

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

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<b>IN RE: SOCLEAN, INC. MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION</b>	)	
	)	Master Docket: No. 22-mc-152
	)	
	)	MDL No. 3021
	)	
This document relates to: All Cases	)	
	)	

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**ORDER OF APPOINTMENT OF FDA EXPERT  
PURSUANT TO FEDERAL RULE OF EVIDENCE 706**

This Order of Appointment of a Food and Drug Administration ("FDA") Expert, pursuant to Federal Rule of Evidence 706, is **HEREBY ENTERED**:

1. The Court hereby appoints Marjorie Shulman as an expert pursuant to Federal Rule of Evidence 706. Philips RS North America LLC, Philips North America LLC, and Koninklijke Philips N.V. (collectively, the "Philips Defendants"), the Consumer Plaintiffs, and SoClean, Inc. ("SoClean") consented to her appointment. Ms. Shulman has expertise and knowledge with respect to the FDA that may assist the Court, including, but not limited to, knowledge concerning the FDA's classification system for medical devices, the FDA's premarket review system for medical devices, 510(k) clearance, premarket approval, and de novo classification requests.

2. From time to time, the Court may request that Ms. Shulman provide opinions on FDA-related issues or topics. On a schedule set by the court, the parties shall submit briefs to Ms. Shulman on the specific questions about which the Court concludes she should provide an opinion. As part of those submissions, the Court may direct that the parties provide Ms. Shulman any documents or testimony that the parties believe would be helpful to Ms. Shulman in reaching her opinions.

3. Upon request by Ms. Shulman, the parties shall furnish Ms. Shulman with any information, materials or documents requested by Ms. Shulman reasonably necessary to fulfill her duties in rendering opinions under this Order.

4. The Court will set a schedule for Ms. Shulman to issue a report setting forth her opinions, as well as all facts or data she considered in forming them.

5. Following the submission of her opinions, Ms. Shulman may be called to testify by the Court or any party, and may be deposed and cross-examined by any party.

6. Ms. Shulman may have access to trade secrets, proprietary information, and other confidential information in this action, including but not limited to, information that may be subject to the Stipulated Protective Order, and any amendments thereto, entered by the court in this multi-district litigation. Ms. Shulman shall agree to comply with the Stipulated Protective Order by signing Exhibit A thereto.

7. At the request of the parties or at the direction of the Court, Ms. Shulman may attend any of the Court's regularly scheduled status conferences or a hearing on a motion if the conference or hearing involves matters relevant to Ms. Shulman's appointment.

8. Ms. Shulman shall be paid her customary hourly rate and expenses. Ms. Shulman shall maintain detailed billing records of the time spent on matters pertaining to her appointment, with descriptions of the activities and matters worked on, which shall be submitted to the parties on a monthly basis for review and payment within 30 days of the receipt of the detailed invoice. Ms. Shulman shall make every effort to minimize expenses while at the same time carrying out the mandates of this Order. The Philips Defendants will pay 1/3 of Ms. Shulman's invoices; the Consumer Plaintiffs will pay 1/3 of Ms. Shulman's invoices; and SoClean will pay 1/3 of Ms. Shulman's invoices; provided, however, that this structure is based on the current composition of the parties and may

be subject to change in the event parties are added or removed from this case. Any objections or disputes regarding the fees or expenses shall be presented to the court. If Ms. Shulman determines that any party has egregiously failed to provide information as required by this Order or egregiously acted in an unprofessional manner, Ms. Shulman shall inform the court of this determination so that the court can reconsider this initial fee-splitting arrangement.

9. This appointment does not limit any party in calling its own experts.

10. Unless authorized by the Court, Ms. Shulman shall not have *ex parte* communications with any party or their respective counsel. Ms. Shulman may, at any time, communicate *ex parte* with the court for any purpose relating to the duties described herein. In particular, if the Ms. Shulman identifies any matters that pose particular or unique problems, the court shall be consulted.

11. Ms. Shulman may retain, after written notice to the parties, other professionals or staff to assist her in performing her duties, whose fees and expenses shall be included in the fees and expenses and paid as set forth in paragraph 8 of this order.

12. This Order shall apply to all cases that are currently part of the above-captioned multi-district litigation, and those cases that are filed in or transferred to the Western District of Pennsylvania in the future and become part of this multi-district litigation. This Order may be amended from time to time if the Court finds it to be necessary and appropriate.

13. This appointment does not limit or prohibit the Court from appointing other experts pursuant to Federal Rule of Evidence 706 on other topics, including other FDA-related topics.

**SO ORDERED** this 13th day of September 2023,

          /s/ JOY FLOWERS CONTI  
Joy Flowers Conti  
Senior United States District Judge