

P-6
PS
ENTX
STIPX
PRDSX

MASTER DOCKET NO. 2005-59499

In re:
TEXAS STATE VIOXX LITIGATION
(This pleading applies to all cases)

SECTION 501(b)(7)(D)

IN THE DISTRICT COURT OF
HARRIS COUNTY, TEXAS

157TH JUDICIAL DISTRICT

ADDENDUM TO STIPULATION AND PROTECTIVE ORDER

WHEREAS, subject to and without waiver of defendant Merck & Co., Inc.'s ("Merck") objections to the production of data contained in Merck's CTS database ("CTS"), it has been asserted that an **Addendum to Stipulation and Protective Order** dated October 19, 2005, ("Protective Order") specifically preserving the confidentiality (1) of certain data contained in CTS and (2) of Confidential Information produced in electronic form other than .tiff images ("Confidential Electronic Information") should be entered by the Court pursuant to Texas Rule of Civil Procedure 192.6.

IT IS HEREBY STIPULATED AND AGREED THAT in addition to all applicable protections set forth in the Protective Order, this Addendum will govern (a) the use and distribution of CTS data and (b) the use and distribution of Confidential Electronic Information.

CTS Data

1. Merck will produce the data pertaining only to the VIOXX® clinical trial contained in CTS to the Texas Plaintiffs' Counsel Repository, c/o Abraham, Watkins, Nichols, Sorrels, Matthews & Friend, 800 Commerce Street, Houston, Texas 77002-1776 on LTO1 tape as an Oracle export file, Omniback II format version 4.1.

2. The production of CTS is subject to the following confidentiality protections:

- a. Merck will delete patient identifying information, such as names, physicians and hospitals, from CTS.

- b. Plaintiffs may maintain one working copy of CTS at the offices of Abraham, Watkins, Nichols, Sorrels, Matthews & Friend, 800 Commerce Street, Houston, Texas 77002-1776.
- c. Plaintiffs may send a ^{new} working copy of CTS, or subsets of data extracted from CTS, to ~~up to three~~ consultants who are permissible recipients. A permissible recipient is a person who is not, independent of this litigation: (i) a current director, officer, or employee of a company, including pharmaceutical, biotech, and generic pharmaceutical companies, which develops, manufactures, licenses or promotes or has in development a selective COX-2 inhibitor or (ii) a consultant who is currently or in the past two years has consulted about a selective COX-2 inhibitor or selective COX-2 inhibition generally.
- d. Plaintiffs will use due diligence to determine whether a proposed recipient is a permissible one as defined above prior to sending CTS or any part of CTS to the proposed recipient and shall provide to the Court a CV of each of the proposed expert consultants in advance of allowing the proposed consultant to view the CTS.
- e. The consultants will sign certifications reciting that they have read the Protective Order and this Addendum and will abide by the Protective Order and the extra terms set forth in this Addendum. (Where the terms of the Protective Order and this Addendum differ, this Addendum controls.) The certification will state that the recipients understand that they are subject to liability and contempt of court sanctions for violations of the Protective Order or this Addendum and that the recipients submit to the jurisdiction of this Court.
- f. Neither counsel nor the recipients will further copy or further disseminate any part of CTS except that the recipients can put the files onto a computer to work with them, can use when necessary their assistants (if they meet the same criteria as the recipients and who sign the same form of certification as the recipients), and can keep their analyses files and printouts (but not distribute them to anyone except counsel of record). The recipients shall make every effort to secure the files, will not commingle them on their computers, and any printouts will be kept such that they are clearly marked "Confidential – Dissemination Strictly Limited by Addendum to Protective Order Regarding CTS Data."
- g. Absent further order of the Court, neither counsel nor the recipients will share or discuss the contents of any part of CTS or any analyses and printouts with counsel who are not counsel of record in this litigation or with any other persons and will not share or discuss the contents of any part of CTS or any analyses and printouts with recipients except permissible recipients as defined herein in subparagraph c.

h. Counsel will collect the CTS production and all copies, subsets, and analyses and printouts and return them to Merck promptly after the litigation need for such materials has expired.

3. Merck does not agree that the confidentiality provisions set forth in Paragraph 2 adequately protect Merck's trade secrets with respect to CTS.

Confidential Electronic Information

4. The designation of the storage medium containing Confidential Electronic Information shall serve to designate each of the files on the medium, unless otherwise specified by the Supplying Party.

5. Where the Receiving Party seeks to share Confidential Information with permissible parties as described in and in accordance with the Protective Order, the Receiving Party shall mark printouts of Confidential Electronic Information with the legend "Confidential - Subject to Protective Order" prior to disseminating the Confidential Information.

