

U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

LORETTA G. WHYTE
CLERK

In re: VIOXX	*	MDL Docket No. 1657
	*	
PRODUCTS LIABILITY LITIGATION	*	SECTION L
	*	
	*	JUDGE FALLON
This document relates to All Cases	*	
	*	MAGISTRATE JUDGE KNOWLES
	*	
* * * * *		

**JOINT REPORT NO. 8 OF
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel ("PLC") and Defendants' Liaison Counsel ("DLC") submit this Joint Report No. 8.

I. LEXIS/NEXIS FILE & SERVE

PLC and DLC continue to provide Lexis-Nexis with a current service list of counsel. Since the last status conference, PLC and DLC have communicated with Lexis-Nexis to address various matters, specifically the uploading of Profile Forms. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

____	Fee	_____
____	Process	_____
____	Dktd.	_____
____	Clk/Dep.	_____
____	Doc. No.	_____

II. ORDERS ISSUED AS A RESULT OF HURRICANE KATRINA

As a result of Hurricane Katrina, Louisiana Governor Kathleen Blanco and Chief Judge Ginger Berrigan issued certain orders suspending and/or interrupting deadlines and prescriptive periods. Further, the Louisiana Supreme Court issued an Order on October 3, 2005. In addition, Governor Blanco has issued Executive Order No. KBB 2005-32 on September 6, 2005, which was amended on September 23, 2005 (Executive Order KBB 2005-48), suspending prescription and deadlines. Thereafter, on October 19, 2005, Governor Blanco issued Executive Order No. KBB 2005-67, suspending liberative prescription and peremptive periods until at least November 25, 2005. Furthermore, it has been announced that the Louisiana Legislature will be called into a special session from November 6, 2005 to November 18, 2005 which will be the first opportunity for legislative action on these issues. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

III. STATE COURT TRIAL SETTINGS

Trial in the Humeston case began on September 12, 2005 in New Jersey Superior Court, Atlantic County and is ongoing; the Zajicek case is set for trial in Texas District Court, Jackson County, on March 20, 2006. The Guerra case has been set for trial on April 17, 2005 in Texas District Court, Hidalgo County, Texas. The Kozic case is set for trial in Florida Circuit Court, Hillsborough County, on May 1, 2006.

IV. SELECTION OF CASES FOR EARLY FEDERAL COURT TRIAL

The Irvin case, a heart attack case, is set for trial commencing November 29, 2005 at the United States District Court for the Southern District of Texas, 515 Rusk Street, Houston, Texas 77002. PSC and DSC have addressed with the Court the setting of additional cases for trial. Letter briefs have been submitted to the Court. The parties will be prepared to address this issue on October 27, 2005.

V. CLASS ACTIONS

On or about August 1, 2005, and pursuant to Pre-trial Order No. 16, the PSC filed three Master Class Action Complaints. DSC filed Rule 12 Motions on the Medical Monitoring Complaint and the Purchase Claims Complaint. Plaintiffs' oppositions are due on or before November 8, 2005. Further, Plaintiffs have moved for a Stay of Class Briefing on the Personal Injury Complaint. Plaintiffs have also moved to Amend the Master Class Action Complaints for Medical Monitoring and Personal Injury by adding class representatives for some previously headless classes. Defendants have responded to these motions and plaintiffs have filed their reply brief. Defendants moved to dismiss the state classes that have no named plaintiffs. Plaintiffs have replied. Defendants request that these motions be set for hearing. The parties will be prepared to address the motion to amend, motion to strike, and motion to stay at the monthly status conference on October 27, 2005. The parties also will be prepared to address other class action issues at the monthly status conference on October 27, 2005.

VI. DISCOVERY DIRECTED TO MERCK

On June 7, 2005, PLC served upon DLC a First Set of Interrogatories and Requests for Production of Documents directed to defendant Merck & Co., Inc. ("Merck"). Members of the PSC and representatives of Merck continue to have conferences concerning these master discovery requests and prioritization.

