

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

In re: Vioxx

PRODUCTS LIABILITY
LITIGATION

This document relates to all cases.

* MDL Docket No. 1657
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* SECTION L
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* JUDGE FALLON
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* MAGISTRATE JUDGE
* KNOWLES
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PRETRIAL ORDER NO. 43

(Case Management Order for Cases Serving Future Evidence Stipulations Pursuant to the Vioxx Resolution Program)

This Order applies to all plaintiffs who had a case pending in this Court as of November 9, 2007 and who enrolled in the Vioxx Resolution Program but who have submitted a Future Evidence Stipulation (“FES”) to the Claims Administrator under the terms of the Settlement Agreement (“FES Claimant”). Persons who represent themselves *pro se* in this proceeding shall comply fully with all obligations required of counsel by this order, unless otherwise stated.

I. PRESERVATION NOTICE REQUIREMENT

Plaintiffs must comply with all of the Preservation Notice Requirements set out in Section I of Pretrial Order Nos. 28 and 29.

II. DISCOVERY REQUIREMENTS

A. Within thirty (30) days of serving a FES on the Claims Administrator, the FES Claimant shall produce the following information:


1. An Amended and Supplemental Plaintiff Profile Form (attached as Exhibit A), records requested therein, and executed Authorizations for Release of Records pursuant to

PTO 18A, B or C, as applicable. Service by Plaintiffs shall be made in accordance with the service procedures of PTO No. 8 and paragraphs 5 through 7 of PTO 18C. Service by Plaintiffs shall be made on Susan Giamportone at Womble Carlyle Sandrige & Rice, PLLC.

2. A Rule 26(a)(2) case-specific expert report from a medical expert attesting (i) that the Plaintiff suffered an injury and (ii) that Vioxx caused the injury. The case-specific expert report must include (i) an explanation of the bases of the attestation that Vioxx caused the plaintiff to suffer the injury; (ii) an identification of any other causes that were considered in formulating the opinion; (iii) a description of the specific injuries allegedly suffered; (iv) a description of the specific medical findings that support the diagnosis of those injuries; and (v) an identification of all documents relied on by the expert in forming his opinions.

B. If a FES Claimant fails to comply with the terms of this Order, the claim shall be dismissed with prejudice, except for good cause shown.

NEW ORLEANS, LOUISIANA, this 2nd day of July, 2009.


ELDON E. FALLON
UNITED STATES DISTRICT JUDGE