

VIOXX SETTLEMENT PROGRAM CLAIMS ADMINISTRATION PROCEDURE			
Procedure Number	2009-2	Effective Date	April 22, 2009
Subject	Processing of Subrogation or Reimbursement Claims or Liens from Third Parties Received by the Claims Administrator		

1. Purpose of this Procedure. This Procedure defines the procedures applicable when the Claims Administrator receives written notice of a subrogation, reimbursement, or other claim or lien from any Third Party Provider/Payor alleging an interest in the Program Claim of any Claimant, or in the inventory of Claims for any Primary Counsel. It also defines the procedures applicable if the Claims Administrator is included in a lawsuit or other legal action filed by a third party. This is an administrative procedure only. Neither the adoption of this procedure nor any of its provisions shall be construed to create or concede any right in or obligation to any party.

2. Definitions and Section References. Any capitalized terms used in this Procedure and not expressly defined in this Procedure shall have the meanings given to them in the Settlement Agreement. Section references refer to Sections of this Procedure unless otherwise specified.

3. Definition of Lien Notice. Any written attempt from any Third Party Provider/Payor (including an insurance carrier, a program benefits provider, a lawyer or law firm, or a services or product vendor) attempting to assert a right of subrogation, reimbursement, or payment of any kind, whether statutory or otherwise, in the Program Claim of any Claimant, or in the group of Claims submitted by any Primary Counsel, shall be considered a “Lien Notice” under this Procedure.

4. Lien Resolution Administrator. The Claims Administrator shall transmit to the Lien Resolution Administrator (“LRA”) any Lien Notices received by the Claims Administrator regarding the assertion of a claim from any Governmental Authority Third Party Providers/Payors. Such transmission shall be made by electronic mail or by posting to a secure web portal accessed by the LRA. These include any Lien Notices from any of the following government programs: Medicare, Medicaid, Department of Veterans Affairs, TRICARE, Department of Defense, or Indian Health Services, or any other Lien falling under the definition of a “Governmental Authority” Lien (*see* Section 17.1.34 of the Settlement Agreement). The Claims Administrator will not take further action on such Lien Notices from Governmental Authority Third Party Providers/Payors, but will incorporate in the Claims and Payment process any direction received from the LRA as to any such Lien Notices and will observe any existing Claims Administration Procedure applicable to such Lien Notices.

5. Private Third Party Provider/Payor Lien Notices. Any Lien Notices received by the Claims Administrator that are not from a Governmental Authority Third Party Provider/Payor shall be considered from a “Private Third Party Provider/Payor” or “PTP.” A Lien Notice from a PTP shall be considered a “Private Lien Notice” or a “PLN.”

6. Private Lien Resolution Program. The Plaintiffs' Steering Committee has authorized the LRA to administer a Vioxx Private Lien Resolution Program ("PLRP"). The PLRP is designed to assist with the resolution of PLNs asserted by various private health insurance PTPs. The Claims Administrator will follow these steps to assist in the implementation of the PLRP:

- (a) The Claims Administrator will determine whether the Claimant and the PTP are participants in the PLRP, based on information provided to the Claims Administrator by the LRA. If the Claimant and the PTP are participants in the PLRP, the Claims Administrator will take no further action on the PLN.
- (b) If the Claimant and the PTP are not participants in the PLRP, the Claims Administrator will notify the PTP and the Claimant (through his or her Primary Counsel, or to a *Pro Se* Claimant directly) of the existence of the PLRP and the opportunity to participate in that program, pursuant to Sections 10 and 11. The Claims Administrator will copy the LRA on these notifications. If within the time period allowed in Sections 10 and 11 the Claimant and/or Primary Counsel and the PTP notify the Claims Administrator that the Claimant and the PTP are participants in the PLRP, the Claims Administrator will take no further action on the PLN. If the Claims Administrator does not receive timely confirmation from both the Claimant and the PTP of participation in the PLRP, the Claims Administrator will proceed in accordance with this Procedure

7. Tracking of PLNs. The Claims Administrator will record in its database application for the Vioxx Settlement Program each PLN received by the Claims Administrator and will maintain in such database information on the events relating to each such Lien Notice.

8. PTP Lien Notices as to Ineligible Claimants. If the Claims Administrator receives a PLN asserted only as to the Claim of one or more Non-PLRP Participating Claimants who are not Eligible Claimants or are not Qualifying Program Claimants, based upon the information held by the Claims Administrator at such time, the Claims Administrator will send to the PTP asserting such PLN the Notice of Ineligible Claimant (Form V2039; substantially in the form attached as Exhibit A), informing the PTP that the Claimant(s) against whom the PLN is asserted is/are not eligible to receive Payments in the Vioxx Settlement Program and that the Claims Administrator will take no further action relating to such PLN. The remainder of this Procedure addresses PLNs asserted as to Claimants who are Eligible Claimants and/or Qualifying Program Claimants.

