

The parties' agreement does not affect the *Daubert* motions for Prof. Einer Elhauge and Mr. Thomas Hughes, which remain pending. The parties will proceed with the hearing and presentation of testimony with respect to the motion regarding Prof. Elhauge on January 8, 2009. As the Court previously specified, the motion regarding Mr. Hughes will be submitted on the papers.

Dated: January 6, 2009

Respectfully submitted,

/s/ Brett Cebulash
Brett Cebulash (*pro hac*)
GARWIN GERSTEIN & FISHER LLP
1501 Broadway, Suite 1416
New York, NY 10036
Telephone: (212) 398-0055
e-Mail: bcebulash@garwingerstein.com

/s/ James Donato
James Donato (*pro hac*)
COOLEY GODWARD KRONISH LLP
101 California Street, 5th Floor
San Francisco, CA 94111
Telephone: (415) 693-2000
e-Mail: jdonato@cooley.com

Attorneys for Plaintiffs
NATCHITOCHE PARISH HOSPITAL
SERVICE DISTRICT and JM SMITH
CORPORATION d/b/a SMITH DRUG
COMPANY

Attorneys for Defendants
TYCO INTERNATIONAL (US) INC.;
TYCO HEALTHCARE GROUP LP; THE
KENDALL HEALTHCARE PRODUCTS
COMPANY

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and copies will be sent to those indicated as non-registered participants on January 6, 2009.

/s/ James Donato
James Donato