

INSTRUCTIONS FOR USE OF CAP 2008-1 FOR CLAIMS OF DECEASED VIOXX USER CLAIMANTS OR DECEASED DERIVATIVE CLAIMANTS

A. INTRODUCTION

Claims brought on behalf of a Deceased Vioxx User Claimant or involving a Deceased Derivative Claimant present unique issues for the persons pursuing the claim, their counsel, the Claims Administrator, and the Parties to the Settlement Agreement. In each instance, questions arise regarding which state's law applies to the claim and the provisions of that state's law concerning the proper representative to pursue a claim for damages for injuries to a Vioxx User before death, or a claim for wrongful death where the death is asserted to have resulted from Vioxx, or as to who may act on behalf of a deceased person claiming as family member or other Derivative Claimant of the Vioxx User Claimant. Such claims also raise issues regarding the proper procedures for identification of heirs and/or beneficiaries who may have an interest in the claim, notice to such heirs and beneficiaries of the resolution of a claim, and whether Court approval is required for the compromise and the manner in which any proceeds are distributed among the rightful heirs and beneficiaries.

Because such matters can require substantial time to investigate and resolve, the Parties to the Settlement Agreement and the Claims Administrator developed a Procedure to allow claims to move forward in the settlement process while such issues are being addressed. These steps are codified in a Claims Administration Procedure designated as CAP 2008-1 (Amended), entitled "Required Representative Capacity Documentation: Vioxx User Claimant or Derivative Claimant." This CAP 2008-1 applies to Deceased Vioxx User Claimants and to Deceased Derivative Claimants as well. If a Claimant has complied with CAP 2008-1, the Claimant can receive a Notice of Points Award on the claim before having to open an estate to get a representative approved for a Deceased Claimant or Derivative Claimant. In addition, CAP 2008-1 allows claims of Testate Claimants to be paid if CAP 2008-1 Compliant and the Points Award is under 25 Points, and Intestate Claimants to be paid if under 15 Points.

CAP 2008-1 does not apply to incompetent or minor Claimants or Derivative Claimants. For those situations, see CAP 2008-8 at www.browngreer.com/vioxxsettlement.

You may download a copy of CAP 2008-1 at www.browngreer/vioxxsettlement.com or at your firm's Vioxx Portal. On the general settlement website, go to the Deceased Claimants section listed in the navigation bar of the home page to obtain a copy of CAP 2008-1, the Form V2031 (for Deceased Vioxx User Claimants) or the Form V2031DC (for Deceased Derivative Claimants) to be used with it, and a helpful flow chart showing how the Procedure works. If you are on a Primary Counsel's secure Vioxx Portal, use the Claimant Search function to select a Claimant. Under the CAP 2008-1 menu, select Form V2031 (Vioxx User Claimant) to access CAP 2008-1 as well as the Form V2031 or Form V2031DC (Derivative Claimant) to access Form V2031DC. You also can access both Forms under the Forms option on your Vioxx Portal home page.

These Instructions summarize the provisions of CAP 2008-1, after its amendment. Refer to the CAP 2008-1 itself for complete detail, for its provisions govern over these Instructions.

B. TO WHAT DOES CAP 2008-1 APPLY?

The Procedure applies to any claim submitted in the Program on behalf of a Deceased Vioxx User Claimant or on a claim involving a Deceased Derivative Claimant. It defines what is needed as proof of authority for someone to act in a representative capacity to pursue the claim to allow it to keep moving through the Settlement Program.

