

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: VIOXX : MDL NO. 1657  
PRODUCTS LIABILITY LITIGATION : SECTION: L  
..... : JUDGE FALLON  
MAG. JUDGE KNOWLES

**THIS DOCUMENT RELATES TO ALL CASES**

**PRETRIAL ORDER #15**

**I. APPLICABILITY OF ORDER**

This Order shall govern all cases (1) transferred to this Court by the Judicial Panel on Multidistrict Litigation, pursuant to its Order of February 16, 2005; (2) any tag-along actions subsequently transferred to this Court by the Judicial Panel on Multidistrict Litigation pursuant to Rule 7.4 of the Rules of Procedure of that Panel; and (3) all related cases originally filed in this Court or transferred or removed to this Court. As used herein, "Individual Cases" refers to cases asserting claims solely on behalf of individual named plaintiffs (that is, non class-actions).

**II. FILING OF PRE-TRIAL ORDER NO. 15**

Notice of this Order shall be filed in each case transferred to this District and shall apply to all such cases removed to, or transferred to, this Court and cases filed in this Court that are within the subject matter of this MDL. In cases subsequently filed, notice of this Order will be provided by the Clerk to each Plaintiff at the time of filing the complaint. In cases subsequently removed or transferred to this Court, a copy will be provided by the Clerk to each new party upon removal or transfer.

### **III. PLEADINGS IN INDIVIDUAL CASES**

#### **A. Waiver of Service of Process**

To eliminate disputes over service of process and reduce the expense of such service, defendant Merck & Co., Inc. ("Merck") has agreed to waive service of process for VIOXX®-related Individual Cases filed in federal courts, subject to the provisions of Fed. R. Civ. P. 4(d) (as modified herein). The complaint and notice required by that Rule (with the exception of the materials listed in Rule 4(d)(2)(G), which are not necessary) should be provided to counsel for Merck by e-mailing the documents to "MDL@wcsr.com" or mailing them (with an e-mail address for return confirmation) to:

Ellen M. Gregg, Esq.  
Womble Carlyle Sandridge & Rice, PLLC  
301 N. Main Street, Suite 300  
Winston-Salem, NC 27101

Merck is not required to return the waiver forms contemplated by Rule 4(d)(2), but shall simply send a confirmation of first receipt of a complaint to plaintiffs' counsel by e-mail or otherwise and shall respond to the complaints as set forth herein.

#### **B. Notice Under Rule 4(d)**

For Individual Cases already filed, plaintiff shall have thirty (30) days after the date of this Order to provide Merck with notice pursuant to Rule 4(d). For subsequent Individual Cases, plaintiffs shall provide Merck with such notice within thirty (30) days after the case is filed in, removed to, or transferred to this Court.

**C. Response to Complaints**

1. For Individual Cases, defendants shall have sixty (60) days from the date of confirmation of receipt of the complaint to answer or otherwise plead.

2. Defendants already served with a complaint in an Individual Case that was originally filed in this Court or that has been transferred to this Court and as to which no response has yet been filed shall have forty-five (45) days from entry of this Order to answer or otherwise plead.

3. For complaints in the Individual Cases subsequently transferred to this Court as to which plaintiffs do not avail themselves of the provisions of Paragraphs III.A and III.B above, defendants shall have thirty (30) days from the date of transfer to answer or otherwise plead.

NEW ORLEANS, this 31<sup>st</sup> day of May, 2005.

A handwritten signature in black ink that reads "Eldon E. Fallon". The signature is written in a cursive style with a horizontal line underneath it.

ELDON E. FALLON  
UNITED STATES DISTRICT JUDGE