9. Initial Notice to a PTP. After receiving a PLN for a Non-PLRP Participant, the Claims Administrator will issue a Notice of Attempted Lien (Form V2038; substantially in the form attached as Exhibit B) to the PTP asserting such PLN and to the Primary Counsel representing the Claimant or to a *pro se* Claimant directly. The Claims Administrator will not provide the PTP with any information on the claims status of the Claimant's Program Claim unless authorized to do so in writing by the Claimant or Claimant's Primary Counsel.

10. Information Required of the PTP. The Notice of Attempted Lien will direct the PTP to respond to the Claim within 30 days from the date of the Notice to advise whether the PTP is participating or will participate in the PLRP as to the PLN, and if not participating in the PLRP to:

- (a) Identify the specific Claimant or group of Claimants as to whom the PLN is asserted;
- (b) Quantify the amount sought in the PLN as to each Program Claimant or in total if asserted against a group of Program Claimants;
- (c) State the basis of the PLN and provide a copy of the policy, contract, or other document on which it is based or, if there is no document forming the basis of the PLN, provide a written explanation of the basis of the PLN; and
- (d) Advise that if no response is timely made or if an incomplete response is made, the Claims Administrator will disallow the attempted PLN and not withhold funds or take any other action relating to it.

11. Notice to the Affected Primary Counsel or Pro Se Claimant. The Claims Administrator will transmit a copy of any Notice of Attempted Lien issued to a PTP to the Primary Counsel for the Claimant(s) affected by the PLN or to an affected *Pro Se* Claimant directly, if the Claims Administrator is able to determine from the PLN the Claimant(s) affected. If the Claims Administrator is unable to determine the affected Claimant(s) from the PLN, the Notice of Attempted Lien will be issued to the PTP only. If the response by such PTP to the Notice of Attempted Lien provides sufficient information for the Claims Administrator to identify the Claimant(s) affected, the Claims Administrator will at that time transmit a copy of the Notice of Attempted Lien to the Primary Counsel or *Pro Se* Claimant, as applicable. If the PTP does not indicate service of a copy of its response to the Notice of Attempted Lien upon the Primary Counsel for the affected Claimant(s) or the affected *Pro Se* Claimant, the Claims Administrator will forward a copy of such response to the Primary Counsel or *Pro Se* Claimant, as applicable. The Notice of Attempted Lien shall inform the Primary Counsel or *Pro Se* Claimant that the Primary Counsel or *Pro Se* Claimant has 30 days from the date of the Notice of Attempted Lien to inform the Claims Administrator: (a) whether the Claimant is participating or will participate in the PLRP; or (b) if the Claimant is not participating in the PLRP, whether there is any objection to the PLN and that if no timely objection is received, the Claims Administrator will assume that the Primary Counsel or *Pro Se* Claimant agrees to the claim asserted in the PLN.

12. The Effect of a Failure by a PTP to Respond to a Notice of Lien. If a PTP fails to respond timely to a Notice of Attempted Lien, the Claims Administrator will disallow the attempted PLN and not withhold funds or take any other action relating to it. The Claims Administrator will issue to the PTP and to the affected Primary Counsel/*Pro Se* Claimant a Notice of Disallowance (Form V2040; substantially in the form attached as Exhibit C) stating that the Claims Administrator has disallowed the attempted PLN and will not withhold funds or take any other action relating to it.

13. *Process After a Timely Response by a PTP to Respond to a Notice of Lien.* If a PTP responds timely to a Notice of Attempted Lien, the Claims Administrator will:

- (a) Assess such response for completeness;
- (b) If the response is complete, follow the steps in Section 14;
- (c) If the response is incomplete, disallow the PLN and issue to the PTP and to the affected Primary Counsel/*Pro Se* Claimant a Notice of Disallowance stating that the Claims Administrator has disallowed the attempted PLN and will not withhold funds or take any other action relating to it.

14. *Process for a Timely and Complete Response from a PTP.* If the Claims Administrator determines that the response from the PTP is complete, the Claims Administrator will also:

- (a) Identify and mark in the Claims Administrator database the Claimant(s) affected by the PLN.
- (b) If the PLN affects one or more specific Claimants, determine the amount claimed by the PTP as to each such Claimant (the “PLN Amount”), if such amount can be determined from the response from the PTP;
- (c) If: (1) the amount sought in a PLN as to one or more specific Claimants cannot be determined from the response from the PTP; or (2) the PLN affects a group of Claimants and the PTP has not quantified the amount sought as to each specific Claimant in the group, but instead has asserted a claim to a total dollar amount without allocating the amount to each specific Claimant, or has asserted a percentage share or other unquantified share in the payments made to all Claimants in the group, the Claims Administrator will treat the response as an “Unquantified PLN.”