Merck advises that it will continue to make productions of documents, as identified by members of the PSC as priorities, on a rolling basis. Plaintiffs and Defendants have met and conferred to address prioritization. Plaintiffs' liaison counsel has advised that he shall coordinate and resolve any conflicting requests for VIOXX documents and data requested from Merck. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

On August 22, 2005, DLC provided to PLC the first Privilege Log produced in this matter relating to Merck's production of initial documents. A meet and confer was held in New York on September 28, 2005. PSC filed with the Court on October 11, 2005, a Motion to Compel Production of Documents Improperly Claimed as Privileged on Merck's Privilege Log. Responsive pleadings have been filed by Defendants. The matter is set for hearing on October 27, 2005.

The Arcoxia and foreign document requests that were briefed and scheduled for hearing on October 12, 2005, have been resolved by the parties. A proposed Pre-Trial Order will be presented to the Court prior to October 27, 2005. The parties will be prepared to discuss this further at the monthly status conference.

VII. PSC REQUEST FOR PRODUCTION OF FACTS DATABASE

Pursuant to PTO 21, Merck has produced to the PSC prior FACTS productions made in the coordinated New Jersey Litigation as well as the production of FACTS data from Boynton Beach, Florida and the national survey, as required by paragraphs 5 and 6 of PTO 21. Merck will continue to produce the relevant FACTS data in compliance with the provisions of PTO 21. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

VIII. VIOXX PROFESSIONAL REPRESENTATIVES

On August 4, 2005, the Court entered Pre-Trial Order No. 20. The Pre-Trial Order is located at <http://vioxx.laed.uscourts.gov>. The list was submitted in camera, and under seal, to the Court. PLC requested that it be allowed to obtain the list and review it. Members of the PSC have been provided access to the list following the Court's ruling on October 5, 2005 that the list could be disseminated to members of the PSC for review. PSC contends that access to the list should be made in accordance with the Court's ruling of October 5, 2005. DSC contends that access to the list is limited to members of the PSC and may not be further disseminated absent Court order. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

IX. DISCOVERY DIRECTED TO THE FDA

The FDA's preliminary production of documents continues. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

X. DISCOVERY DIRECTED TO THIRD PARTIES

PLC has advised the Court and DLC that the PSC has issued numerous third-party notices of deposition for the production of documents. If and when any issues arise regarding these discovery requests, the Court will be advised and motions will be requested on an expedited basis.

XI. DEPOSITION SCHEDULING

Depositions are underway in the Irvin case. Additionally, depositions have been noticed and cross-noticed in the MDL. Letters regarding the PSC's seven (7) depositions of former Merck detailers in Florida have been provided by Plaintiffs and Defendants to the Court. This matter, as well as any other deposition scheduling issues will be addressed with the Court at the monthly status conference on October 27, 2005.

XII. PLAINTIFF PROFILE FORM AND MERCK PROFILE FORM

On September 14, 2005, the Court entered Pre-Trial Order 18B which governs the timing for production of Plaintiff Profile Forms, Authorizations, and Merck Profile Forms on a staggered basis. The Pre-Trial Order is located at <http://vioxx.laed.uscourts.gov> and supersedes Pre-Trial Orders 18 and 18A. Due to a delay between final entry of Conditional Transfer Orders and the actual docketing of some transferred cases in the Eastern District of Louisiana, counsel in the delayed cases may not have access to File & Serve to timely serve the Plaintiff Profile Forms, Authorizations, and Medical Records. The parties will be prepared to discuss this further at the monthly status conference on October 27, 2005.

Merck advises that to date, it has received 127 PPFs, all of which it deems deficient based on standards for completeness outlined in Pre-Trial Order 18B. DSC will be bringing these deficiencies to the attention of the PSC. Although Defendants contend they are technically deficient, DLC advises that only 19 PPFs have the requisite information to enable Merck to do the most basic queries of its databases and systems. Counsel for Merck further advises that it continues to investigate issues relating to the feasibility of obtaining and providing certain documents and data required in the existing Merck Profile Form. PLC anticipates timely receipt of the Merck Profile Forms. The parties will be prepared to discuss these issues further at the monthly status conference on October 27, 2005.

