

October 2006 Vioxx® Litigation Update

The purpose of this letter is to provide you with an update on the Vioxx MDL, which is being overseen by Judge Fallon in the U.S. District Court, Eastern District of Louisiana (MDL No. 1657). (Website address: <http://vioxx.laed.uscourts.gov/>)

First, as you may recall from our last update, Judge Fallon advised that he wanted to try approximately five cases in 2006, (*Irvin, Barnett, Smith, Mason, and Dedrick*), before attempting to reach a global settlement for the thousands of Vioxx cases on his docket. If a global settlement cannot be reached, the cases will be returned to their respective jurisdictions for trial. To date, Merck has insisted that it intends on defending every case individually, and is not interested in a global settlement.

A summary of the verdicts in the three federal MDL cases that have gone to trial already, as well as numerous state court actions, can be found [here](#). The results have been mixed. Plaintiff's verdicts have included both compensatory and punitive damages. Compensatory damages are meant to compensate the Plaintiff for the injury sustained. Compensatory damages include economic losses (i.e. medical expenses, lost wages, etc.) and non-economic damages (i.e. pain and suffering, loss of consortium, etc). Punitive damages are meant to punish the wrongdoer where the wrong done to the Plaintiff is aggravated by circumstances of fraud, or intentional, willful, wanton, or reckless conduct.

There are also ten separate trials scheduled to begin in both federal and state court over the next eight months. We have provided a summary of the upcoming trials that we will keep updated, which can be found [here](#).

In the meantime, discovery continues to go forward. The FDA documents and documents from other third parties continue to be produced on a rolling basis. We are likewise beginning to prepare each of your cases for trial, should global settlement attempts fail and the cases are sent back to the courts in which they originated.

For those whose cases have recently been filed, it is essential that you timely return your Plaintiff Profile Forms, or Merck may request dismissal of your action.

If you have any questions, please do not hesitate to contact us. We will be in touch as the juries return verdicts in the New Orleans and Texas cases.