15. *Payments by the Claims Administrator.* For any PLN processed under Section 14, the Claims Administrator will follow these procedures, subject to Section 16:

- (a) If the Primary Counsel or *Pro Se* Claimant indicates no objection to the PLN or is deemed not to object to the PLN pursuant to Section 10, the Claims Administrator will deduct a PLN Amount from any payment otherwise due to the affected Claimant(s) under the Settlement Agreement (the “Payment”) and transmit such PLN Amount to the PTP, if such PTP has provided payment instructions to the Claims Administrator. The Claims Administrator will pay the balance of the Payment to the Claimant(s) according to the current Claims Administration Procedure governing Payments.
- (b) If the Primary Counsel or *Pro Se* Claimant timely objects to the PLN, the Claims Administrator will withhold the PLN Amount and will pay the balance of the Payment to the Claimant(s) according to the current Claims Administration

Procedure governing Payments. The Claims Administrator will notify the Primary Counsel or *Pro Se* Claimant and the PTP that it will hold the withheld PLN amount until the Claims Administrator receives either (1) written confirmation from the Primary Counsel or *Pro Se* Claimant and the PTP that they have resolved the dispute over the PLN, in which case the Claims Administrator will make such payments of the withheld amount in accordance with the instructions received from the Primary Counsel or *Pro Se* Claimant and the PTP; or (2) a copy of a final, nonappealable order from any court determining the amount, if any, to be paid to the PTP, in which case the Claims Administrator will make further payments as required by such order.

- (c) For any Unquantified PLN, the Claims Administrator will withhold all Payments on the claims of the affected Claimant(s) and will notify the Primary Counsel or *Pro Se* Claimant and the PTP that it will hold the Payments until the Claims Administrator receives either (1) written confirmation from the Primary Counsel or *Pro Se* Claimant and the PTP that they have resolved the dispute over the PLN, in which case the Claims Administrator will make such payments of the withheld Payments in accordance with the instructions received from the Primary Counsel or *Pro Se* Claimant and the PTP; or (2) a copy of a final, nonappealable order from any court determining the amount, if any, to be paid to the PTP, in which case the Claims Administrator will make further payments as required by such order.

16. Procedure for Interim Payments. For any Interim Payment to a Claimant who is subject to a PLN Amount, the amount paid by the Claims Administrator to the PTP under Section 15 will be 40% of the PLN Amount (or such percentage equal to the percentage of the Interim Payment, if the Interim Payment is not made at the 40% level), unless otherwise (a) instructed by the Primary Counsel or *Pro Se* Claimant and the PTP or (b) directed by the court in a final, nonappealable order. The Claims Administrator will pay the balance of the PLN Amount when the final payment is made to the Claimant.

17. Resolution of all PTPs Remains the Claimant's Responsibility. Nothing in this Procedure is intended to or shall be construed to modify or alter in any respect the provisions of Section 12.1.3 of the Settlement Agreement, pursuant to which the satisfaction and discharge of any and all Liens are the sole responsibility of each Enrolled Program Claimant and such Claimant's respective Primary Counsel (if represented).

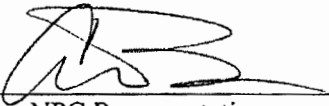
18. Lawsuits and other Legal Actions Against the Claims Administrator. Any notice, summons, complaint or other document or process that the Claims Administrator receives regarding a lawsuit or other legal action naming the Claims Administrator as a party shall be forwarded to the Vioxx Liaison Committee and handled in accordance with the Committee's instructions. The Claims Administrator will not treat such process as a Lien Notice under this Procedure.

APPROVED:

By: _____
Counsel for Merck

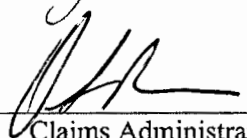
Date: _____

Name: _____

By: 
NPC Representative

Date: May 20, 2009

Name: Andy Birchfield

By: 
Claims Administrator

Date: 5/26/09

Name: Orran L. Brown

EXHIBIT A

V2039	NOTICE OF INELIGIBLE CLAIMANT (Date of Notice: __/__/__)		
A. NOTICE TO THIRD PARTY CLAIMANT			
<p>The Vioxx Program Claimant(s) identified below against whom you have asserted an attempted Lien is/are not currently eligible to receive payments in the Vioxx Settlement Program. Because no payment(s) to this/these Program Claimant(s) is/are currently contemplated, the Claims Administrator will take no further action relating to this attempted Lien.</p>			
B. VIOXX PROGRAM CLAIMANT(S)			
1. Claimant Name (If more than one Claimant is affected, see the attached list))	Last	First	Middle
2. Primary Counsel Firm (if applicable)			
3. Attorney Name (if applicable)			
4. Primary Counsel Address (if applicable)	Street/P.O. Box		
	City		

EXHIBIT B

V2038	NOTICE OF ATTEMPTED LIEN (Date of Notice: / /)
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Pursuant to instructions from the Parties and Article 12 of the Master Settlement Agreement (“MSA”), this Notice is in response to the attempted assertion of a Lien or other claim by a third party relating to the Program Claim of a Vioxx Program Claimant. This Notice of Attempted Lien is being sent to the third party claimant and to the Primary Counsel representing the Vioxx Program Claimant(s) indicated below, or to a *Pro Se* Claimant directly.

