is necessary. There is nothing frivolous or insubstantial about objecting to the use of Wisconsin's discovery rules to circumvent the discovery rules in other states. As previously noted, the conduct at issue amounts to an abuse of the Merck ruling, which was based on a presumption that Plaintiff was acting in good faith. In the present circumstances, that presumption has been forfeited.

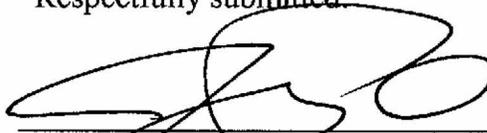
The depositions noticed in Wisconsin should be quashed. The J&J Defendants' corporate representatives should be deposed, if at all, either in the jurisdictions where they work or reside, or at some other location mutually agreed to by the parties.

**CONCLUSION**

The J&J Defendants respectfully request that their motion for a protective order be granted.

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Respectfully submitted:



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