

**INSTRUCTION MANUAL FOR UNREPRESENTED CLAIMANTS ON
THE VIOXX EXTRAORDINARY INJURY PROGRAM**

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INTRODUCTION

The Claims Administrator prepared this Instruction Manual to assist you in the preparation and submission of claims seeking benefits in the Extraordinary Injury Program. These instructions will evolve over time, depending upon the nature and quantity of EI Claims submitted. The Claims Administrator has discretion to modify this Manual and to apply it as warranted by the particular circumstances of a claim or group of claims, instructions from the Parties to the Vioxx Settlement Agreement, Court orders and directions, and any events necessitating change to or departure from provisions in the Manual. Because this Manual can change over time, make sure that you are using the current version as posted on the general Vioxx Settlement website, www.browngreer.com/vioxxsettlement under the Extraordinary Injury Program. In addition, the Claims Administrator regularly receives questions about the details of the Extraordinary Injury Program and posts answers to them in the Frequently Asked Questions posted on the general Vioxx Settlement website under the Extraordinary Injury Program. Please check there for any question not covered in the Manual itself. If you still have questions, contact the Claims Administrator at claimsadmin@browngreer.com or call 1-866-866-1729.

I. SUMMARY OF APPLICABLE SETTLEMENT AGREEMENT PROVISIONS

A. MI EI Payments.

1. Who Can Seek EI Benefits?

§ 4.2.1: MI Qualifying Program Claimants may apply to receive MI EI Payments.

2. Cap Amount.

§ 4.2.2: MI EI Payments Cap Amount: \$195,000,000.

3. Threshold Eligibility.

§ 4.2.5: To be eligible to be considered for an MI EI Payment, an MI Qualifying Program Claimant must have a Pre-Special Review Points award in excess of the Special Review Marker (*i.e.*, of 10 points or more; §17.1.84) and:

(a) Have Specified Economic Damages of not less than \$250,000:

§ 4.2.6.1: Specified Economic Damages:

(i) Product User's Past Out-of-Pocket Medical Expenses to the extent such expenses are:

(x) A result of such Product User's Eligible Event;

(y) Documented; and

(z) Have neither been reimbursed nor are eligible for reimbursement.

AND

(ii) Product User's Past Lost Wages/Income to the extent such Lost Wages/Income are:

- (x) A result of such Product User's Eligible Event;
- (y) Documented; and
- (z) Have neither been reimbursed nor are eligible for reimbursement.

OR

(b) Submit PME Records reflecting an injury that is not adequately reflected by MI injury levels as defined in Ex.3.2.1.

B. IS EI Payments.

1. Who Can Seek EI Benefits?

§ 4.2.1: IS Qualifying Program Claimants may apply to receive IS EI Payments.

2. Cap Amount.

§ 4.2.3: IS EI Payments Cap Amount: \$105,000,000.

3. Threshold Eligibility.

§ 4.2.5: To be eligible to be considered for an IS EI Payment, an IS Qualifying Program Claimant must have a Pre-Special Review Points Award in excess of the Special Review Marker (*i.e.*, of 2 points or more; §17.1.84) and:

(a) Have Specified Economic Damages of not less than \$250,000 [same § 4.2.6.1 definition as in Section I.A.3.a above];

OR

(b) Submit PME Records reflecting an injury that is not adequately reflected by the Basic Activities of Daily Living or Instrumental Activities of Daily Living as defined in Ex. 3.2.1.

C. General Provisions.

1. Burden of Proof.

§ 4.2.4: Each Qualifying Program Claimant shall have the burden of proving to the Claim's Administrator's satisfaction such QPC's Specified Economic Damages and, in that connection, may be required by the Claims Administrator to produce further documentation.

2. EI Payment Criteria.

§ 4.2.6: Each QPC that is eligible for and properly and timely applies for an EI Payment shall (subject to § 4.2.8) receive an EI Payment according to criteria to be determined by the Claims Administrator.

3. Relation to Underlying Payments.

§ 4.2.6: EI Payments are in addition to § 4.3 Final Settlement Payments.