C. HAS PROOF OF REPRESENTATIVE CAPACITY ALREADY BEEN SUBMITTED?

The requirements vary from state to state on who has the authority to bring or settle a survival claim after

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the death of a product user, and/or a claim for wrongful death where it is alleged that the death resulted from the product use. Most states require some sort of order, appointment, or other official document from a probate or other court designating one person as the authorized representative to act on the claim. Because obtaining these orders can take some time, the Parties agreed to CAP 2008-1 to allow the claim to move along in the Claims Process and receive a Notice of Points Award if the claim qualifies for payment. But if you have already obtained such an Order and submitted it to the Claims Administrator for the person acting as the Representative Claimant of a Deceased Vioxx User Claimant or a Deceased Derivative Claimant, and if Merck has found that proof sufficient, the Release on the claim will be marked as “NCD” or “No Current Deficiencies” in the Enrollment Section of your Vioxx Portal. If the Release is marked as NCD, you do not have to do anything under CAP 2008-1 for that claim.

D. FORM V2031 FOR DECEASED VIOXX USER CLAIMANTS

This Section D applies to Deceased Vioxx User Claimants. Follow Section E below if you want to use CAP 2008-1 for a Deceased Derivative Claimant.

The person acting for a Deceased Vioxx User Claimant who has not already submitted representative capacity proof that has been accepted by Merck must complete a Form V2031 and send it to the Claims Administrator. You can obtain the needed Form at www.browngreer/vioxxsettlement.com or at your firm’s Vioxx Portal, as described in Section A of these Instructions. The Primary Counsel for a represented Deceased Vioxx User Claimant may fill out this Form.

We prefer that Primary Counsel submit the Form V2031 by going online and using the firm’s Vioxx Portal. Because it can be filled out while online, it will be easier and faster for you and the Claims Administrator. Once on your Portal home page, use the Claimant Search function to identify the Claimant for whom you need complete the Form. Click on [Form V2031 \(Vioxx User Claimant\)](#) on the CAP 2008-1 menu for the selected Claimant for the online fillable version of Form V2031. Click on the edit button to complete the Form on line. The system will provide you with a Form with certain information pre-filled. Correct and add to that information as needed. When you have completed the necessary information, you can electronically sign the Form and click the Accept button next to the signature blank to submit the Form on line. You will then be prompted to select Agree or Disagree to the terms for electronic submission of the Form. After selecting that you Agree, you may save or print a copy of the completed Form by clicking on the Print button. You do not have to print and send a hard copy of the Form to the Claims Administrator, though you can send it that way if you prefer. The best method to send in the completed Form V2031 and any attachments it requires, such as a will, is to make Adobe electronic images of them and upload them to your Portal or email them to claimsadmin@browngreer.com.

E. FORM V2031DC FOR DECEASED DERIVATIVE CLAIMANTS

This Section E applies to Deceased Derivative Claimants associated with the claim of a Vioxx User Claimant. If you need to get a representative of a Deceased Derivative Claimant to sign a Release and you do not yet have a Representative Claimant appointed by a Court who can sign, you can use CAP 2008-1 to keep the claim moving in the Claims Process while you get that Representative Claimant appointed. Follow Section D above if you want to use CAP 2008-1 for a Deceased Vioxx User Claimant.

The person acting for a Deceased Derivative Claimant who has not already submitted representative capacity proof that has been accepted by Merck must complete a Form V2031DC and send it to the Claims Administrator. You can obtain the needed Form at www.browngreer/vioxxsettlement.com (click

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on the “Claims Administration Procedures” link or the “Deceased Claimants” link on the left side of the screen), or by using the Claimant Search function on your Primary Counsel’s Vioxx Portal to select a Claimant and then selecting Form V2031DC (Derivative Claimant) under the CAP 2008-1 menu. The Primary Counsel for a represented Deceased Vioxx Derivative Claimant may fill out this Form.

Unlike the Form V2031 for use for Deceased Vioxx User Claimants, the Form V2031DC is not available to fill out on line. Instead, you will need to download to your desktop or server the Form V2031DC you have accessed as described above. That Form is fillable, in that you can type on your computer in the sections of the Form where you have to fill in information. After you fill out the Form, print it out and sign it. Then scan it and any documents it requires as attachments to make Adobe images of them and upload them to your Portal or email them to claimsadmin@browngreer.com. If you prefer, you can mail or send hard copies of the Form and its attachments to the Claims Administrator, but hard copies are not required if you have sent electronic images. If there are multiple Deceased Derivative Claimants associated with a particular claim, you have to complete and submit to a separate Form V2031DC for each Deceased Derivative Claimant.

