

MASTER DOCKET NO. 2005-59499

P-37  
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In Re:  
Texas State Vioxx Litigation  
This Document Relates to All Cases

IN THE DISTRICT COURT OF  
HARRIS COUNTY, TEXAS  
157TH JUDICIAL DISTRICT

**FILED**  
Theresa Chang  
District Clerk

AMENDED PRETRIAL ORDER No. 5  
(Registration of Claims)

NOV 14 2007

Time: \_\_\_\_\_  
Harris County, Texas  
By \_\_\_\_\_  
Deputy

The Court hereby orders as follows with respect to the registration of claims:

(1) The Court hereby orders the registration of claims as follows:

(a) All Counsel of Record in this proceeding shall be responsible for designating Primary Counsel for any claim pending in this coordinated proceeding in which they have an Interest (as defined below in paragraph 5) and that Primary Counsel shall register such claims in accordance with this Order.

(b) All Counsel of Record with claims pending in this proceeding shall register (or ensure that other attorneys register) all claims in which they have an Interest (as defined below in Paragraph 5) that are pending in any court or other tribunal in the United States.

(c) All persons who represent themselves *pro se* in this proceeding shall register their claims in accordance with Paragraph 4 below.

(2) The registration of claims by counsel shall be provided in the form of a Registration Affidavit and its Exhibit 1, altogether set forth as Exhibit A to this Order. Counsel shall provide the information required by Exhibit A completely and accurately. The form shall

provide the information required as of (a) October 1, 2007, (b) November 9, 2007, and (c) the date on which the Registration Affidavit is served and filed. The Registration Affidavit shall be filed no later than January 15, 2008.

(3) Registration Affidavits, along with their exhibits, shall be served on Defendant Merck & Co., Inc. (“Merck”), Plaintiffs’ Steering Committee (“PSC”), and the Claims Administrator.

(4) Persons who represent themselves *pro se* in this proceeding shall complete the *Pro Se* Registration Affidavit attached hereto as Exhibit B and shall serve Defendant Merck, the PSC, and the Claims Administrator by no later than January 15, 2008.

(5) Counsel shall be deemed to have an “Interest” in the claim of a Plaintiff if Counsel or any person affiliated with, or related in any way to, Counsel: (a) has an engagement or retainer agreement with such Plaintiff; (b) is listed as the counsel of record for such Plaintiff in filed pleadings related to Vioxx; (c) has entered an appearance for such Plaintiff in any legal action related to Vioxx; (d) would benefit directly or indirectly from any payment to settle any claim of such Plaintiff connected with Vioxx; or (e) otherwise has any financial interest of any kind whatsoever in any claim of such Plaintiff connected with Vioxx.

(6) Primary Counsel shall file the Registration Affidavit and its Exhibit 1 in the manner applicable in this coordinated proceeding for filing documents with the Court under seal. *Pro Se* Claimants shall do likewise with respect to their *Pro Se* Registration Affidavit. Primary Counsel shall also serve the Registration Affidavit and its Exhibit 1 on Merck, the PSC, and the Claims Administrator via electronic mail. Specifically, Primary Counsel shall attach three files to a single electronic mail message—(i) the executed Registration Affidavit in Adobe

pdf format; (ii) Exhibit 1 to the Registration Affidavit in Excel format; and (iii) a certification of service in Adobe pdf format—and send that message to the following addresses:

- a. **For Merck:** registration@hugheshubbard.com
- b. **For the PSC:** tfibich@fhl-law.com
- c. **For the Claims Administrator:** claimsadmin@browngreer.com

(7) The subject line in the email should state: “Registration Affidavit and Exhibit 1 for [insert name of firm]. *Pro Se* Claimants shall serve their Registration Affidavits on Merck, PSC and the Claims Administrator at the above email addresses. If the *Pro Se* Claimant does not have access to email, the Plaintiff or Tolling Claimant shall send the Registration Affidavit via U.S. Mail **postmarked no later than January 8, 2008** to:

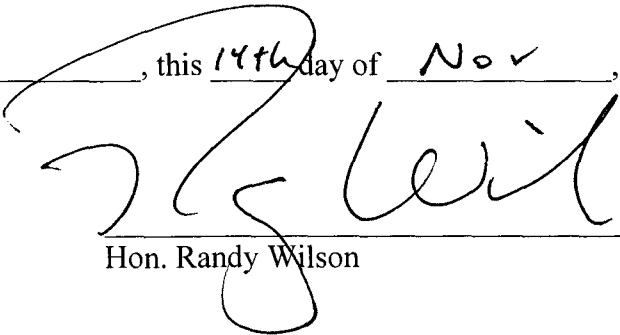
Claims Administrator  
115 S. 15th Street  
Suite 400  
Richmond, VA 23219-4209  
Main Number: 804.521.7200

(8) Primary Counsel and *Pro Se* Claimants must certify in lieu of oath [pursuant to 28 U.S.C. § 1746] that the information contained in the Registration Affidavit is true and correct to his or her knowledge. Intentionally incomplete or misleading responses shall subject Primary Counsel and *Pro Se* Claimants to sanctions.