4. Definition of Documented.

§ 4.2.6.2: Documented means Medical Records, billing records, tax returns, social security earnings statements, or any other documentation or evidence requested or otherwise found acceptable by the Claims Administrator.

5. EI Payment Process.

§ 4.2.7:

- (a) All determinations on eligibility for an EI Payment and the amount of an EI Payment shall be made by the Claims Administrator.
- (b) The Claims Administrator shall promptly notify each QPC, Merck and the NPC of such QPC's EI Payment determination.
- (c) All EI Payment determinations of the Claims Administrator shall be made according to guidelines to be established by the Claims Administrator in consultation with Merck and the NPC. EI Payment determinations of the Claims Administrator shall be reviewable or appealable only pursuant to Section VIII of this Manual.

6. Valuation and Pro Rata.

§ 4.2.8:

- (a) The Claims Administrator shall determine EI Payment awards in the first instance without regard to the MI Payments Cap Amount or IS Payments Cap Amount.
- (b) No EI Payments shall be made until all possible MI or EI Payment eligibility and awards determinations have been made.
- (c) If the aggregate MI EI Payments or aggregate IS EI Payments exceed the MI Payments Cap Amount or IS Payments Cap Amount, then all EI awards shall be reduced pro rata to the extent necessary so that such aggregate MI EI Payment awards or IS EI Payment awards exactly equal the MI EI Payments Cap Amount or IS EI Payments Cap Amount.
- (d) After completion of the entire process, the Claims Administrator shall pay MI EI Payments and IS EI Payments in accordance with Article 5.

II. THE FOUR PRIMARY ANALYTICAL STEPS IN EI CLAIMS REVIEW

A. MI EI Payments.

1. Basic Eligibility.

- (a) An MI Qualifying Program Claimant; with
- (b) Pre-Special Review Points Award of ten Points or more.
- (c) A Claimant will be classified as an MI EI Claimant if the Claimant's Primary Injury on the Claimant's underlying Points Award was an MI Injury.

2. Threshold Eligibility.

- (a) Documented Unreimbursed Past Out-of-Pocket Medical Expenses \geq \$250,000; or
- (b) Documented Unreimbursed Past Lost Wages \geq \$250,000; or
- (c) Combined Documented Unreimbursed Past Out-of-Pocket Medical Expenses *and* Documented Unreimbursed Past Lost Wages \geq \$250,000; or
- (d) Special MI Medical Injury: PME Records reflecting an injury that is not adequately reflected by the Ex.3.2.1 MI Injury Levels.

3. EI Valuation.

This step requires the determination of the Claimant's MI EI Base Award, without regard to the MI EI Payments Cap Amount.

4. Pro Rata Adjustment.

This step requires the allocation of the MI EI Payments Cap Amount on a pro rata basis among all qualifying MI EI Base Awards to determine the Claimant's Individual MI EI Payment Amount.

B. IS EI Payments.

1. Basic Eligibility.

- (a) An IS Qualifying Program Claimant; with
- (b) Pre-Special Review Points Award of two Points or more.
- (c) A Claimant will be classified as an IS EI Claimant if the Claimant's Primary Injury on the Claimant's underlying Points Award was an IS Injury.

2. Threshold Eligibility.

- (a) Documented Unreimbursed Past Out-of-Pocket Medical Expenses \geq \$250,000; or
- (b) Documented Unreimbursed Past Lost Wages \geq \$250,000; or
- (c) Combined Documented Unreimbursed Past Out-of-Pocket Medical Expenses and Documented Unreimbursed Past Lost Wages \geq \$250,000; or
- (d) Special IS Medical Injury: PME Records reflect an injury not adequately reflected by BADL or IADL defined in Ex. 3.2.1.

3. EI Valuation.

This step requires the determination of the Claimant's IS EI Base Award, without regard to the IS EI Payments Cap Amount.

4. Pro Rata Adjustment.

This step requires the allocation of the IS EI Payment Cap Amount on a pro rata basis among all qualifying IS EI Base Awards to determine the Claimant's Individual IS EI Payment Amount.