F. TESTATE VIOXX USER CLAIMANTS OR DERIVATIVE CLAIMANTS

If the Vioxx User Claimant or Derivative Claimant had a valid will in place at death, then you must send the Claims Administrator a copy of that will, as described above. The claim may proceed in the Claims Process as follows:

- 1) The person designated in the will as having the authority to act for the estate of the Deceased User Claimant or Derivative Claimant can sign the Release of All Claims required to Enroll in the Settlement Program. If that person signed the Release you submitted on the claim, then you do not have to get him or her to sign again to use CAP 2008-1 to keep the claim moving in the Claims Process. If that person did not sign, you will need to obtain a Release or a Derivative Claimant Signature Page for the Designated Representative using your Vioxx Portal. Follow the steps in Section D or Section E above to complete the Form V2031 or Form 2031DC.

For Deceased Vioxx User Claimants: After the Claims Administrator has received and completed review of the submitted Form V2031, our system will have created a CAP 2008-1 Release for the Designated Representative, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. If you submitted the Form V2031 using the online fillable version on your web portal, the CAP 2008-1 Release for the Deceased Vioxx User Claimant will be available to you on line as soon as you have signed and submitted the Form on line. If you did not fill it out on line and instead printed it out and used a hard copy Form, the Release you need will not appear on your Portal until we receive the hard copy and can make it available on your Portal. To find the Release you need on your Portal, click on CAP 2008-1 Release under the CAP 2008-1 menu to see the CAP 2008-1 Release for the person or persons you have designated in the Form V2031 as the Designated Representative. Review the Release to confirm that it contains the correct information, print it, have it signed by the right person acting under CAP 2008-1 and have that signature notarized, have the Counsel Page signed, and send it all in hard copy form to the Claims Administrator. Make sure that the person signing has read the Release on the claim before signing the Release. You have to send us the original signed hard copy by mail or delivery. Do not send electronic copies, photocopies, or facsimiles. If any of the information appearing in the Release is not correct, contact your CA Contact.

For Deceased Derivative Claimants: The steps for Deceased Derivative Claimants are different from those for a Deceased Vioxx User Claimant. The person(s) acting for a Deceased

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Vioxx User Claimant must sign and send in the entire Release (without any Derivative Claimant Signature Pages). The person acting for a Deceased Derivative Claimant must sign and return a CAP 2008-1 Derivative Claimant Signature Page as well as the Counsel Signature Pages required with a Derivative Claimant Signature Page, but does not have to send in the rest of the Release (though you have to make sure that the person signing has read the entire Release). The signature page for the Deceased Derivative Claimant will not be available on your Portal until after we have received and completed the review of the Form V2031DC. After that, our system will have created a CAP 2008-1 signature page for the Designated Representative, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. Click on [CAP 2008-1 Derivative Signature Pages](#) under the CAP 2008-1 menu. Review the Derivative Signature Page to confirm that it contains the correct information, print it, have it signed and notarized, and send the original signed hard copy to the Claims Administrator. Do not send electronic copies, photocopies, or facsimiles. Make sure that the person signing has read the Release on the claim before signing the Derivative Signature Page. If any of the information appearing in the Signature Page is not correct, contact your CA Contact.

- 2) If the Designated Representative in the will is also the Surviving Spouse of the Deceased Vioxx User Claimant or Derivative Claimant, then you do not need to get other signatures on the Release to allow the claim to proceed under CAP 2008-1. But if the Deceased Vioxx User Claimant or Derivative Claimant was survived by a spouse, and if the Surviving Spouse is not the Designated Representative in the Deceased Vioxx User Claimant's or Derivative Claimant's will, then the Surviving Spouse must also sign the Release. You will need to obtain a CAP 2008-1 Release or CAP 2008-1 Derivative Claimant Signature Page for the Surviving Spouse using your Vioxx Portal. Follow the steps in Section D above to complete the Form V2031 or Form 2031DC.

