

MASTER DOCKET NO. 2005-59499A

Ruby Ledbetter,

*Plaintiff*

v.

Merck & Co., Inc.,

*Defendant.*

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

157<sup>TH</sup> JUDICIAL DISTRICT

(Trial Court: 151<sup>st</sup> Dist. Court of Harris  
County, Cause No. 2005-58543)

Harris County, Texas  
Deputy

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CHARLES H. CARP  
District Clerk

**FURTHER ORDER ON MERCK & CO.'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT ON WARNINGS CLAIMS, AND SEVERANCE**

On the 19<sup>th</sup> day of April, 2007, this Court granted in part Merck & Co.'s No-Evidence Motion for Partial Summary Judgment on Warnings Claims and severed Plaintiff Ledbetter's failure to warn claims. This Court nevertheless retains plenary power over this cause by virtue of the filing, on May 21, 2007, of Plaintiff's Motion for New Trial or, in the Alternative, Motion to Modify, Correct or Reform the Court's April 19 Judgment on Severed Warnings Claims, a copy of which is attached as Exhibit A.<sup>1</sup>

As set forth in this Court's April 19 Order, the severed case is to be styled Master Docket No. 2005-59499A, *Ruby Ledbetter v. Merck & Co., Inc.*, in the District Court of Harris County, Texas, 157th Judicial District.

<sup>1</sup>Said document and the appropriate filing fee was timely filed with the District Clerk; however, because there was not a file in which to place the documents, the Clerk is holding them until such time as a file is created. Defendant does not object to the timeliness or manner of filing of said documents.

As further set forth in that Order and specified here, the following documents are to be included in the file/record of the severed case:

1. Plaintiffs' Original Petition, filed September 9, 2005;
2. Defendant Merck & Co., Inc.'s Original Answer, filed October 26, 2005;
3. Response by the Plaintiffs' Steering Committee to Merck's Motion for Partial Summary Judgment on Warning Claims, filed October 3, 2006;
4. The Plaintiffs' Steering Committee's Motion for Leave to Supplement Their Response to Merck's Motion for Partial Summary Judgment on the Warning Claims, filed October 27, 2006;
5. Plaintiffs' Steering Committee's Supplemental Response to Merck & Co.'s Motion for Partial Summary Judgment Regarding the Preemptive Effect of the FDA Preamble, filed December 1, 2006;
6. Plaintiffs' Steering Committee's Supplemental Response to Merck & Co.'s Motion for Partial Summary Judgment on Warnings Claims on the Issue of Materiality, filed December 13, 2006;
7. The Plaintiffs' Steering Committee's Response to Merck's Further Reply to Plaintiffs' Supplemental Response to Merck's Motion for Partial Summary Judgment on Warnings Claims, filed April 5, 2007;
8. Merck's Motion for Partial Summary Judgment on Warnings Claims, filed August 14, 2006;
9. Merck's Reply to Plaintiffs' Response to Motion for Partial Summary Judgment on Warnings Claims, filed October 17, 2006;
10. Merck's Supplemental Brief in support of Its Motion for Partial Summary Judgment on Warnings Claims, filed November 20, 2006; and
11. Merck's Further Reply to Plaintiffs' Response to Motion for Partial Summary Judgment on Warnings Claims, filed March 8, 2007.

The parties have agreed to provide this Court with copies of all of the documents listed above and the attached exhibits, if any, and are hereby ordered to provide such copies within one week of the date of signing of this Order. As the result, the costs of providing such documents will be borne

by the parties that incurred them. All other costs taxable under applicable Texas and local rules to the severed claims alone are allocated to Plaintiff.

Signed and entered this 8th day of June, 2007.

  
\_\_\_\_\_  
Presiding Judge



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](mailto:support@hcdistrictclerk.com)**