III. PAST OUT-OF-POCKET MEDICAL EXPENSES

A. Past Measurement Period for Past Medical Expenses.

1. Start Date.

The Past Measurement Period begins on the date of the Claimant's first Eligible Event.

2. End Date.

The Past Measurement Period ends on 11/9/07, which is the Settlement Agreement Execution Date.

B. \$250,000 Specified Economic Damages Amount Required for Eligibility.

1. Amount.

The loss must be "not less than" \$250,000, which means that the loss must be \geq \$250,000 to be considered eligible for EI Payments.

2. Calculation.

Past Medical Expenses and Past Lost Wages can be combined to reach the \$250,000 Eligibility threshold, but a Claimant must establish some degree of a type of Economic Damage to recover for that type of Economic damage.

C. What Constitutes Medical Expenses?

1. Items Included as Medical Expenses.

The costs of the following will be included in the calculation of Medical Expenses:

- (1) Ambulance Travel.
- (2) Emergency Room Care.
- (3) Hospital Services on an In-Patient or Out-Patient basis from a Hospital facility licensed to provide care and treatment for the Eligible Event injury and its consequences (without regard to private room or semi-private room status).
- (4) Physician charges from a duly licensed practitioner who is recognized by the law of the state in which treatment occurred as

qualified to treat the Eligible Event injury and its consequences (other than the Claimant or a member of the Claimant's immediate family).

- (5) Diagnostic Tests (radiology; ultrasound; nuclear medicine; laboratory and pathology services or tests; diagnostic EKGs, EEGs, MRIs, and other scans).
- (6) Medical Equipment acquisition, repair and replacement, for equipment with solely a therapeutic purpose (*e.g.*, hospital-type beds; wheelchairs; traction equipment; walkers; crutches).
- (7) Medical Devices fitting, adjustment, acquisition, repair and replacement for devices or appliances when prescribed for the activities of daily living (*e.g.*, orthopedic braces; leg, arm, back and neck braces; head halters; catheters and related supplies; orthotics; splints).
- (8) Medical Supplies (*e.g.*, oxygen; hypodermic needles and syringes).
- (9) Prescription Drugs received through a pharmacy, a Physician's office, or a Hospital.
- (10) Home Health Care, consisting of medical and non-medical services provided in the Claimant's residence, if: (i) prescribed by and provided under the supervision of a Physician and (ii) rendered by a licensed home health care provider who is not a member of the Claimant's immediate family. Home Health Care does not include homemaker, companion and home delivered meals services.
- (11) Hospice Care, consisting of a program of care which coordinates the special needs of a person with a terminal illness or Disability; if: (i) prescribed by and provided under the supervision of a Physician and (ii) rendered by a licensed hospice care provider who is not a member of the Claimant's immediate family.
- (12) Rehabilitative Therapy, including physical, occupational, speech and cardiac rehabilitative therapy, provided in a rehabilitative facility or by a provider, licensed in the state in which the care was provided to render rehabilitation services, therapy or retraining to enable a patient to walk, communicate, and/or function as a member of society, or for the process of restoring and maintaining the physiological, social and vocational capabilities of the person.
- (13) Infusion Therapy, consisting of treatment by placing therapeutic agents into the vein, including intravenous feeding.

- (14) Skilled Nursing Care in a Skilled Nursing Home facility licensed by the state in which it is operating to provide care that: (i) requires the training and skills of a Registered Nurse; and (ii) is prescribed by a Physician.
- (15) Vision care and services, on an IS EI Payments claim.
- (16) Any other treatment or procedures deemed by the Claims Administrator to be reasonably necessary for the treatment of the Eligible Event and its consequences.

2. Exclusions from Medical Expenses.

The costs of the following will not be included in the calculation of Medical Expenses:

- (1) Dental services or oral surgery.
- (2) Vision care and services, on an MI EI Payments claim.
- (3) Child care.
- (4) Acupuncture.
- (5) Biofeedback therapy.
- (6) Chiropractic services.
- (7) Over-the-counter medications, convenience, or hygienic items.
- (8) Cosmetic surgery or procedures.
- (9) Education services or examinations that are not part of Rehabilitative Therapy.
- (10) Experimental procedures.
- (11) Family planning services.
- (12) Maternity services.
- (13) Foot care.
- (14) Hearing services that are not part of Rehabilitative Therapy.
- (15) Medical equipment, appliances or supplies that have both a non-therapeutic and therapeutic use, such as a telephone or exercise machine.
- (16) Mental health services that are not part of Rehabilitative Therapy.
- (17) Substance abuse services.
- (18) Nutrition counseling.
- (19) Obesity care.