For Deceased Vioxx User Claimants: After the Claims Administrator has received and completed review of the submitted Form V2031, our system will have created a CAP 2008-1 Release for the Designated Representative, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. If you submitted the Form V2031 using the online fillable version on your web portal, the CAP 2008-1 Release for the Deceased Vioxx User Claimant will be available to you on line as soon as you have signed and submitted the Form on line. If you did not fill it out on line and instead printed it out and used a hard copy Form, the Release you need will not appear on your Portal until we receive the hard copy and can make it available on your Portal. To find the Release you need on your Portal, click on [CAP 2008-1 Release](#) under the CAP 2008-1 menu. Review the Release to confirm that it contains the correct information, print it, have it signed by the Surviving Spouse and have that signature notarized, have the Counsel Page signed, and send it all in hard copy form to the Claims Administrator. Make sure that the person signing has read the Release on the claim before signing the Release. You have to send us the original signed hard copy by mail or delivery. Do not send electronic copies, photocopies, or facsimiles. If any of the information appearing in the Release is not correct, contact your CA Contact.

For Deceased Vioxx Derivative Claimants: Again, the signature page for the Deceased Derivative Claimant will not be available until after we receive and completed the review of the Form V2031DC. After that, our system will have created a CAP 2008-1 signature page for the Surviving Spouse, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. Click on [CAP 2008-1 Derivative Signature Pages](#) under the CAP 2008-1 menu. Review the Derivative Signature Page to confirm that it contains the correct information, print it, have it signed and notarized, and send the original signed hard copy to the Claims

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Administrator. Do not send electronic copies, photocopies, or facsimiles. Make sure that the person signing has read the Release on the claim before signing the Derivative Signature Page. If any of the information appearing in the Signature Page is not correct, contact your CA Contact.

G. INTESTATE ELIGIBLE CLAIMANTS OR DERIVATIVE CLAIMANTS

If the Vioxx User Claimant or Derivative Claimant died without a valid will, then follow these steps.

If the Deceased Vioxx User Claimant or Derivative Claimant was survived by a spouse, the Surviving Spouse must sign the Release:

- 1) If you have already submitted a Release on the claim and it was signed by the Surviving Spouse, then you do not need anyone else to sign it for the User Claimant or the Derivative Claimant at this time to use CAP 2008-1 to keep the claim moving in the Claims Process.
- 2) If the Surviving Spouse has not signed the Release, the Surviving Spouse must sign now for the claim to go forward. Follow the steps in Section D above to complete the Form V2031 or Form V2031DC.

For Deceased Vioxx User Claimants: After the Claims Administrator has received and completed review of the submitted Form V2031, our system will have created a CAP 2008-1 Release for the Designated Representative, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. If you submitted the Form V2031 using the online fillable version on your web portal, the CAP 2008-1 Release for the Deceased Vioxx User Claimant will be available to you on line as soon as you have signed and submitted the Form on line. If you did not fill it out on line and instead printed it out and used a hard copy Form, the Release you need will not appear on your Portal until we receive the hard copy and can make it available on your Portal. To find the Release you need on your Portal, click on CAP 2008-1 Release under the CAP 2008-1 menu. Review the Release to confirm that it contains the correct information, print it, have it signed by the Surviving Spouse and have that signature notarized, have the Counsel Page signed, and send it all in hard copy form to the Claims Administrator. Make sure that the person signing has read the Release on the claim before signing the Release. You have to send us the original signed hard copy by mail or delivery. Do not send electronic copies, photocopies, or facsimiles. If any of the information appearing in the Release is not correct, contact your CA Contact.

