

**MINUTE ENTRY
FALLON, J.
SEPTEMBER 28, 2005**

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

**IN RE: VIOXX
PRODUCTS LIABILITY LITIGATION**

*** MDL NO. 1657
*
* SECTION: L(3)
*
* JUDGE FALLON
* MAG. JUDGE KNOWLES**

THIS DOCUMENT RELATES TO ALL CASES

A telephone status conference was held on this date in the Chambers of Judge Eldon E. Fallon in Houston, Texas. Russ Herman and Leonard Davis participated on behalf of the Plaintiffs' Steering Committee ("PSC"). Phil Wittmann participated on behalf of the Defendants's Steering Committee ("DSC"). The following matters were discussed: the filing of joint complaints in the MDL and a procedure to handle non-cardiovascular cases that are filed with cardiovascular cases; the effect of Governor Blanco and Chief Judge Berrigan's Orders on the suspension of prescription; contacting Louisiana lawyers without access to e-mail or servers; the scheduling of any Motions to Compel that may be filed by the Plaintiffs concerning the Defendants' September 15th Answers to Plaintiffs' Interrogatories and Production Requests; the scheduling of any motions that Plaintiffs may file with respect to expedited discovery requests; access to Merck's Detailer List; the status of the production of PIRs from Merck's Database for selected states; and the selection of the second and third cases to be tried.

After discussing these issues, the parties agreed that all attorneys in the areas affected by Hurricane Katrina and those attorneys who have clients in the areas affected by Hurricane Katrina should complete, to the extent presently possible, their Plaintiff Profile Forms (“PPFs”). These PPFs should then be supplemented within sixty (60) days. Liaison Counsel shall prepare a notice to this effect which will be posted on the Court’s website.

Additionally, the Court was advised that the parties agreed upon the categories of cases which should be tried in February, March, and April, but disagreed as to the specific cases which should be tried in these categories. Accordingly, the PSC and DSC shall each provide the Court with a letter naming and explaining which cases they believe should be tried second and third. The PSC will submit their letter today, and the DSC will submit their letter by tomorrow morning.

Lastly, after considering the position of the parties regarding Merck’s Detailer List, the Court held that all the members of the PSC shall have access to Merck’s Detailer List. The Court based its ruling on the fact that the information may have relevance to the Learned Intermediary Defense and, therefore, is discoverable. Nevertheless, to promote the efficient handling of discovery in this MDL proceeding and to promote the aims and purposes of 28 U.S.C. § 1407, this material is to remain under seal and be reviewed only by members of the Plaintiffs’ Steering Committee.