(9) Primary Counsel shall serve a revised Registration Affidavit and Exhibit 1 when he or she acquires or loses his or her Interest in a Plaintiff’s claim, when he or she becomes Primary Counsel or ceases to be Primary Counsel, or when because of changed circumstances his or her Registration Affidavit otherwise becomes materially untrue, in whole or in part. In such instances, Primary Counsel must serve a true and correct Registration Affidavit within 30 days of the changed circumstances. The revised Registration Affidavit shall identify all

Plaintiffs in whose claims Primary Counsel has an Interest as of the date that he or she executes the Registration Affidavit. This obligation shall terminate on September 1, 2008.

(10) The Court expects all Counsel and all *Pro Se* Plaintiffs to comply with this Order. Failure to meet the requirements of this Order by the deadlines set herein will subject non-compliant Counsel or *Pro Se* Plaintiffs to a show cause hearing as to why they have not complied with this Order and as to why claims in which they have an Interest should not be dismissed.

Signed \_\_\_\_\_, this 14<sup>th</sup> day of Nov, 2007.  
  
\_\_\_\_\_  
Hon. Randy Wilson

# Exhibit A

**Registration Affidavit**

I, \_\_\_\_\_, hereby certify [pursuant to 28 U.S.C. § 1746] as follows:

1. I am an attorney in good standing who is admitted to practice law in the State of \_\_\_\_\_. The name and address of my law firm are:

\_\_\_\_\_  
Law Firm

\_\_\_\_\_  
Street

\_\_\_\_\_  
City State Zip Code

2. I make this certification pursuant to Pretrial Order No. \_\_\_\_ entered in [the current coordinated proceeding].

3. Exhibit 1 to this certification contains a true and complete list of all of the Plaintiffs in which I have an "Interest" and for whom I am "Primary Counsel" along with a notation of all firms with an Interest in Each Claim as of October 1, 2007.

I certify under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Primary Counsel

Sign ONE of the statements below:

1. I, \_\_\_\_\_, on behalf of myself and all other counsel with an Interest in the cases listed in Exhibit 1, agree to the terms of the MSA and will recommend all Plaintiffs listed on Exhibit 1 should enroll in the Program.

\_\_\_\_\_

OR

2. I, \_\_\_\_\_, do not agree to the terms of the MSA and will not recommend that any of the Plaintiffs listed on Exhibit 1 enroll in the Program.

\_\_\_\_\_

## **EXHIBIT 1**

The following attached exhibit to this Order is an exemplar only.

Counsel are instructed to use only the Excel version of this spreadsheet available for download at [www.browngreer.com/vioxxsettlement](http://www.browngreer.com/vioxxsettlement).

# Claims Spreadsheet

## INFORMATION ABOUT THE PRIMARY COUNSEL SUBMITTING THIS SPREADSHEET

First Name	M.I.	Last Name
Law Firm		
Street		
City		
State	Zip Code	
Phone Number		
E-mail Address		
Date of Current Registration Affidavit		

Exemplar

PRIMARY COUNSEL



# Claims Spreadsheet

INFORMATION ABOUT PLAINTIFFS AND TOLLING CLAIMANTS IN WHOSE CLAIMS COUNSEL HAVE AN INTEREST

	Name of the Relevant Voxx User			Social Security Number	Date of Birth	Information about the Relevant Voxx User, Regardless of Whether the Voxx User Has Filed a Lawsuit or Entered a Tolling Agreement Last/Current Address of the Relevant Voxx User				
	First Name	Middle Initial	Last Name			Street 1	Street 2	City	State	Zip Code
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Exemplar

