

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: VIOXX PRODUCTS LIABILITY LITIGATION	: : : : : : : : :	MDL NO. 1657 SECTION: L JUDGE FALLON MAG. JUDGE KNOWLES
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THIS DOCUMENT RELATES TO: ALL CASES

ORDER

On October 19, 2010, the Court issued an Order and Reasons valuing the common benefit work in the Vioxx MDL and associated state litigations which produced the global settlement of November 9, 2007. The Court ordered that 6.5% of the \$4.85 billion settlement, or \$315,250,000.00, be set aside to compensate attorneys who did common benefit work that contributed to the creation of the settlement. On August 9, 2011, after a lengthy process, the Court determined the proper method of allocating that common benefit fund among the attorneys who did common benefit work that produced the global settlement.

The next step in the process is distributing the amounts that have been allocated. The Court has received a report from the Claims Administrator regarding the amount it currently holds in a common benefit fund derived from the 6.5% assessment on settlement proceeds. That report is attached as an exhibit to this Order. The report indicates that less than \$315,250,000.00 is currently held because amounts were distributed, or were not withheld from disbursement to claimants. The Court must determine how each of these amounts should be borne by the common benefit applicants.

Accordingly, the Court will hold a hearing on Thursday, September 29, 2011, at 9:00

a.m., in Courtroom C468, to hear from the parties on this matter. Any interested parties may file briefs on or before September 20, 2011, and response briefs on or before September 26, 2011. After the hearing and consideration of the briefs submitted, the Court will issue a final judgment setting forth the specific amount to be distributed to each common benefit attorney, pursuant to Article 9 of the Master Settlement Agreement.

The Court notes that several motions have been filed requesting a stay of any distribution of common benefit attorney's fees pending an appeal of the Court's August 9, 2011 Order and Reasons to the United States Court of Appeals for the Fifth Circuit. The above-mentioned hearing is a necessary step before any distribution can take place, and accordingly any motions to stay distribution are premature at this time. After the Court issues an Order addressing how the shortfalls shall be addressed and setting forth the specific amounts to be awarded to each attorney, the motions for a stay will be ripe and the Court will take appropriate steps to address the matter before any distribution is made.

New Orleans, Louisiana, this 9th day of September, 2011.


UNITED STATES DISTRICT JUDGE

BROWNGREER || PLC

**VIOXX CLAIMS
ADMINISTRATOR**

COURT REPORT NO. 30

September 8, 2011

BROWNGREER || PLC

SUMMARY OF COMMON BENEFIT FEE WITHHOLDINGS		
1.	Gross Common Benefit Fee Amount (6.5% of \$4.85 Billion Settlement Fund)	\$315,250,000.00
2.	Adjustment for Fixed Payments – Common Benefit Fees not Withheld¹	(\$689,650.00)
3.	Adjustment for Special Marker/Other Payments - Common Benefit Fees not Withheld²	(\$45,265.66)
4.	Adjustment for Fees Paid to Special Master Juneau – Court Order 4/13/11	(\$72,291.84)
5.	Adjustment for Payments to Objector Firms³	(\$12,036,230.00)
6.	Net Common Benefit Fees Currently Held	\$302,406,562.50

1. The Parties agreed that Common Benefit Fees would not be withheld from Fixed Payments. Fixed Payments totaling \$10,610,000 were issued from the MI/IS funds. Because there were no Common Benefit Fee holdbacks on these payments, the total funds available for Common Benefit Fees was reduced by \$689,650 (6.5% of \$10,610,000).
2. The Parties agreed that Common Benefit Fees would not be withheld from Special Marker Payments. Special Marker/Other Payments totaling \$696,394.79 were issued from the MI/IS funds. Because there were no Common Benefit Fee holdbacks on these payments, the total funds available for Common Benefit Fees was reduced by \$45,265.66 (6.5% of 696,394.79).
3. Pursuant to an agreement to disburse \$19,271,639 to 78 Objector Firms, the Claims Administrator distributed those funds as directed on 9/2/10. On 12/3/10, the Claims Administrator disbursed the 1.5% Common Benefit Fee Refunds. The \$19,271,639 disbursed to the Objector Firms was \$12,036,230 greater than the applicable 1.5% rebate amount of \$7,235,409.