6. The Receiving Party shall mark the storage medium of any permissible copies of the Confidential Electronic Information with the legend "Confidential - Subject to Protective Order."

7. The Receiving Party shall use reasonable efforts to prevent Confidential Electronic Information from being stored in computers to which persons not authorized to view Confidential Information have access. The Receiving Party shall also take reasonable steps to ensure that printouts and copies of Confidential Electronic Information maintained by the Receiving Party, and not disseminated to permissible parties, are kept in a manner that will prevent unauthorized users from viewing the printouts or copies.

8. Where the Receiving Party seeks to share Confidential Information with permissible parties as described in and in accordance with the Protective Order, the Receiving Party shall mark any hard copies of analyses, distillations, or other documents that are derived

31116511.1

from Confidential Electronic Information with the legend "Confidential - Subject to Protective Order" prior to disseminating the Confidential Information.

SO STIPULATED on this 3 day of May 2006.

FULBRIGHT & JAWORSKI L.L.P.

By Gerry Lowry

Gerry Lowry

State Bar No. 12641350

Julie Hardin

State Bar No. 24013613

Kelli Chism Jones

State Bar No. 24026949

1301 McKinney, Suite 5100

Houston, Texas 77010-3095

Telephone: (713) 651-5151

Telecopier: (713) 651-5246

Jonathan B. Skidmore

State Bar No. 18462500

2200 Ross Avenue, Suite 2800

Dallas, Texas 75201

Telephone: 214/855-8000

Telecopier: 214/855-8200

COUNSEL FOR DEFENDANT

MERCK & CO., INC.

**ABRAHAM, WATKINS, NICHOLS,
SORRELS, MATTHEWS & FRIEND**

By David P. Matthews

David P. Matthews

State Bar No. 13206200

Jason C. Webster

State Bar No. 24033318

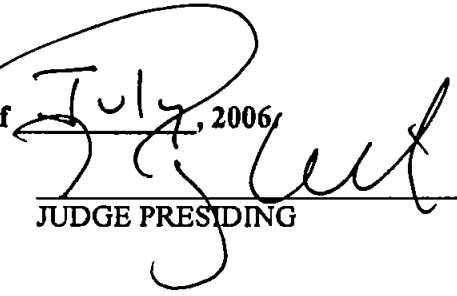
800 Commerce Street

Houston, Texas 77002-1776

Telephone: (713) 222-7211

Telecopier: (713) 225-0827

NOTICE COUNSEL FOR PLAINTIFFS

SO ORDERED this 28th day of July, 2006,


JUDGE PRESIDING

F I L E D
CHARLES BACARISSE
District Clerk
AUG 04 2006
Harris County, Texas
By _____
Deputy

For Official Governmental Use Only - Do Not Disseminate to the Public: 23760183 - Page 5 of 7

MASTER FILE NO. NO. 2005-59499

<p>IN RE:</p> <p>TEXAS STATE VIOXX LITIGATION</p> <p>This Document Relates to All Cases</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>IN THE DISTRICT COURT OF</p> <p>HARRIS COUNTY, TEXAS</p> <p>157TH JUDICIAL DISTRICT</p>
---	---	---

CERTIFICATION

I hereby certify that I have read the **Addendum to Stipulation and Protective Order** entered in the above-captioned action and that I understand the terms thereof.

I agree to be bound by the Addendum to Stipulation and Protective Order.

I further agree to submit to the jurisdiction of this Court for purposes of enforcing the Addendum to Stipulation and Protective Order, and I understand that the Court may impose sanctions on me for any violation of the Addendum to Stipulation and Protective Order.

I understand that these certifications are strictly confidential, that counsel for each party are maintaining the certifications without giving copies to the other side, and that the parties expressly agreed and the Court ordered that, except in the event of a violation of this Order, the parties will make no attempt to seek copies of the certifications or to determine the identities of persons signing them. I further understand that if the Court finds that any disclosure is necessary to investigate a violation of this Order, the disclosure will be limited to outside counsel only and outside counsel shall not disclose any information to their clients that could tend to identify any certification signatory unless and until there is specific evidence that a particular signatory may have violated the Order, in which case limited disclosure may be made with respect to that signatory.

Date: _____

(Signature)

Name: _____
(Typed or Printed)



I, Charles Bacarisse, District Clerk of Harris County, Texas, certify that this is a true and correct copy of the original record filed and or recorded in my office, electronically or hard copy, as it appears on this date
Witness my official hand and seal of office
this _____

Certified Document Number: _____

CHARLES BACARISSE, DISTRICT CLERK
HARRIS COUNTY, TEXAS

In accordance with Texas Government Code 406.013 electronically transmitted authenticated documents are valid. If there is a question regarding the validity of this document and or seal please e-mail support@hcdistrictclerk.com