- (20) Smoking cessation.
- (21) Sex transformation or sexual dysfunction treatment.
- (22) Diabetic supplies, equipment, and treatment.
- (23) Chemotherapy.
- (24) Wellness services (periodic health assessments, routine laboratory and radiological services, immunizations, and cancer screenings).
- (25) Travel, lodging, or meal expenses incurred while obtaining medical treatment, *except that* travel costs up to \$.20 per mile (the IRS rate in effect in 2007 to determine deductibility of medical expenses) can be claimed if explained in the documents submitted as *Past Medical Expenses* documentation.
- (26) Any procedures deemed by the Claims Administrator not to be reasonably necessary for the treatment of the Eligible Event and its consequences.

D. Out-of-Pocket Past Medical Expenses of the Claimant Not Reimbursed by Others.

1. Proof by the Claimant Required.

The Claimant must establish: (1) proof of payment by the Claimant of the amounts claimed as Past Medical Expenses; and/or (2) proof of Past Medical Expenses that remain due but have not been paid by the Claimant or a third party. The amounts actually paid and/or due by the Claimant will form the basis of the calculation of Past Medical Expenses. If not paid, the amounts claimed must be currently due and owing to be asserted as part of an EI Claim. No Claimant may seek EI Payments for any Medical Expenses that the Claimant will not pay or will have no legal obligation to pay.

2. Exclusions from Past Medical Expenses for Amounts Paid by Others.

Past Out-of-Pocket Medical Expenses cannot include any amounts paid by Other Coverage:

- (a) Private health insurance.
- (b) Employee benefit plans (ERISA).
- (c) Union health plans.
- (d) Medicare.
- (e) Medicaid.

- (f) Other governmental agencies or programs.
- (g) Other third parties (family members or friends; charities) or any source determined by the Claims Administrator to have paid for or reimbursed Claimant for health care expenses.

E. Out-of-Pocket Medical Expenses as a Result of the Claimant's Eligible Event(s).

1. General Causation Requirement.

A Claimant can submit Past Medical Expenses as Extraordinary Injury Specified Economic Damages only if they resulted from medical care during the Past Measurement Period for conditions relating to the Claimant's Eligible Event(s).

2. Claims Administrator Review.

The Claims Administrator will review the claim submissions to assess whether the expenses claimed appear to have resulted from medical care during the Past Measurement Period for conditions relating to the Claimant's Eligible Event(s). The Claims Administrator may exclude from the EI calculation any Medical Expenses that the Claims Administrator determines were not the result of such events.

F. Required Documentation of Past Medical Expenses.

1. Required Submissions.

- (a) **To show the amount of the expenses and why they were incurred:** Billing statements or invoices from healthcare providers showing the charges claimed and the nature of the service or treatment giving rise to the charge. If these statements do not sufficiently describe the service or treatment to establish that they resulted from the Product User's Eligible Event(s), the Product User shall submit office notes, hospital records, or other Medical Records showing the nature of the service or treatment giving rise to the expenses claimed. Claimants shall label these documents: *Past Medical Expenses*.
- (b) **To establish that payment was made by the Claimant for the expenses claimed:** Canceled Checks, credit card statements, and/or billing statements or invoices from healthcare providers marked PAID, or other documents showing the payment of the expenses claimed. Claimants shall label these documents: *Medical Expenses Paid*.
- (c) **To establish that the expenses remain due but have not been paid by the Claimant or a third party:** A current statement or invoice issued by any healthcare provider detailing Medical Expenses that remain due and owing

but have not been paid, and any documents reflecting any payments made on such expenses not appearing in the current statement or invoice, such as amounts collected through garnishment proceedings or other collections activity. Claimants shall label these documents: *Medical Expenses Due But Unpaid*.

