

January 2006 Vioxx® Litigation Update

The purpose of this letter is to provide you with a status report on the Vioxx® claims. As was widely reported by the media in December, the *Plunkett v. Merck* jury was unable to reach a verdict after twelve days of testimony and three days of deliberations. Therefore, the presiding multi-district litigation judge, Federal Judge Fallon, declared a mistrial. Considering the New England Journal of Medicine's report claiming certain information was withheld by Merck about cardiac incidents involving Vioxx® surfaced after the jury went into seclusion to deliberate, the mistrial was disappointing but not unwelcome. The Plunkett case is now set for retrial beginning February 6th in New Orleans.

Judge Fallon is currently working with attorneys from both sides to continue to select cases with issues common to large numbers of case so that, at the end of the trials, they will provide meaningful information regarding global resolutions. It is apparent the Court wants information sufficient to allow for a comprehensive settlement program should the juries find a pattern of in favor of the plaintiffs.

Another case is set to proceed to trial in state court in Texas beginning January 24th. Of course, we will also be following that case and report the outcome of that case to you.

If you have any questions, please do not hesitate to contact us. We will be in touch as the juries return verdicts in the New Orleans and Texas cases.