



Statement

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VIOXX® Litigation Update

WHITEHOUSE STATION, N.J., Aug. 21, 2006 – The following recent developments have occurred in connection with VIOXX product liability cases that have not yet gone to trial:

Hatch v. Merck

In August, a New Jersey court dismissed the case of a New Jersey resident who claimed her husband suffered a heart attack due to his long-term use of VIOXX, even though he never received a prescription for the medicine. The case had been scheduled for Sept. 11, in Atlantic City, N.J. Patricia Hatch claimed that her husband, who had no record of ever purchasing VIOXX, received a more than two-year supply of free samples. Merck disputed that claim.

In a letter to counsel and the court, Ms. Hatch indicated that she was dismissing her case with prejudice, meaning that the case cannot be filed again. Her case had been part of a trial that originally had two other plaintiffs. As a result, Judge Carol Higbee cancelled the September trial because Ms. Hatch was the second plaintiff of three to withdraw from the case. The remaining plaintiff's case will now be combined with another group of plaintiffs under consideration for a trial tentatively scheduled for January 2007.

"This is just one more example of why we believe we have to defend each case individually on a case-by-case basis," said Ted Mayer of Hughes, Hubbard & Reed, Merck's outside counsel. "It also reinforces the need to carefully investigate all of the allegations in a plaintiff's complaint, including allegations about alleged long-term use of VIOXX."

Miller v. Merck

In July, a Texas state court granted Merck's request to dismiss a case filed by a Texas resident who claimed that his heart attack was caused by VIOXX. The District Court of Harris County ruled that James Miller II could not pursue his claim because he failed to list his VIOXX claim as an asset when he previously filed for bankruptcy protection.

The suit cannot be filed again.

International Union of Operating Engineers Local 68 Welfare Fund v. Merck

In July, the New Jersey Supreme Court agreed to hear an appeal of a lower court decision granting class-action status to a nationwide group of insurance companies and HMOs seeking reimbursement for VIOXX expenditures. Merck had opposed class-action status in the case, International Union of Operating Engineers Local 68 Welfare Fund v. Merck.

Ted Mayer said, “We are gratified that the state’s highest court has agreed to hear this case. We have long believed that it is not an appropriate case to be handled as a class action because the situation of each insurance company and HMO is so different from another.”

“Every member of the supposed class had different types of information in deciding whether to reimburse patients for VIOXX and they all went through varied processes with different experts in making those decisions,” added Mayer. “The ruling was also flawed because it sought to impose N.J. law on transactions that occurred in 49 other states, effectively overruling the consumer protection statutes of those other states.”

“Additionally, the claims are meritless because Merck’s communications and representations about the efficacy and safety of VIOXX were both proper and accurate. The fact is that VIOXX worked for patients because it was effective at relieving pain with fewer gastrointestinal effects than other drugs in its class,” concluded Mayer.

Federal Multi-District Litigation (MDL)

In the U.S. District Court for the Eastern District of Louisiana, Judge Eldon E. Fallon, who oversees all of the federal court litigation, has dismissed more than 300 cases. Most of the dismissals were voluntary and 11 cases were dismissed with prejudice meaning they cannot be brought forward again. For example, in April, Judge Eldon E. Fallon dismissed the case of Ellis Diaz, a man who claimed VIOXX caused his heart attack after 19 months of use. Mr. Diaz’s lawyer had sought the dismissal with prejudice, meaning the case cannot be filed again.

Additional Trial Background

To date, nine cases have gone to trial:

- In August, a New Orleans jury returned a plaintiff verdict in the second federal VIOXX case to go trial, Barnett v. Merck. Merck said it will ask the court for a reduction in compensatory damages or for a new trial on compensatory damages and that the punitive damages award be set aside because it is not supported by the evidence and because of improper arguments made by plaintiff’s counsel. If the Company does not get relief from the verdict, it will appeal.

- In August, Merck won a California case, Grossberg v. Merck, involving a man who blamed his 2001 heart attack on his intermittent, sporadic use of VIOXX. The jury's verdict that found VIOXX did not contribute to Mr. Grossberg's heart attack.
- In July, Merck won a New Jersey case, Doherty v. Merck, involving a woman who claimed her nearly three years of VIOXX use led to her heart attack. The jury rejected that claim finding that Merck properly warned her prescribing physician and that VIOXX was not a substantial contributing factor in the heart attack.
- In April, a New Jersey jury rendered a split verdict in a case involving two plaintiffs. The jurors rejected a claim by Thomas Cona that VIOXX contributed to his heart attack, and found in favor of John McDarby. Merck plans to appeal the portions of the verdict that it lost.
- In February, Merck won the first federal case when jurors in Plunkett v. Merck rejected claims that VIOXX caused the heart attack of a Florida man.
- In November 2005, jurors in New Jersey ruled in favor of Merck, in Humeston v. Merck, the first New Jersey case. In a recent development in August, the judge set aside the verdict and ordered a new trial early next year. Merck is considering its legal options.
- Finally, Merck intends to appeal last August's plaintiff verdict in a Texas state court in Ernst v. Merck, as well as April's plaintiff verdict in a Texas state court in Garza v. Merck.

For up-to-date information on the current and potential VIOXX product liability trials scheduled for the next six months, please visit the VIOXX Information Center of Merck's Newsroom at www.merck.com/newsroom/vioxx/.

About Merck

Merck & Co., Inc. is a global research-driven pharmaceutical company dedicated to putting patients first. Established in 1891, Merck currently discovers, develops, manufactures and markets vaccines and medicines to address unmet medical needs. The Company devotes extensive efforts to increase access to medicines through far-reaching programs that not only donate Merck medicines but help deliver them to the people who need them. Merck also publishes unbiased health information as a not-for-profit service. For more information, visit www.merck.com.

Forward-Looking Statement

This statement contains “forward-looking statements” as that term is defined in the Private Securities Litigation Reform Act of 1995. These statements are based on management’s current expectations and involve risks and uncertainties, which may cause results to differ materially from those set forth in the statements. The forward-looking statements may include statements regarding product development, product potential or financial performance. No forward-looking statement can be guaranteed, and actual results may differ materially from those projected. Merck undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events, or otherwise. Forward-looking statements in this statement should be evaluated together with the many uncertainties that affect Merck’s business, particularly those mentioned in the cautionary statements in Item 1 of Merck’s Form 10-K for the year ended Dec. 31, 2005, and in its periodic reports on Form 10-Q and Form 8-K, which the Company incorporates by reference.

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