

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF LOUISIANA

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

**PRETRIAL ORDER NO. 8A**  
**(Electronic Service)**

By Stipulation of Plaintiffs' Liaison Counsel and Defendants' Liaison Counsel,

IT IS HEREBY ORDERED that whenever service is required by the Federal Rules of Civil Procedure, in lieu of the methods set forth in Rule 5(b), any party may "deliver a copy" of the document by following the procedure set forth below:

1. In order to facilitate case management, document retrieval and case organization and expeditious, efficient and economical communication by and amongst counsel, the parties will utilize the services of LexisNexis File & Serve Advanced ("File & Serve") and its litigation system for providing electronic service, storage and delivery of court-filed and discovery related documents through a secure website.

2. All attorneys of record in this litigation on whom service of documents must be effectuated shall, within ten days of the entry of this Order, or within

ten days of the entry of appearance for a new attorney of record, or the docketing of their transferred case, whichever occurs earliest, (1) obtain an e-mail address and access to the Internet's World Wide Web (the "Web") if they do not have an e-mail address and Web access; (2) forward to Liaison Counsel (Russ Herman for Plaintiffs at VIOXXMDL@hhkc.com and Phillip A. Wittmann for Defendants at pwittmann@stonepigman.com) a fully completed "MDL 1657 Counsel Contact Information Form," as required by Pretrial Order 5A and (3) sign up for electronic service in this litigation by completing the application located at the Website for File & Serve located at <http://www.lexisnexis.com/fileandserve>. File & Serve can be contacted on a 24 hour basis, seven days a week, for any inquiries or technical assistance at (888) 529-7587.

3. Within five business days of the entry of this order, liaison counsel shall provide File & Serve with the then current service list for the Vioxx MDL. This service list should include the attorneys' names, firm names and addresses, phone numbers and e-mail addresses for each case in the Vioxx MDL. Until such time as File & Serve advises liaison counsel that the File & Serve system is in place, liaison counsel is responsible for updating the service lists on a weekly basis and serving documents in accordance with Pretrial Orders #2 & #4.

4. In order to effect service of any document filed by a party, on the same day that any document is filed with the Clerk of Court for the United States District Court for the Eastern District of Louisiana in this matter, the counsel of record who is

filing the document, or in the case of an unrepresented party, the unrepresented party who is filing the document, shall send the document, including all exhibits and attachments, to File & Serve, by (1) electronic transfer (either as a word-processing document, PDF file, or TIF file) or (2) fax transmission. Documents sent to File & Serve by electronic transmission shall be up-loaded directly to the File & Serve system at [www.lexisnexus.com/fileandserve](http://www.lexisnexus.com/fileandserve).

5. File & Serve will upload all documents (all references to "document" include exhibits, if any) into Adobe PDF electronic format and onto an Internet website maintained by File & Serve and which is privately funded by the parties ("the Vioxx MDL 1657 Service Website"), where counsel of record who are registered users of the File & Serve system may access the copy.

6. File & Serve will post the documents to its website within one business hour of receipt.

7. Within one hour of posting the document, File & Serve shall send an e-mail to all registered users notifying them that the document has been posted to its Website (unless such registered user has declined to receive e-mails). The email shall also contain a hypertext link(s) to the document location(s) on the System (or, if so designated by the recipient, the e-mail shall have the document attached thereto).

8. Unless another Order of this Court specifies a different method for service upon counsel, any document electronically served via File & Serve pursuant to this Order shall be deemed to have been served under the Federal Rules of Civil

Procedure.

9. Any documents served pursuant to this Order shall be deemed to be served by mail under Federal Rule of Civil Procedure 6(e).

10. All pleadings will be titled to clearly identify (1) the name of the filing/serving party, (2) the name of the filing/serving law firm, (3) the precise title of the pleadings, (4) the case-specific docket number(s) to which the pleading applies and MDL 1657 as per paragraph 8 of Pretrial Order No. 1, and (5) the date the pleading was filed with the Clerk of Court for the United States District Court for the Eastern District of Louisiana in MDL 1657, or if mailed to the Clerk for filing, the date of mailing.

11. Since word processing documents electronically transmitted to File & Serve will not contain a signature by counsel, in order to indicate that the document filed with the Court, was, in fact, signed, the document electronically submitted to File & Serve shall contain a signature line with the phrase, "ORIGINAL SIGNED DOCUMENT ON FILE WITH THE COURT."

12. When serving documents, all counsel must use a uniform Certificate of Service in the form set out herein:

**CERTIFICATE OF SERVICE**

I hereby certify that the above and foregoing [DOCUMENT] has been served on Liaison Counsel, Russ Herman and Phillip Wittmann, by U.S. Mail and e-mail or by hand delivery and e-mail and upon all parties by electronically uploading the same to LexisNexis File & Serve Advanced in accordance with PreTrial Order No. \_\_\_, on this \_\_\_ day of \_\_\_\_\_, 200[5].

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13. Only registered users will be able to access the Vioxx MDL 1657 Service Website. Registered users will be limited to counsel of record for any party in the consolidated MDL 1657. Before registering any user, File & Serve shall confirm with liaison counsel that the counsel who desires to be registered as a user is counsel of record in *In Re Vioxx Products Liability Litigation*, MDL No. 1657. Upon registration, File & Serve will provide each registered user with a username and password to access the Vioxx MDL 1657 Service Website.

14. File & Serve shall perform all administrative functions to the system. Once initially registered, File & Serve shall be responsible for the registration and confirmation of all contact information for registered users. After initial enrollment/registration, it shall be the responsibility of the registered users to keep current their contact and case information by noting any changes directly on the File & Serve Website. Specifically, all registered users shall have the responsibility for using the Case & Party Management feature of File & Serve to promptly effect any change in party status (*i.e.*, if any party is added or dismissed from a case), any change in counsel (*i.e.*, if any counsel withdraws, enrolls, and/or substitutes), and any change in case status (*i.e.*, if a case is dismissed for any reasons). Further, it is ordered that all counsel shall include in any motion to withdraw as counsel, any motion to amend to add a party, any motion to dismiss the claims of less than all parties, and any Stipulations of Voluntary

Dismissal a certification that counsel will make the change directly on File & Serve as soon as the Order is entered.

15. All registered users shall be bound by any Confidentiality Order that this Court may issue. File & Serve will also be bound by the terms of said Confidentiality Order.

16. The File & Serve system shall contain an index of all served documents for the Vioxx MDL 1657 litigation that is searchable and sortable according to methods that provide useful 24 hour/seven day a week access to the documents via the Web.

17. Service of Pleadings and Motions: Once File & Serve advises Liaison Counsel that the File & Serve system is in place, Liaison Counsel will notify all of their respective counsel of record with whom they are affiliated. Upon such notice by Liaison Counsel, Liaison Counsel is no longer required to serve and distribute pleadings and motions on attorneys of record with whom they are affiliated, as required by Pre-Trial Orders #2 and #4. This Order shall supplement Pre-Trial Orders #2 and #4.

18. Service of Court Orders: Liaison Counsel are required to serve and distribute all Orders of the Court on all counsel of record. Such service of Court Orders by Liaison Counsel shall be accomplished electronically through File & Serve in lieu of overnight courier service or telecopier provided for in Pretrial Orders #2 and #4.

19. Plaintiffs' Liaison Counsel and Defendants' Liaison Counsel shall meet and confer regarding the filing of any document that is filed with the Clerk of Court

under seal that may contain discovery material covered by any Confidentiality Order that this Court might issue.

New Orleans, Louisiana, this 27<sup>th</sup> day of April, 2006.



UNITED STATES DISTRICT JUDGE