

P. 2
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MASTER DOCKET NO. 2005-59499

In Re:	§	IN THE DISTRICT COURT OF
Texas State Vioxx Litigation	§	HARRIS COUNTY, TEXAS
This Document Relates to All Cases	§	157th JUDICIAL DISTRICT

FILED
 CHARLES BACARISSE
 DISTRICT CLERK
 HARRIS COUNTY TEXAS
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Pretrial Order No. 3

Both plaintiffs and defendant Merck have requested certain modifications of Case Management Order No. 2. After consideration of the various arguments of counsel, the court orders the following modifications of Case Management Order No. 2:

1. Paragraph 28.b.1 is modified to read as follows:

Depositions Taken in Other Proceedings. Merck shall advise the PSC and the Non Merck Defendants of all depositions that have been taken by plaintiffs in other Vioxx-related proceedings (other than depositions of case-specific witnesses) and shall assist in arranging for the PSC and the Non Merck Defendants to obtain copies of transcripts of those depositions. No parties in this Texas MDL proceeding shall, without good cause, re-notice the depositions of witnesses who have already been deposed. In the event that a party re-notice the deposition of a witness who has already been deposed, all objections must be made within 5 days of the notice to attempt to resolve the dispute. If no agreement can be reached, the matter shall be brought to the Pretrial Court for resolution at the earliest possible time and without undue delay to avoid postponement of the deposition.

If a Federal MDL or state court deposition has been taken in any Vioxx proceeding, a subsequent deposition of that witness may not be taken by a party except for good cause shown as determined by this Court or because documents, which may be relevant to the witness or lead to discoverable information, are produced or discovered after the date of the deposition and, in that case, any subsequent deposition shall be restricted to the additional inquiry permitted by the Court or to subsequently produced or discovered documents.

2. Paragraph 28 is modified to add the as following:
 - c. If a deposition is first noticed in another jurisdiction and cross-noticed in this Texas MDL proceeding, the disputes concerning the duration, conduct, and permitted questions during the examination by the Texas lawyer shall be addressed to this Pretrial Court.

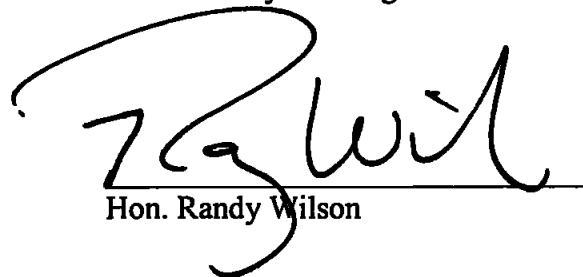
3. Paragraph 33.a is modified to read as follows:
 - a. Fact Sheets: For cases transferred to this court as of the date of this Order, Plaintiffs' fact sheets shall be answered within thirty (30) days of the date of this Order. For cases transferred after the date of this Order, Plaintiffs' facts sheets shall be answered within thirty (30) days of the date of the transfer. Merck's Fact Sheets shall be answered ninety (90) days after receipt of the Plaintiffs' Fact Sheets. The Fact Sheets by all parties shall be served on other parties the same as interrogatory responses.

4. Paragraph 33 is modified to add the as following:
 - g. Requests for Disclosure. Texas Rules of Civil Procedure 194 Requests for Disclosure are hereby deemed to be requested on each party. Plaintiffs shall respond to Requests for Disclosure thirty (30) days after receipt of the Merck Fact Sheets. All Defendants, both Merck and Non-Merck Defendants, shall respond to Requests for Disclosure thirty (30) days after receipt of the Plaintiff's Fact Sheets.

5. Paragraph 32 is modified to read as follows:

The Court has set aside each Friday afternoon for further conferences and hearings as necessary. Counsel must call the Vioxx clerk to schedule a hearing on motions. Notice of hearings must be provided to all counsel as provided in this Order at the time the hearing is scheduled with the Vioxx clerk. Except on leave of this Pretrial Court, hearings must be noticed no later than Monday in order to be heard on the following Friday. Routine matters for which no oral hearing is necessary should be set for written submission on Monday mornings.

Signed November 23, 2005.



Hon. Randy Wilson



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

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