

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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IN RE: VIOXX PRODUCTS  
LIABILITY LITIGATION

\* MDL NO. 1657  
\*  
\* SECTION: "L"  
\*  
\* JUDGE FALLON  
\* MAG. JUDGE KNOWLES

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THIS DOCUMENT RELATES TO ALL CASES

**JOINT REPORT NO. 1 OF  
PLAINTIFFS' AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel (PLC) and Defendants' Liaison Counsel (DLC) jointly submit this Joint Report No. 1.

I. Service List of Counsel/Lexis-Nexis Electronic Service Application

PLC and DLC met with the Court and Lexis/Nexus (formerly Verilaw Technologies, Inc.) to discuss cost, security, work product and privacy issues, master service list and related items relating to the creation and implementation of an electronic service application. The electronic service application would enable service, via e-mail, of all documents and pleadings. The Lexis/Nexis electronic service application provides a web based docket and document delivery system that will handle electronic service to all counsel, prepare an index of served pleadings or documents, create a calendar and is accessible for counsel 24/7/365. All counsel in MDL 1657 will be required to register with Lexis/Nexis. In order to register, counsel will need to be on the service list of counsel in MDL 1657. PLC and DLC have agreed, after discussions with the Court, that a service list of

counsel in MDL 1657 will be prepared by DLC and provided to PLC on an ongoing monthly basis. The service list shall contain case identification, as well as claimant and counsel contact information. This information will be prepared from cases filed throughout the country relating to Vioxx, as well as the Counsel Contact Information Form that has been added as an attachment to Pre-Trial Order No. 5. PLC and DLC await further information from Lexis/Nexus as regards cost for implementation, costs on an ongoing basis and the time frame for setup.

II. Trial Settings

PLC and DLC have discussed the need for a master list of all Vioxx lawsuits that are set for trial, which list shall contain the name of the parties, the court identification, docket number and an identification of all counsel of record. DLC has agreed to provide such a listing on an ongoing monthly basis.

III. Plaintiffs' Steering Committee

Applications for appointment to the Plaintiffs' Steering Committee have been submitted by various counsel. PLC is prepared to convene a meeting of the PSC upon appointment of the PSC by the Court.

IV. Defendant's Steering Committee

Until it is determined what defendant groups will be named in these proceedings and which counsel would be most representative of any such groups, it is premature to consider the formation of a Defendant's Steering Committee at this time. DLC will monitor the filing of cases and advise the Court at future monthly status conferences about the grouping of defendants.

V. Master Complaint(s) and Master Answer(s)

PLC and DLC have agreed to report to the Court, following the formation of the PSC, whether a Master Complaint(s) will be drafted. Discussions between PLC and DLC will include the advisability of employing a complementary master answer(s) and whether such a Master Complaint(s) will be limited solely to class issues.

VI. Tolling Agreement

PLC and DLC have discussed the applicability of a master Tolling Agreement to be used in MDL 1657. PLC and DLC will continue to meet and confer on this issue.

VII. Deposition Guidelines

PLC and DLC have met and conferred to discuss an initial protocol for the taking of depositions in MDL 1657. The parties will be prepared to discuss this further at the monthly status conference on March 18, 2005.

Further, PLC and DLC have discussed depositions that have already been taken in state and federal Vioxx litigation. DLC has agreed to provide to PLC, at plaintiffs' cost, copies of all depositions so that PLC can maintain copies in a depository. The deposition copies will include exhibits and will be provided in electronic and video format, subject to compliance with any applicable confidentiality orders.

VIII. Plaintiffs' Document Depository

PLC and DLC have met and conferred regarding the establishment and creation of a depository for documents and data to be produced to the PSC. DLC has advised

that, to date, Merck has produced, in various state and federal Vioxx litigation throughout the country, approximately 7,000,000 pages of documents that are Bates numbered. Virtually all documents have been produced electronically and are fully searchable. PLC is in communication with DLC so that these documents can be made available to PLC and an electronic depository can be established in New Orleans, Louisiana, that will be available to all plaintiffs' counsel in MDL 1657. The parties desire to facilitate discovery and save time, money and resources, and therefore will have additional meetings and conferences to enable the plaintiffs' depository to be established in the next thirty (30) days. The parties will be prepared to discuss this further at the monthly status conference on March 18, 2005.

