

FILED

Theresa Chang
District Clerk

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MASTER DOCKET NO. 2005-59499

Time: Harris County, Texas

By Deputy

In Re:

Texas State Vioxx Litigation

This Document Relates to All Cases

IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

157TH JUDICIAL DISTRICT

PRETRIAL ORDER No. 5
(Registration of Claims)

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:

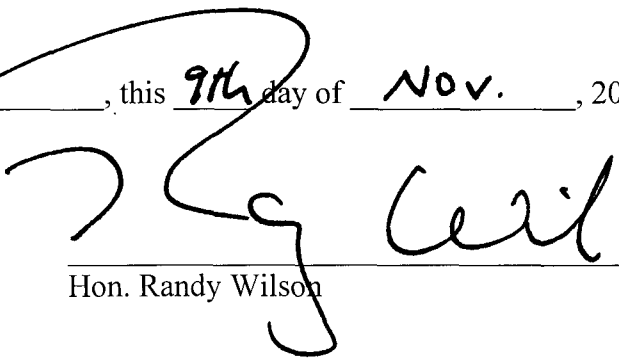
Claims Administrator
115 S. 15th Street
Suite 400
Richmond, VA 23219-4209
Main Number: 804.521.7200

(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 9th 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 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