

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

In re: VIOXX	*	MDL Docket No. 1657
	*	
PRODUCTS LIABILITY LITIGATION	*	SECTION L
	*	
This document relates to All Cases	*	JUDGE FALLON
	*	
	*	MAGISTRATE JUDGE KNOWLES
* * * * *	*	

**JOINT REPORT NO. 90 OF PLAINTIFFS'
AND DEFENDANTS' LIAISON COUNSEL**

Plaintiffs' Liaison Counsel ("PLC") and Defendants' Liaison Counsel ("DLC") submit this Joint Report No. 90. The Court has indicated that the litigation is at a point where most status conferences can be attended telephonically by Liaison and Lead Counsel, absent good reason to the contrary.

I. CLASS ACTIONS

By Order and Reasons entered January 3, 2014, following a fairness hearing on December 13, 2013, the Court granted the motion for final approval of the Vioxx consumer class settlement and entered final judgment dismissing with prejudice all Released Claims of the Class against all Released Persons as described in the Order [Rec. Doc. 64784].

The class notice program, as ordered by the Court was completed and claims were submitted. BrownGreer advises that the payment of approved claims is virtually complete and will be providing a fuller report in that regard. The parties will be prepared to discuss these matters further at the monthly status conference on January 5, 2016.

On September 18, 2015, Plaintiffs' Liaison Counsel filed a Motion to Establish Common Benefit Fee and Cost Committee in Connection With the Vioxx MDL Consumer Class Settlement Agreement [Rec. Doc. 65264]. By Order entered September 23, 2015, the Court granted the motion [Rec. Doc. 65268]; the Court also entered Pre-Trial Order No. 59 which appointed the members of the Common Benefit Fee and Cost Committee in Connection With the Vioxx Consumer Class Settlement Agreement, set out guidelines for submitting fee and cost requests [Rec. Doc. 65267]. On October 13, 2015, the Court added Exhibit A, the form for the Fee Affidavit to be submitted in request for allocation of aggregate common benefit fee and costs award [Rec. Doc. 65267-1]. On December 24, 2015, the Court entered Pre-Trial Order No. 59(A), which restated and extended certain deadlines contained in Pre-Trial Order No. 59 [Rec. Doc. 65311]. The parties will be prepared to discuss these matters further at the monthly status conference on January 5, 2016.

II. PENDING PERSONAL INJURY CASES SUBJECT TO PTOs 28, 29 AND 43

The only matters relating to pending personal injury cases subject to PTOs 28, 29 and 43 are the following:

On April 25, 2012, the Court issued its Order & Reasons addressing the PSC's Motion to Amend Pre-Trial Order No. 19 [Rec. Doc. 63585] and Ms. Oldfather's Motion for Order Requiring Escrow and Disclosures of Common Benefit Fee and Cost Withholdings from Settlement of Ineligible and Non-Enrolled Cases [Rec. Doc. 63154]. The Order required certain further steps by the PSC and directed the parties to meet and confer, after which Ms. Oldfather's Motion could be revisited if appropriate. The parties continue to exchange information in this regard.

All VTE injury cases have been resolved. The only remaining personal injury case is the *Levitt* case. By Order entered August 18, 2015, the Court entered a Case Management Order in the *Levitt* case [Rec. Doc. 65245]. On October 27, 2015, the parties filed a Joint Motion to Modify the Scheduling Order and submitted a proposed modified Case Management Order [Rec. Doc. 65291]. By Order entered October 30, 2015, the Court granted the motion and entered a Modified Case Management Order [Rec. Doc. 65296]. Discovery is ongoing.

The parties will be prepared to discuss this matter further at the status conference on January 5, 2016.

III. OTHER PENDING MOTIONS/MATTERS

On September 4, 2015, defendants Seeger Weiss, LLP and Christopher Seeger filed a Motion for Summary Judgment in the *Isner* case [Rec. Doc. 65252]. On October 14, 2015, plaintiff filed an opposition memorandum [Rec. Doc. 65289]. On October 27, 2015, defendants filed a motion for leave to file a reply memorandum [Rec. Doc. 62292]. On November 9, 2015 the Court issued Order & Reasons [Rec. Doc. 65298] granting the Motion for Summary Judgment and on November 11, 2015 entered an Order [Rec. Doc. 65299] correcting an appearance error in the Order & Reasons. On December 4, 2015, plaintiff Isner filed a Notice of Appeal [Rec. Doc. 65310].

By Minute Entry dated September 23, 2015, the Court noted that the Court's Order granting Plaintiffs' Motion to Enter Pre-Trial Order 6F [Rec. Doc. 62694] had issued, but had not posted, and ordered that the Record be modified to reflect such action [Rec. Doc. 65271]. Thereafter, Pre-Trial Order 6F, which had been signed on March 23, 2011, was entered of record [Rec. Doc. 65272].

The Court's Case Manager has circulated to liaison counsel a list of cases remaining open on the MDL docket. Liaison counsel are addressing those matters.

The parties will be prepared to discuss these matters further at the status conference on January 5, 2016.

IV. NEXT STATUS CONFERENCE

Plaintiffs' Liaison Counsel and Defendants' Liaison Counsel will be prepared to schedule the next status conference, on a date to be selected by the Court.

Respectfully submitted,

/s/ Leonard A. Davis

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**Liaison and Lead Counsel for Ineligible or
Non-Enrolled Cases and Certain Other
Remaining PI Claims**

CERTIFICATE

I hereby certify that the above and foregoing Joint Status Report No. 90 of Plaintiffs' and Defendants' Liaison Counsel and Ann Oldfather, Liaison Counsel for certain pending personal injury cases, has been served upon all parties by electronically uploading the same to LexisNexis File & Serve Advanced in accordance with Pre-Trial Order No. 8C, and that the foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana by using the CM/ECF system which will send a Notice of Electronic Filing in accord with the procedures established in MDL 1657, on this 31st day of December, 2015.

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