IX. Plaintiff Profile Form

DLC has provided PLC a proposed Plaintiff Profile Form ("PPF"). Discussions regarding such a PPF, together with medical authorizations and HIPAA related issues, will occur following the creation of the PSC. Furthermore, PLC and DLC have discussed the establishment of a healthcare provider records depository that can be accessible to all plaintiff and defense counsel. The parties will meet and confer to further discuss the creation of a joint healthcare provider records depository.

X. Plaintiff Time and Billing Guidelines

PLC is preparing time and billing guidelines to be submitted to the Court for consideration. In connection with the creation of such guidelines, PLC has had communications with accountants and will be submitting guidelines for the

Court's consideration. PLC will be prepared to discuss this further at the monthly status conference on March 18, 2005.

XI. Position Papers

PLC and DLC each submitted their respective position papers on March 11, 2005 to the Court pursuant to PTO 2.

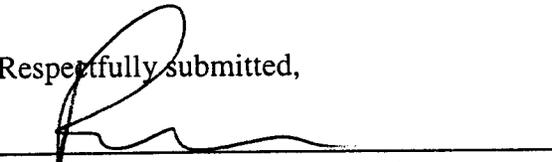
XII. Third-Party Payor Claims/Defendants Other than Merck

PLC and DLC have been made aware of various claims asserted by Third-Party Payors. Further, there is a potential for other defendants in this MDL in addition to Merck & Co., Inc. The parties will be prepared to discuss this further at the monthly status conference on March 18, 2005.

XIII. Next Status Conference

PLC and DLC will be prepared to schedule a status conference in April, 2005 at a date to be selected by the Court.

Respectfully submitted,



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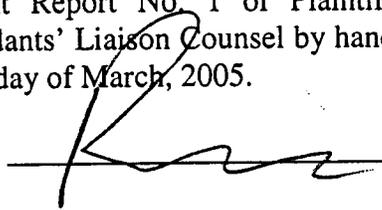
Russ M. Herman (Bar No. 6819)  
Leonard A. Davis (Bar No. 14190)  
***Herman, Herman, Katz & Cotlar, LLP***  
820 O'Keefe Avenue  
New Orleans, LA 70113  
PH: (504) 581-4892  
FAX: (504) 561-6024  
**Plaintiffs' Liaison Counsel**

*Dorothy H. Wimberly*

Phillip A. Wittmann (Bar No. 13625)  
Anthony DiLeo (Bar No. 4942)  
Dorothy H. Wimberly (Bar No. 18509)  
Stone Pigman Walther Wittmann L.L.C.  
546 Carondelet Street  
New Orleans, LA 70130-3588  
PH: (504) 581-3200  
FAX: (504) 581-3361  
**Defendants' Liaison Counsel**

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Joint Report No. 1 of Plaintiffs' and Defendants' Liaison Counsel was served on Defendants' Liaison Counsel by hand and e-mail and to parties pursuant to PTO-2, on this 16<sup>th</sup> day of March, 2005.



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**Monthly Status Conference**  
**March 18, 2005- 9:00 a.m.**

**SUGGESTED AGENDA<sup>1</sup>**

**Current Matters:**

1. Service List of Counsel/Lexis-Nexis Electronic Service Application
2. Trial Settings
3. Plaintiffs' Steering Committee
4. Defendants' Steering Committee
5. Master Complaint
6. Tolling Agreement
7. Deposition Guidelines
8. Plaintiffs' Document Depository
9. Plaintiff Profile Forms
10. Plaintiff Time and Billing Guidelines
11. Position Papers
12. Third-Party Payor Claims/Defendants Other than Merck

13. Next Status Conference

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<sup>1</sup> DLC does not agree that items 4, 5, 6, and 11 should be on the agenda for the Initial Conference. However, this matter can be discussed prior to the Initial Conference at the 8:30 a.m. meeting between Liaison Counsel and the Court.  
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