

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

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

Plaintiffs,

v.

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

Defendants.

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

**ECF CASE
ELECTRONICALLY FILED**

**DECLARATION OF GREGORY BALLISH IN
SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

I, Gregory Ballish, being of mature age and having the mental capacity to do so, hereby declare and state as follows:

1. I am employed at the American National Red Cross (the "American Red Cross" or "ARC") as Senior Vice President, Biomedical Services. The American Red Cross is a federally chartered nonprofit corporation located at 2025 E Street NW, Washington, DC 20006.

2. I submit this Declaration in support of Defendants' Motion for Summary Judgment based on my personal knowledge from working at the American Red Cross and other factual matters known to me.

3. The Greek Red Cross was adopted by the American National Red Cross at its inception in 1881. Since then, the American Red Cross has used the Red Cross Emblem in all of

the work it does throughout the United States to further its mission to help the Nation prepare for and respond to emergencies and disasters.

4. Since the late 1940's, the American Red Cross has played a critical role in America's blood supply. Over the last several decades, the American Red Cross has supplied in the range of half the blood products and services used in the United States. To provide a sense of scale, in 2006, the American Red Cross provided some 6 million units of blood to American hospitals and other customers. Blood services and products are sold by the American Red Cross, primarily to hospitals (nonprofit and for-profit alike). The proceeds cover our costs of providing these critical service and products and also support our many humanitarian efforts. The Red Cross Emblem is displayed throughout every step of ARC's role in the nation's blood supply. It marks locations where our blood drives are taking place, it is used in the transport of blood, it is used on packaging, and it is used by manufacturing and processing partners -- commercial firms that over the decades have, with our authorization, used the Emblem on a range of manufactured items needed in our blood operation, items ranging from blood bags and boxes to medical equipment, uniforms, trucks, and myriad others.

5. Regarding ARC's blood services operation, although we now own and operate our own testing and processing facilities, we worked with third-party processing firms for many decades to provide the blood services and products needed by the American public. And even today, we depend on for-profit firms to manufacture the special bags, packaging, and other items needed to provide blood products and services.

6. ARC exercises strict controls when we authorize any third party to use the Red Cross name and Emblem. That is true with respect to the firms that manufacture blood bags or field boxes or water bottles or any of a myriad items we have to have every year to do our work.

And it is true of the firms who manufacture and distribute first aid and other products for us. We control the nature of the product and the exact way in which the Emblem will be used, to assure the Emblem is not used in conjunction with products or services that are not authorized by us and part of our mission. We could not do our work if we were unable to authorize volunteers and other third parties to use our name and Emblem in appropriate circumstances.

7. ARC would be severely prejudiced if for some reason it were required to stop putting its Emblem on products or other items because the Emblem is so closely associated with the American Red Cross. For over 100 years, the American public has seen the American Red Cross Emblem on products and in contexts that has imparted to the Emblem, including the American Red Cross name, a message of safety and emergency response and care that we work hard every day to maintain. The Emblem must of necessity be used widely by persons not directly employed by the American Red Cross, from volunteers to manufacturers to fundraising partners. The American Red Cross strives to assure that all those who are authorized to display the Emblem are screened or trained or subject to supervision or controls appropriate to the circumstance. That is straightforward in the case of cause marketing partners and in the case of manufacturers like the other defendants, since the terms of their use can be pre-defined in a carefully crafted agreement setting forth our right to tightly control the Emblem's use. But the Emblem is also used in situations like Katrina or 9-11 in which great need arises, disorder prevails, and response must be immediate. The American Red Cross could not function without the assistance of the volunteers who staff the shelters and feed or care for those in need or without the support of firms who work with us to provide the goods and services needed to fulfill our mission.

I declare the foregoing to be true and correct under penalty of perjury. This Declaration is executed by me in CINCINNATI, OH this 19th day of November, 2007.



Gregory Ballish