CLAIMANTS



Tolling Agreement Information				Interest of Counsel				Enrollment		Name of Non-Vox-User Plaintiff / Tolling Claimant No. 1				
Was a Tolling Agreement Ever Entered into with respect to this Vox User? (Y/N)	Effective Date of Tolling Agreement	Was the Tolling Agreement Ever Terminated? (Y/N)	Date of Termination	Does Primary Counsel Have an Interest in this Claim as of 10/10/7? (Y/N)	Does Primary Counsel Have an Interest in this Claim as of 11/9/07? (Y/N)	Does Primary Counsel Have an Interest in this Claim as of Enrollment? (Y/N)	Does Primary Counsel Have an Interest in this Claim as of the date of the most recent Registration Affidavit? (Y/N)	Has Primary Counsel Received Remuneration, or a Promise of Remuneration, in Exchange for Terminating His Interest in this Claim? (Y/N)	Is this Claim Enrolled in the Program? (Y/N)	Date of Enrollment	Comments Regarding Status of Claim and Expectation of Enrollment	First Name	Middle Initial	Last Name

CLAIMANTS

CLAIMANTS

Address of Non-Vioxx-User Plaintiff / Tolling Claimant No. 1										Name of Non-Vioxx-User Plaintiff / Tolling Claimant No. 1	
Social Security Number of Non-Vioxx User	Date of Birth of Non-Vioxx User	Street 1	Street 2	City	State	Zip Code	Country	State this Non-Vioxx user's relationship to the Vioxx user.	Is this individual the personal representative of the Vioxx User? (Y/N)	Does this individual seek derivative relief based on the Vioxx user's injury? (Y/N)	First Name

Exemplar



Does this individual seek derivative relief based on the Vioxx user's injury? (Y/N)	Name of Non-Vioxx-User Plaintiff / Tolling Claimant No. 3			Address of Non-Vioxx-User Plaintiff / Tolling Claimant No. 3							
	First Name	Middle Initial	Last Name	Social Security Number of Non-Vioxx User	Date of Birth of Non-Vioxx User	Street 1	Street 2	City	State	Zip Code	Country

Exemplar

CLAIMANTS

State this Non-Viox user's relationship to the Viox user.			Is this individual the personal representative of the Viox User? (Y/N)			Does this individual seek derivative relief based on the Viox user's injury? (Y/N)			Name of Non-Viox User: No. 4				Social Security Number of Non-Viox User			Date of Birth of Non-Viox User	Address of Non-Viox User: Plaintiff / Tolling Claimant No. 4			
First Name			Middle Initial	Last Name								Street 1		Street 2		City				

Exemplar

CLAIMANTS

Information about Non-Viox Users Who Have Filed a Lawsuit or Entered a Tolling Agreement Based on the Relevant Viox User's Injury

State	Zip Code	Country	State this Non-Viox user's relationship to the Viox user.	Is this individual the personal representative of the Viox User? (Y/N)	Does this individual seek derivative relief based on the Viox user's injury? (Y/N)	Name of Non-Viox User No. 5			Social Security Number of Non-Viox User	Date of Birth of Non-Viox User	Street 1
						First Name	Middle Initial	Last Name			

**Exemplar**

CLAIMANTS





CLAIMANTS

*Information about Non-Viox Users Who Have Filed a Lawsuit or Entered a Tolling Agreement Based on the Relevant Viox User's Injury*

*Address of Non-Viox User Plaintiff / Tolling Claimant No. 6*

Street 1	Street 2	City	State	Zip Code	Country	State this Non-Viox user's relationship to the Viox user.	Is this individual the personal representative of the Viox User? (Y/N)	Does this individual seek derivative relief based on the Viox user's injury? (Y/N)	First Name	Middle Initial

Exemplar

*Name of Non-1*



Does this individual seek derivative relief based on the Vioxx user's injury? (Y/N)	Name of Non-Vioxx User No. 8			Social Security Number of Non-Vioxx User	Date of Birth of Non-Vioxx User	Address of Non-Vioxx-User Plaintiff/Tolling Claimant No. 8						
	First Name	Middle Initial	Last Name			Street 1	Street 2	City	State	Zip Code	Country	

Exemplary

CLAIMANTS



# Claims Spreadsheet

INFORMATION ABOUT ALL COUNSEL WHO HAVE AN INTEREST IN THE CLAIMS OF THE RELEVANT CLAIMS

	Name of the Relevant Viox User			Social Security Number	Date of Birth	Case Caption	Lawsuit Information		Tolling Agreement Information		
	First Name	Middle Initial	Last Name				Court Docket Number	Current Court	Was a Tolling Agreement Ever Entered into with respect to this Viox User? (Y/N)	Effective Date of Tolling Agreement	Was the Tolling Agreement Ever Terminated? (Y/N)
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Exemplar

NON-PRIMARY COUNSEL

Date of Termination	Name of Non-Primary Attorney No. 1			Law Firm	Street 1	Street 2	City	State	Zip Code	Phone Number
	First Name	Middle Initial	Last Name							