- (d) **To establish what was paid by third parties:** If the documents submitted under (a), (b) or (c) do not establish what the Product User paid or is required to pay as opposed to what an insurance carrier or other third party paid or reimbursed the Product User for such expenses, then the Claimant shall also submit copies of Explanations of Benefits or other documents issued by any insurance carrier or any other documents showing the payments and/or reimbursements or payments by third parties. Claimants shall label these documents: *Third Party Medical Expense Payments*.

2. **Submission Protocols.**

- (a) For every type of Required Documentation, Claimants shall submit copies of the documents and not originals. They can also be emailed as PDFs to vioxclaimsadministrator@browngreer.com. If being submitted in hard copy, the documents should be separated into the groups described above and bundled together (by clip or rubber band) with a cover sheet containing the label required for each set, and then mailed or delivered to the Claims Administrator by September 1, 2009.
- (b) Claimants are required to submit the Required Documentation in each of the required categories in support of a Past Out-of-Pocket Medical Expenses claim, regardless of whether they had been submitted in connection with the Claimant's underlying MI or IS Claim, or whether they are being submitted in support of another type of Extraordinary Injury claim.
- (c) Other than the information in the EI Claim Form, the Claims Administrator will not rely upon any Medical Records or documents relating to healthcare that were not created at or near the time of the events recorded.

IV. PAST LOST WAGES/INCOME

A. **Past Measurement Period for Past Lost Wages/Income.**

1. **Start Date.**

The Past Measurement Period begins on the date of the Claimant's first Eligible Event.

2. **End Date.**

The Past Measurement Period ends on 11/9/07, which is the Settlement Agreement Execution Date.

B. **\$250,000 Specified Economic Damages Amount Required for Eligibility.**

1. **Amount.**

The loss must be “not less than” \$250,000, which means that the loss must be \geq \$250,000 to be considered eligible for EI Payments.

2. **Calculation.**

Past Medical Expenses and Past Lost Wages/Income can be combined to reach the \$250,000 Eligibility threshold, but a Claimant must establish some degree of a type of Economic Damage to recover for that type of Economic damage.

C. **What Constitutes Past Lost Wages/Income?**

1. **Employees.**

- (a) Lost Wages for any period of time that the Claimant was an employee will be measured by the gross amount of the Claimant’s Base Salary not received by the Claimant over the Past Measurement Period, calculated on the basis of a Monthly Pay Rate for the months or partial months claimed and included in the Past Measurement Period.
- (b) The Base Salary Rate will be measured using the rate of pay applicable to the Claimant as of the date on which the Claimant’s first Eligible Event occurred.
- (c) The Monthly Pay Rate for hourly employees (employees paid by the hour or whose pay is determined as a function of the hours worked during a payroll period) will be determined by the average hours worked per week for the 12 months preceding the month in which the Claimant’s earliest Eligible Event (not to exceed 40 hours a week), multiplied by the Base Salary Rate to derive a Weekly Pay Rate, and then multiplied by 4.33 to determine a Monthly Pay Rate.
- (d) The Monthly Pay Rate of a salaried/exempt employee with an annual rate of pay shall be determined by dividing by 12 the employee’s base annual salary applicable as of the first of the month in which the Claimant’s earliest Eligible Event occurred. The Monthly Pay Rate of an employee who was paid on the basis of a monthly salary, rather than an annual salary, shall be

the monthly pay rate in effect as of the first of the month in which the Claimant's earliest Eligible Event occurred.

- (e) If the Claimant was not an employee at any time during this 12-month period, held different positions or had different employers during this period, received recent pay raises or had other employment events that make the pay rates at the time of the earliest Eligible Event not representative of the Claimant's true wages, or presents any other factual pattern that does not match the Monthly Rate models on which these calculations will rest (*e.g.*, reaching a retirement age during the Past Measurement Period), the Claims Administrator will use its discretion in determining the applicable Monthly Pay Rate appropriate under the circumstances.
- (f) If the Claimant received commissions as a normal and regular part of the Claimant's income, the commissions would also constitute Past Lost Wages/Income. Thus, if the Product User's income was dependent upon commissions for all or part of the Product User's normal income, commissions can be included in the amounts claimed as Past Lost Wages/Income.

