

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: VIOXX : MDL NO. 1657
PRODUCTS LIABILITY LITIGATION : SECTION: L
 : JUDGE FALLON
 : MAG. JUDGE KNOWLES
..... :

THIS DOCUMENT RELATES TO: ALL CASES

ORDER

It has come to the Court’s attention that the pending appeals to the United States Court of Appeals for the Fifth Circuit regarding the disputed portions of attorneys fees have been voluntarily dismissed (Rec. Doc. Nos. 32158 and 32297). Pursuant to Pretrial Order 49, attorneys fees which were in dispute had been placed in an escrow account pending resolution of the aforementioned appeals. The Court felt that it was necessary to place these funds in escrow because it recognized that in resolving these appeals the Fifth Circuit might decide to either increase or decrease the amount of attorneys fees. Because of this potential it seemed appropriate to escrow the entire fee.

In light of the fact that the appeals have been voluntarily dismissed, it now appears to the Court that the maximum contingency fee percentage is no longer in dispute. Pursuant to this Court’s previous orders, contingent fee agreements are capped at 32% of a claimant’s total recovery. Accordingly, IT IS ORDERED that the Claims Administrator shall release all undisputed attorneys fees to the appropriate party, less, of course, the amount escrowed for common benefit counsel fees.

The Court notes that, at this time, the amount of common benefit counsel fees remains in

dispute. Pursuant to the Settlement Agreement, this amount shall not exceed 8% of the total settlement amount. Accordingly, this amount shall remain in escrow pending a determination by this Court of the appropriate common benefit counsel fee award.

New Orleans, Louisiana, this 21st day of January, 2010.


UNITED STATES DISTRICT JUDGE