A. THIRD PARTY CLAIMANT

Notice to the Third Party Claimant: Within **30 days** from the date of this Notice, complete and return this Form to the Claims Administrator. Make sure you:

- a) Fill out everything you can in this Section A and in Section B that has not been pre-filled. If any pre-filled information requires correction, make those corrections on this Form.
- b) Identify the specific claim or group of claims as to whom the Lien is asserted against (**Questions 5-11**);
- c) Quantify the amount sought in the claim as to each Vioxx Program Claimant (**Question 12**);
- d) State the basis of the claim and provide a copy of the policy or document on which it is based; and
- e) Attach to this Form a copy of the insurance policy, contract, or other document that you rely upon as the basis of the lien or claim.

WARNING: If no response is made to this Notice within 30-days, or if an incomplete response is made, the Claims Administrator will disallow the attempted Lien and not take any other action relating to the attempted Lien.

1. Name of Third Party Claimant			
2. Primary Contact			
3. Mailing Address	Street/P.O. Box		
	City	State	Zip
4. Date Claims Administrator Received Attempted Lien			

B. VIOXX PROGRAM CLAIMANT

5. Claimant Name <small>(attach separate Excel list if more than one Claimant)</small>	Last	First	Middle
6. Social Security Number		7. Date of Birth	/ /
8. Primary Counsel (if applicable)			
9. Attorney Name (if applicable)			
10. Primary Counsel Address <small>(if applicable)</small>	Street/P.O. Box		

EXHIBIT B

V2038	NOTICE OF ATTEMPTED LIEN (Date of Notice: / /)		
	City	State	Zip
11. Check here if this attempted Lien is for an interest in the entire group of claims of the Primary Counsel identified in Question 8: <input type="checkbox"/>			
12. Specify the amount claimed as to this Program Claimant or group of Claimants. (If individual amounts are sought against a group of Claimants, indicate the amount as to each Claimant in the Excel list attached in response to Question 5.)			
C. NOTICE TO PRIMARY COUNSEL OR <i>PRO SE</i> CLAIMANT			
Within 30 days from the date of this Notice, complete and return this Form to the Claims Administrator, stating:			
<input type="checkbox"/> The Affected Claimant is participating in the Vioxx Private Lien Resolution Program, and this Lien will be resolved as part of that Program.			
<input type="checkbox"/> No objection is made to the Lien or claim asserted by this Third Party Claimant and described in this Notice.			
<input type="checkbox"/> Primary Counsel and/or the Affected Claimant(s) object(s) to the Lien or claim asserted by this Third Party Claimant and described in this Notice.			
WARNING: If no objection is timely made, the Claims Administrator will withhold from Settlement payments the amount claimed by the Third Party Claimant and will pay such amounts to the Third Party Claimant.			

EXHIBIT C

V2040	NOTICE OF DISALLOWANCE (Date of Notice: __/__/__)		
A. NOTICE TO THIRD PARTY CLAIMANT			
1. Date Notice of Attempted Lien Issued by Claims Administrator			
<p>On the date shown above, the Claims Administrator sent you a Notice of Attempted Lien requesting further information regarding the attempted Lien or claim that you previously asserted against the Program Claim of the Vioxx Program Claimant(s) identified in Section C below.</p> <ul style="list-style-type: none"><input type="checkbox"/> You failed to respond timely to the Notice of Attempted Lien.<input type="checkbox"/> You responded but your response failed to identify the specific Claimant or group of Claimants against whom the attempted Lien or claim is asserted.<input type="checkbox"/> You responded but your response failed to qualify the amount sought as to each Claimant (or in total if asserted against a group of Claimants).<input type="checkbox"/> You responded but your response failed to state the basis of the claim and/or failed to provide a copy of the policy, contract, or other document on which the Lien or claim is based. <p>As a result, the Claims Administrator has disallowed the attempted Lien and will not withhold funds from the Claim or take any other action relating to this Lien or claim.</p>			
B. THIRD PARTY CLAIMANT			
1. Name of Third Party Claimant			
2. Primary Contact			
C. VIOXX PROGRAM CLAIMANT			
2. Claimant Name (If more than one Claimant was affected, see the attached list).	Last	First	Middle
3. Primary Counsel (if applicable)			
4. Attorney Name (if applicable)			
5. Address of Primary Counsel (if applicable)	Street/P.O. Box		
	City	State	Zip