XIII. REMAND ISSUES

Several remand motions have been filed with the Court. The Court has indicated that it will deal with remand motions as a group in accordance with procedures to be established in the future.

XIV. TOLLING AGREEMENTS

Tolling Agreement and Exhibits A, B, and C are available on the Court's website located at <http://vioxx.laed.uscourts.gov>. Questions have arisen regarding extensions for Claimant Profile Forms (i.e., forms used in connection with Tolling Agreements). The parties will discuss any problems regarding tolling agreements at the monthly status conference on October 27, 2005.

XV. STATE/FEDERAL COORDINATION -- STATE LIAISON COMMITTEE

Representatives of the PSC and the State Liaison Committee have had several communications. The parties will be prepared to discuss this further at the monthly status conference

on October 27, 2005.

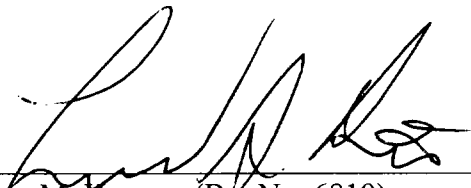
XVI. PRO SE CLAIMANTS

The Court has issued additional Orders directing PLC to take appropriate action regarding filings made by various pro se individuals. PLC has continued to communicate with the various pro se claimants and advised them of attorneys in their respective states and other pertinent information regarding the MDL. PLC will be prepared to discuss this further at the monthly status conference on October 27, 2005.

XVII. NEXT STATUS CONFERENCE

PLC and DLC will be prepared to schedule the status conference in November on a date to be selected by the Court.

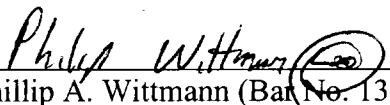
Respectfully submitted,



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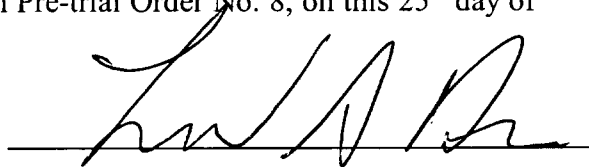


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Defendants' Liaison Counsel

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing Joint Status Report No. 7 of Plaintiffs' and Defendants' Liaison Counsel has been served upon all parties by uploading the same to Lexis/Nexis File & Serve Advanced in accordance with Pre-trial Order No. 8, on this 25th day of October, 2005.

A handwritten signature in black ink, appearing to be "L. A. R.", is written over a horizontal line. The signature is cursive and stylized.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

In re: VIOXX * **MDL Docket No. 1657**
*
PRODUCTS LIABILITY LITIGATION * **SECTION L**
*
* **JUDGE FALLON**
This document relates to All Cases *
* **MAGISTRATE JUDGE KNOWLES**
*
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**MONTHLY STATUS CONFERENCE
OCTOBER 27, 2005
SUGGESTED AGENDA**

- Preliminary issues - Report on Case Statistics
- I. Lexis/Nexis File & Serve
- II. Orders Issued as a Result of Hurricane Katrina
- III. State Court Trial Settings
- IV. Selection of Cases for Early Federal Court Trial
- V. Class Actions
- VI. Discovery Directed to Merck
- VII. PSC Request for Production of FACTS Database
- VIII. Vioxx Professional Representatives
- IX. Discovery Directed to the FDA
- X. Discovery Directed to Third Parties
- XI. Deposition Scheduling
- XII. Plaintiff Profile Form and Merck Profile Form
- XIII. Remand Issues
- XIV. Tolling Agreements
- XV. State/Federal Coordination - State Liaison Committee
- XVI. Pro Se Claimants
- XVII. Next Status Conference