For Deceased Vioxx Derivative Claimants: Again, the signature page for the Deceased Derivative Claimant will not be available until after we receive and completed the review of the Form V2031DC. After that, our system will have created a CAP 2008-1 signature page for the Surviving Spouse, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. Click on CAP 2008-1 Derivative Signature Pages under the CAP 2008-1 menu. Review the Derivative Signature Page to confirm that it contains the correct information, print it, have it signed and notarized, and send the original signed hard copy to the Claims Administrator. Do not send electronic copies, photocopies, or facsimiles. Make sure that the person signing has read the Release on the claim before signing the Derivative Signature Page. If any of the information appearing in the Signature Page is not correct, contact your CA Contact. If the Deceased Vioxx User Claimant or Derivative Claimant was not survived by a spouse, or was but the spouse has since died, then follow these steps:

- 3) In addition to the Surviving Spouse steps above, determine the person who is the successor to the

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estate of the Deceased Vioxx User Claimant or Derivative Claimant under the state's law that applies to the claim. The Estate Successor is the person authorized by that law to represent the estate of a person who died without a will.

- 4) If you have already submitted a Release on the claim and it was signed by the Estate Successor, then you do not need anyone else to sign it at this time to use CAP 2008-1 to keep the claim moving in the Claims Process.
- 5) But if the Estate Successor has not signed the Release, the Estate Successor must sign now for the claim to go forward. Follow the steps in Section D above to complete the Form V2031. Once you have submitted the Form and it is reviewed by the Claims Administrator, go to the Claimant Details button.

For Deceased Vioxx User Claimants: After the Claims Administrator has received and completed review of the submitted Form V2031, our system will have created a CAP 2008-1 Release for the Estate Successor, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. If you submitted the Form V2031 using the online fillable version on your web portal, the CAP 2008-1 Release for the Deceased Vioxx User Claimant will be available to you on line as soon as you have signed and submitted the Form on line. If you did not fill it out on line and instead printed it out and used a hard copy Form, the Release you need will not appear on your Portal until we receive the hard copy and can make it available on your Portal. To find the Release you need on your Portal, click on CAP 2008-1 Release under the CAP 2008-1 menu to see the CAP 2008-1 Release for the person or persons you have designated in the Form V2031 as the Estate Successor. Review the Release to confirm that it contains the correct information, print it, have it signed by the Estate Successor and have that signature notarized, have the Counsel Page signed, and send it all in hard copy form to the Claims Administrator. Make sure that the person signing has read the Release on the claim before signing the Release. You have to send us the original signed hard copy by mail or delivery. Do not send electronic copies, photocopies, or facsimiles. If any of the information appearing in the Release is not correct, contact your CA Contact.

For Deceased Vioxx Derivative Claimants: Again, the signature page for the Deceased Derivative Claimant will not be available until after we receive and completed the review of the Form V2031DC. After that, our system will have created a CAP 2008-1 signature page for the Estate Successor, which you can access on the CAP 2008-1 menu on the Claimant Screen of your Vioxx Portal. Click on CAP 2008-1 Derivative Signature Pages under the CAP 2008-1 menu. Review the Derivative Signature Page to confirm that it contains the correct information, print it, have it signed and notarized, and send the original signed hard copy to the Claims Administrator. Do not send electronic copies, photocopies, or facsimiles. Make sure that the person signing has read the Release on the claim before signing the Derivative Signature Page. If any of the information appearing in the Signature Page is not correct, contact your CA Contact.

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H. OBTAINING A PAYMENT

CAP 2008-1 allows a claim to proceed through the Claims Process without full proof of representative capacity submitted. Thus once the CAP 2008-1 is satisfied, the Claims Administrator may conclude processing of any Claims Package submitted on the claim and may issue to the Claimant all Notices generated in such processing, including a Notice of Points Award. In addition, certain claims can be paid without an estate being opened.

For Testate Claimants: If the claim is CAP 2008-1 Compliant, the deceased Claimant, or the Deceased Derivative Claimant, is Testate, and the Final Points Award on the claim is below 25 Points, the Claims Administrator will issue Payment on the claim in the name of the Designated Representative, the Surviving Spouse of the Claimant and/or Derivative Claimant, (as applicable) and the Primary Counsel (if represented). If the Final Points Award is for 25 Points or more, the person pursuing the claim must have a representative appointed and submit acceptable proof of Representative Capacity before the Claims Administrator can issue any payments on the claim.

