

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

In Re: VIOXX	*	MDL Docket No. 1657
	*	
PRODUCTS LIABILITY LITIGATION	*	
	*	SECTION L
	*	
	*	JUDGE FALLON
This document relates to All Government	*	MAG. JUDGE KNOWLES
Actions	*	
	*	

PRETRIAL ORDER NO. 44

**APPOINTMENT OF GOVERNMENT ACTIONS PLAINTIFFS’
CASE MANAGEMENT COMMITTEE**

Counsel for plaintiffs in the above-captioned proceedings under PTO 39 have conferred and submit this agreed proposal for the appointment of a committee to direct, coordinate, and conduct the proceedings. This Order shall govern all proceedings in the actions which have been or will be included in the process described in and initiated by PTO 39.

I. ORGANIZATION OF GOVERNMENT ACTIONS PLAINTIFFS COUNSEL

1. The Court designates and appoints the following counsel to act on behalf of Government Action Plaintiffs as set forth herein:

2. The Court designates the following counsel as Co-Chairs, Executive Committee Members and Plaintiffs Case Management Committee Members:

- a. As Government Actions Co-Chair Counsel:

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- b. As Government Actions Executive Committee Members:

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c. As Plaintiffs Case Management Committee Members:

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II. RESPONSIBILITIES OF GOVERNMENT ACTION PLAINTIFFS CASE MANAGEMENT COMMITTEE

3. Co-Chairs and Members of the Executive Committee shall have the following duties and responsibilities:

A. Co-Chairs

4. Co-Chairs shall interface with the Court and the Executive Committee and Plaintiffs Case Management Committee on all matters that pertain to the Government Actions cases.

5. Co-Chairs shall have, in conjunction with the Executive Committee, day-to-day responsibility for supervising and coordinating the conduct of the litigation subject to PTO 39; shall obtain and implement decisions regarding the prosecution of the cases and shall initiate, coordinate and supervise the efforts of Plaintiffs' counsel in the areas of discovery, briefing, trial and resolution, reserving to counsel of record in the individual cases appropriate case-specific trial and settlement decisions.

a. State Liaison Counsel shall assist the Co-Chairs and the Executive Committee in the duties outlined above.

6. Co-Chairs and State Liaison Counsel or their designees shall (a) maintain and distribute to co-counsel and to Defendants' counsel an up-to-date service list; (b) receive and, as appropriate, distribute to co-counsel orders from the Court and documents from Defendants and, as necessary, third parties.

7. Co-Chairs shall maintain a litigation assessment and expense fund.

B. Government Actions Plaintiffs Committee Members

8. At the request and authorization of the Co-Chairs and the Executive Committee, the Government Actions Plaintiffs Case Management Committee, or designees within their firms or offices, shall have the following responsibilities:

a. Initiate, coordinate, and conduct all pretrial discovery;

b. File briefs and pleadings as necessary and appropriate in, or in connection with, the Government Action cases;

- c. Examine witnesses and introduce evidence at hearings;
- d. Act as spokespersons for Government Actions Plaintiffs at pretrial proceedings and in response to any inquires by the Court;
- e. Submit and argue any motions to the Court, and file any briefs in opposition to motions, on behalf of all Government Actions Plaintiffs, which involve matters within the sphere of the responsibilities of the Government Actions Plaintiffs Case Management Committee;
- f. Develop and enhance the document depository as it relates to Government Actions claims for the use and benefit of all MDL Government Action Plaintiffs or their associated attorneys;
- g. Urge the Court to address the Motions to Remand filed by the various Government Entities at the appropriate time(s);
- h. Perform any task necessary and proper for the Government Actions Plaintiffs Case Management Committee to accomplish its responsibilities as defined by this Court's orders, including organizing sub-committees or working groups comprised of Committee members or others, and assigning them tasks consistent with the duties of the Committee;
- i. Explore and develop, at an appropriate time, the potential and options for settlement of Government Actions claims;
- j. Maintain contemporaneous time and expense records in accordance with PTO 6 and any amendments thereto;
- k. Perform such other functions as may be expressly authorized or directed by further orders of this Court.

C. Case Specific Activities

9. Nothing in this Order shall abrogate each Government Action Plaintiffs' right and ability individually to pursue its own claims, including pursuing discovery, motions, settlement and any other case specific activity not otherwise pursued by the Government Actions Plaintiffs Case Management Committee and in conformity with the Court's prior Orders.

D. Relationship Between Counsel and Government Actions Plaintiffs

10. Each Government Action Plaintiff is represented by internal or external counsel, who has been appointed to the Government Actions Plaintiffs Case Management Committee. This order does not eviscerate the relationship between any Government Action Plaintiff and their counsel, nor does it expand the obligation of each committee member to other lawyers' Government Action clients or create any additional fiduciary duties. All counsel, notwithstanding the creation of, and their appointment to, the Government Actions Plaintiffs Case Management Committee, shall continue to discharge their obligations to their clients. Similarly, any Government Action Plaintiff represented by internal counsel shall not assume any obligation to other Government Action Plaintiffs by virtue of the involvement of that plaintiffs' internal counsel Executive Committee (including as a Co-Chair) and the Government Actions Plaintiffs Case Management Committee.

E. Responsibilities of Plaintiffs' Liaison Counsel

11. Plaintiffs' Liaison Counsel shall continue to serve and perform duties as outlined in PTO 2 in connection with the Government Action Third Party Payor matters.

F. Responsibilities of State Liaison Counsel

12. State Liaison Counsel, Dawn Barrios, shall continue to serve and perform her duties as State Liaison Counsel, as outlined in PTO 39 and any other applicable Pre-Trial Order or specific direction from the Court and parties.

G. Additional Committee Members

13. Additional committee members may be proposed and confirmed by court order.

H. Provision of PTO 39

14. PTO 39 will remain in full force and effect.

III. MODIFICATION OF THIS ORDER

15. This order may be modified or supplemented by the Court or on motion by any party for good cause shown.

SO ORDERED:

New Orleans, Louisiana this 9th day of July, 2009.

A handwritten signature in black ink that reads "Eldon C. Fallon". The signature is written in a cursive style with a horizontal line underneath it.

The Honorable Eldon Fallon
United States District Court Judge