

A number of lawyers displaced by Hurricane Katrina have limited or no access to e-mail or to File & Serve. The parties will be prepared to discuss this further at the monthly status conference on September 29, 2005.

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. The parties will be prepared to discuss this further at the monthly status conference on September 29, 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 *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

PSC and DSC have selected the *Irvin* case, a heart attack case, for trial commencing November 28, 2005. The parties have agreed that Houston, Texas is an appropriate and convenient forum for the trial. Accordingly, by Minute Entry dated September 16, 2005, the Court ordered that the *Irvin* trial will be held at the United States District Court for the Southern District of Texas, 515 Rusk Street, Houston, Texas 77002. PSC and DSC have agreed on the categories of cases for the second, third, and fourth trials, but disagree on which cases should be tried. The parties continue to meet and

confer to discuss this matter and will be prepared to discuss this issue further at the monthly status conference on September 29, 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. On or about September 9, 2005, DSC filed motions and responsive pleadings in accordance with Pre-trial Order No. 16. By Order entered September 15, 2005, the Court amended Pre-trial Order No. 16 to provide for new deadlines. Plaintiffs oppositions are now due on or before November 8, 2005. The parties will be prepared to discuss this and other class action issues further at the monthly status conference on September 29, 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 have had several conferences concerning these master discovery requests. On September 15, 2005, Merck served its responses and objections to this discovery. Merck will continue to make productions of documents, as identified by members of the PSC as priorities, on a rolling basis and pursuant to future meet and confer sessions with PLC. Finally, Merck advises that it has also completed its production of non case-specific discovery, depositions, and document responses pursuant to Pre-trial Order No. 17. The parties will be prepared to discuss any further discovery issues at the monthly status conference.

On August 22, 2005, DLC provided to PLC the first Privilege Log produced in this matter relating to Merck's production of initial documents. PSC and

DSC met on September 22, 2005 to discuss plaintiffs' objections to the log. Some objections were resolved by agreement; others were argued and recorded by a court reporter. The parties will be prepared to discuss privilege and other discovery issues further at the monthly status conference on September 29, 2005.

The Arcoxia and foreign document requests have been briefed and the parties will be prepared to discuss this further at the monthly status conference.

VII. PSC REQUEST FOR PRODUCTION OF FACTS DATABASE

Following the status conference on August 25, 2005, the parties submitted an agreed Pre-Trial Order governing production of certain Vioxx-related information from the FACTS database. The parties have discussed the deadlines established in PTO 21 entered on August 25, 2005 and will be prepared to discuss this further at the monthly status conference on September 29, 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>. On August 8, 2005, in accordance with Pre-Trial Order No. 20, DLC submitted to the Court a listing of the names, addresses and dates of employment of Merck's professional representatives who were involved in promoting sales of Vioxx. This list was submitted *in camera*, and under seal and is subject to the provisions of Pre-Trial Order No. 20. PLC has reviewed the list pursuant to PTO #20. Following review of the list, PLC requested that all members of the PSC be permitted access to the list. DLC opposed this request. The parties have submitted letter briefs on the issue.

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 September 29, 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, Dr. Eliav Barr has been deposed in the MDL, and the depositions of Thomas Cannell, Dr. Gilbert Block, Dr. Greg Geba, James Dunn, Susan Baumgartner and Marty Carroll have been noticed in the MDL pursuant to Pre-Trial Order No. 12. Additional depositions will be scheduled shortly by the plaintiffs.

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.

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

On June 9, 2005, PLC and DLC filed with the Court a Notice of Filing of Tolling Agreement. Attached to the Notice are the Tolling Agreement and Exhibits A, B, and C. The Tolling Agreement and Exhibits A, B, and C are available on the Court's website located at <http://vioxx.laed.uscourts.gov>. Defendants will discuss any problems regarding tolling agreements at the monthly status conference.

By Minute Entry dated September 19, 2005, the Court granted defendants a thirty (30) day extension of time in which to respond to tolling agreements. This gives defendants a total of sixty (60) days in which to respond.

XV. LOUISIANA JOINT COMPLAINTS

The PLC has suggested that Louisiana Vioxx claimants be permitted to file joint complaints (multiple plaintiffs) in order to interrupt or suspend the statute of limitations without the expense and inconvenience of filing individual civil actions in the MDL. The parties will be prepared to discuss Plaintiffs' proposal and proposed conditions thereto, as well as a procedure for staying those cases not alleging a cardiovascular event, at the monthly status conference on September 29, 2005.

XVI. 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 September 29, 2005.

XVII. 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 September 29, 2005.

XVIII. NEXT STATUS CONFERENCE

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

Respectfully submitted,

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C E R T I F I C A T E

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 _____ day of September, 2005.
