

VIOXX JURY VERDICT SUMMARY

DATE	JURISDICTION	PLAINTIFF	OUTCOME
August 19, 2005	Texas State Court	<i>Robert Ernst- 59 Yrs. (death)</i>	Plaintiff's Verdict. \$24 million in compensatory \$229 million in punitive (However, this punitive damage award will be severely reduced under Texas law.)
November 3, 2005	New Jersey State Court	<i>Frederick Humeston- 61 years (MI)</i>	Defense Verdict (However, in August 2006, the Judge threw out the verdict and ordered a new trial based on evidence that the risks associated with Vioxx can occur almost as soon as a person starts taking the drug, which was contrary to Merck's position at trial. The second trial occurred in March of 2007 and resulted in a Plaintiff's Verdict in the amount of \$47.5 million. See below.)
December 12, 2005	Texas Federal Court (Although this MDL case was to be tried in the U.S. Dist. Court, Eastern Dist. of Louisiana, the trial took place in Houston due to the aftermath of Hurricane Katrina.)	<i>Richard Irvin- 53 yrs. (death)</i>	Hung Jury (The jury could not agree on a verdict, so a mistrial was declared and a new trial date was set.)
February 17, 2005	U.S. Dist. Court Eastern District of Louisiana (MDL No. 1657)	<i>Richard Irvin</i>	Defense Verdict
April 5, 2006	New Jersey State Court	<i>John McDarby- 59 yrs (death) & Thomas Cona- 77 yrs (MI)</i>	Split Verdict Plaintiff's Verdict for McDarby \$4.5 million in compensatory \$9 million in punitive However, the jury found that Vioxx did <u>not</u> play a role in Cona's heart attack and only awarded Cona \$45.00 (the cost of the medicine) and attorney's fees, for Merck's violation of the New Jersey's consumer fraud statute.
April 21, 2006	Texas State Court	<i>Leonel Garza- 77 yrs (death)</i>	Plaintiff's Verdict. \$7 million in compensatory \$25 million in punitive (However, this punitive damage award was severely reduced under Texas law.)

			Although Merck filed a Motion for a new trial, it was not ruled on within the time required under state law, so the 7.75 million reduced verdict was upheld in March 2007.)
July 13, 2006	New Jersey State Court	<i>Elaine Doherty- 68 yrs (MI)</i>	Defense Verdict
August 8, 2006	California State Court	<i>Stewart Grossberg- 66 yrs (MI)</i>	Defense Verdict
August 17, 2006	U.S. Dist Court Eastern District of Louisiana (MDL No. 1657)	<i>Gerald Barnett- 62 yrs (MI)</i>	Plaintiff's Verdict. \$50 million in compensatory \$1 million in punitive. (However, on August 30, 2006, Judge Fallon ordered a new trial to reassess damages, holding that the \$50 million in compensatory damage award was "grossly excessive" as the plaintiff was retired "and therefore cannot recover for lost wages or lost earning capacity." The retrial of this case is set for October 29, 2007.)
September 28, 2006	U.S. Dist Court Eastern District of Louisiana (MDL No. 1657)	<i>Robert Smith- 56 yrs (MI)</i>	Defense Verdict.
November 15, 2006	U.S. Dist Court Eastern District of Louisiana (MDL No. 1657)	<i>Charles Laron "Ron" Mason- 61 yrs (MI)</i>	Defense Verdict
December 13, 2006	U.S. Dist Court Eastern District of Louisiana (MDL No. 1657)	<i>Anthony Wayne Dedrick- 51 yrs (MI)</i>	Defense Verdict
December 15, 2006	Alabama Circuit Court, Jefferson County	<i>Gary Albright- 57 yrs (MI)</i>	Defense Verdict
January 19, 2007	California State Court	<i>Rudolph Arrigale- 72 yrs (MI) Lawrence Appell- 51 yrs (MI)</i>	Hung Jury (The jury did find that Vioxx had potential risks or side-effects that were known or knowable and that they presented a substantial danger to users of Vioxx. However, the jury was unable to decide whether the plaintiffs' physicians would have recognized the drug risks. A new trial date will be set.)
March 2, 2007	New Jersey State Court	<i>Frederick Humeston- 61 yrs. (MI) and Brian Hermans- 44 yrs. (death)</i>	Split Verdict Plaintiff's Verdict for Humeston \$20 million in compensatory \$27.5 million in punitive (This case was originally tried in November 2005 and resulted in a defense verdict. However, the Judge ordered this

			<p>retrial of the case.)</p> <p>The Jury found against Hermans finding that Merck gave proper warning about Vioxx risks before Hermans died, but not before Humeston suffered his heart attack a year earlier. (In between, Merck put a stronger warning in the package insert for Vioxx, under pressure from federal regulators.) However, the jury did find that Merck had violated New Jersey's consumer fraud law entitling Hermans' widow to up to three times the amount he spent on Vioxx prescriptions.</p>
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