For Intestate Claimants: If the claim is CAP 2008-1 Compliant, the deceased Claimant, or the deceased Derivative Claimant if the Claimant is not Deceased, is Intestate, and the Final Points Award on the claim is below 15 Points, the Claims Administrator will issue Payment on the claim in the name of the Surviving Spouse of the Claimant and/or Derivative Claimant or the Estate Successor(s) identified in the Form V2031 or V2031DC, (as applicable) and the Primary Counsel (if represented). If the Final Points Award is for 15 Points or more, the person pursuing the claim must have a representative appointed and submit acceptable proof of Representative Capacity before the Claims Administrator can issue any payments on the claim.

If the claim is eligible to receive Payment under CAP 2008-1 guidelines, Primary Counsel on the claim or the person(s) receiving such funds on an unrepresented claim must sign an acknowledgment recognizing their duty to comply with applicable state law regarding the distribution of such funds to the proper beneficiaries and heirs and to any other parties, such as creditors, with any rights to receive any portion of the payment. These Forms, the Primary Counsel Acknowledgment of Obligations Regarding Payment Distribution (Form V2079) and the Pro Se Claimant Acknowledgment of Obligations Regarding Payment Distribution (Form V2080) will be made available before payment is made as follows.

- 1. Form V2079-Primary Counsel Acknowledgment of Obligations Regarding Payment Distribution.** After a CAP 2008-1 Compliant Claimant has accepted a Notice of Points Award and is otherwise eligible for payment, the V2079 will be available on the Primary Counsel's Secure Web Portal. To locate the Form, select "Claims" on the Home screen, which will take you to the Claims Main Page. Once there, select "Claims Activity Details." You may then either select a specified VCN or search for Event Type, "V2079 Acknowledgment Form." Choose the applicable VCN, and you will then be taken to the Claimant Event Details page. Double click on the V2079 Form that is listed among the Events, and a pre-filled version of the Form will appear. Review the Form carefully. When you are ready to agree to its contents, you may insert an electronic signature by typing your name into the box beside the one labeled "Type in Name as Signature." After you type your name, click the "Accept" button to the right. You will then be prompted to "Agree" or "Disagree" with the terms of the electronic signature. If you click "Agree," the electronic signature will be transmitted to the Claims Administrator and will have the same enforceability as an original signature. You will not need to submit an original, signed, form to the Claims Administrator.

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2. Form V2080 – Pro Se Claimant Acknowledgment of Obligations Regarding Payment Distribution. After a Pro Se CAP 2008-1 Compliant Claimant has accepted a Notice of Points Award and is otherwise eligible for payment, the Claims Administrator will mail a V2080 Form to the Claimant with specific instructions on how to complete it and submit it to the Claims Administrator. The claim cannot be paid until the Claims Administrator receives the fully completed and signed V2080 Form.

Any Enrollment Deficiencies in the Release relating to the need for proof of Representative Claimant capacity (court appointment) for the person acting for the Deceased Vioxx User Claimant or Derivative Claimant will continue to appear on your Portal unless you have submitted and Merck has accepted such proof.

I. ADDRESSES, DEADLINES AND STATUS OF SUBMISSIONS

Sending Hard Copies to the Claims Administrator: Send hard copies to the Claims Administrator by US Mail or Overnight Delivery as follows:

Mailing Address: Claims Administrator
P.O. Box 85031
Richmond, Virginia 23285-5031

Delivery Address and Alternate Mailing Address:
Claims Administrator
115 S. 15th Street, Suite 400
Richmond, Virginia 23219-4209

For large volume submissions in cartons or boxes, delivery to the Claims Administrator or mail to the alternate mailing address is preferred over mail to the P.O. Box.