EXEMPLARY

NON-PRIMARY COUNSEL





**Non-Primary Attorney No. 2 Who Has an Interest in The Claim**

Street 2	City	State	Zip Code	Phone Number	E-Mail Address	Interest of Counsel					Name of Non-Prim		
						Does Non-Primary Counsel Have an Interest in this Claim as of 10/1/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of 11/9/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of Enrollment? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of the date of the most recent Registration Affidavit? (Y/N)	Has Non-Primary Counsel Received Remuneration, or a Promise of Remuneration, in Exchange for Terminating His Interest in this Claim? (Y/N)	First Name	Middle Initial	

Exemplar

NON-PRIMARY COUNSEL



Interest of Counsel					Name of Non-Primary Attorney No. 4			Non-Primary Attorney No. 4 Wh		
Does Non-Primary Counsel Have an Interest in this Claim as of 10/1/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of 11/30/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of Enrollment? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of the date of the most recent Registration Affidavit? (Y/N)	Has Non-Primary Counsel Received Remuneration, or a Promise of Remuneration, in Exchange for Terminating His Interest in this Claim? (Y/N)	First Name	Middle Initial	Last Name	Law Firm	Street 1	Street 2

Exemplar

NON-PRIMARY COUNSEL

Has an Interest in This Claim						Interest of Counsel				Name of Non-Primary Attorney No. 5		
City	State	Zip Code	Phone Number	E-Mail Address	Does Non-Primary Counsel Have an Interest in this Claim as of 10/1/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of 11/9/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of Enrollment? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of the date of the most recent Registration Affidavit? (Y/N)	Has Non-Primary Counsel Received Remuneration, or a Promise of Remuneration, in Exchange for Terminating His Interest in the Claim? (Y/N)	First Name	Middle Initial	Last Name

Exempt/Partial

Non-Primary Attorney No. 5 Who Has an Interest in This Claim

Law Firm	Street 1	Street 2	City	State	Zip Code	Phone Number	E-Mail Address	Does Non-Primary Counsel Have an Interest in this Claim as of 10/1/07? (Y/N)	
								Does Non-Primary Counsel Have an Interest in this Claim as of 10/1/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of 11/9/07? (Y/N)

Exempt

NON-PRIMARY COUNSEL





Non-Primary Attorney No. 7 Who Has an Interest in Title Claim

	Street 1	Street 2	City	State	Zip Code	Phone Number	E-Mail Address	Interest of Counsel								
								Does Non-Primary Counsel Have an Interest in this Claim as of 10/1/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of 11/9/07? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of Enrollment? (Y/N)	Does Non-Primary Counsel Have an Interest in this Claim as of the date of the most recent Registration Affidavit? (Y/N)	Has Non-Primary Counsel Received Remuneration, or a Promise of Remuneration, in Exchange for Terminating His Interest in this Claim? (Y/N)				

Exempt/Partial

NON-PRIMARY COUNSEL







# Exhibit B

**Pro Se Registration Affidavit**

I, \_\_\_\_\_, hereby certify pursuant to 28 U.S.C. § 1746 as follows:

4. I represent myself in the following lawsuit:

\_\_\_\_\_

Case Caption

\_\_\_\_\_

Docket Number

\_\_\_\_\_

Date Filed

5. I make this certification pursuant to the November \_\_, 2007 Order regarding the registration of plaintiffs.

6. My date of birth, social security number, and current residential address are:

Date of Birth: \_\_\_/\_\_\_/\_\_\_

Social Security Number: \_\_\_\_\_

Current Address: \_\_\_\_\_

Street

\_\_\_\_\_

City

State

Zip Code

\_\_\_\_\_

Country

7. I claim that I sustained a personal injury as a result of taking Vioxx.

I have marked the category of my injury and specified the date and place of my injury below:

\_\_\_ Myocardial Infarction or Sudden Cardiac Death

\_\_\_ Ischemic Stroke (not a hemorrhagic stroke or a transient ischemic attack)

\_\_\_ All other Injuries

Date of the specified injury: \_\_\_/\_\_\_/\_\_\_

Place of Injury: \_\_\_\_\_

8. I took Vioxx before my claimed injury. I have specifically checked the category below that corresponds to my duration of Vioxx use:

\_\_\_ Duration of use up until the specified injury of 12 months or less

\_\_\_ Duration of use up until the specified injury of more than 12 months

I certify under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
*Pro Se Claimant*

Executed on: \_\_\_\_\_



I, Theresa Chang, 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: \_\_\_\_\_

THERESA CHANG, 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)**