

April 2006 Vioxx® Litigation Update

Vioxx cases continue to proceed to trial in both federal and state courts, with mixed results. The most recent verdict was favorable for the Plaintiffs. It was in state court in Texas in a very favorable Plaintiff venue. The successful cases have first focused on the wrongdoing of Merck, then individual liability.

There are 4 cases set for trial in the federal MDL in Louisiana this year, with a dozen more cases set for trial in state courts. Two of the MDL cases were selected by the Plaintiffs and two by the defense. Obviously the strongest cases were selected by Plaintiffs and the weakest were selected by Merck.

We expect that there will be some settlement discussions later this year, but not until after Labor Day. That is because there is a two-year statute of limitations in many states (including Ohio and New Jersey) that will expire 2 years after the product was withdrawn from the market. Merck will want to wait until after that date before broaching settlement because it will not want to encourage the filing of meritless claims, and also because it will then have a better idea about its exposure.

In the meantime discovery continues to go forward. The FDA documents are being produced on a rolling basis, and depositions of Merck employees continue. As time progresses the case against Merck does get stronger.

Ultimately we will have to review each case individually. We appreciate your continued patience and confidence. We will continue to update you as matters proceed.