2. Self-Employed Persons/Business Owners.

- (a) The Lost Wages/Income of a Claimant who was a business owner or otherwise self-employed during any portion of the Past Measurement Period will be the Claimant's projected taxable net income from the self-employment not received for the period claimed and included in the Past Measurement Period.
- (b) This projected income loss will be calculated by averaging the Claimant's taxable net income for the year of the Claimant's earliest Eligible Event and the two years preceding the year of the Claimant's earliest Eligible Event (the "Self-Employed Base Period") to calculate an average annual taxable income from the self-employment, which will be applied to the years or portion of a year for the period claimed and included in the Past Measurement Period.
- (c) The loss will be determined by the net taxable income from the self employment shown on the Claimant's W-2, Schedule C, or other tax document showing the Claimant's share of the net income of the business/self-employment during the Self-Employed Base Period.
- (d) If the Claimant presents any factual pattern that does not match the Self-Employed Base Period model on which these calculations will rest (*e.g.*, reaching a retirement age during the Past Measurement Period), the Claims Administrator will use its discretion in determining the applicable Self-

Employed Base Period and average income to use in the Lost Income projection as are appropriate under the circumstances.

3. Disability Income.

A Claimant who was receiving disability income (*i.e.*, payments in lieu of income because of inability to work) from the Social Security Administration or from a private disability source at the time of the Claimant's earliest Eligible Event (and thus from some cause other than Vioxx use) can include that disability income in a claim for Lost Wages/Income. This income can be included to avoid penalizing Claimants for disability income they were receiving at the time of their Vioxx Eligible Event and continue to receive after the Eligible Event, for disability income after the Vioxx Eligible Event is deducted from the Economic Damages calculation. This also permits Claimants who no longer receive that disability income after the Vioxx Eligible Event, such as for example, a deceased Claimant, and whose lost income thus includes lost disability income payments, to count that lost disability income as part of the Claimant's Economic Damages. The Claimant (or Representative Claimant) must provide documentation showing the amount of disability income being received at the time of the Eligible Event and that being received afterwards during the Past Measurement Period. Subject to the discretion of the Claims Administrator, the lost disability income will be considered in the calculation of the Claimant's Lost Wages/Income.

4. Taxes and Other Payroll Deductions.

- (a) To calculate the Claimant's Monthly Pay Rate and Base Period Income, the Claims Administrator will use the gross pay amounts and total net taxable income amounts without regard to local, state, or federal taxes, FICA, Medicare, payroll deductions for benefits, or other deductions applicable to such wages/income.
- (b) The Claims Administrator will not attempt to determine or make any deductions for any local, state, or federal taxes, FICA, Medicare, payroll deductions for benefits, or other deductions that may have been applicable to such wages/income had they been earned and received by the Claimant during the Past Measurement Period.

5. Exclusions from Past Lost Wages/Income.

The Past Lost Wages/Income calculation will not include any amounts for these items, if any, not received or that might have been received during the Past Measurement Period:

- (a) Retirement benefits.
- (b) The value of health or other insurance benefits.

- (c) Anticipated increases in salary or income, from advancement, CPI/inflation increases, or business development.
- (d) Anticipated bonuses contingent upon performance or profitability, unless such bonuses were guaranteed to occur or were a fixed part of a self-employed person's compensation plan.
- (e) Stock options, stock ownership plans, or other opportunities to purchase equity in a business.
- (f) 401(k) or other retirement plan contributions, pension plans, deferred compensation plans, profit-sharing plans, or tax-sheltered annuities.
- (g) Payments in lieu of personal time off.
- (h) Lost business opportunities or loss of good will.
- (i) Commissions that were not a normal and regular part of the Product User's income.
- (j) Any type of income deemed by the Claims Administrator not to be reasonably related to the Claimant's Eligible Event and its consequences or that cannot be determined or calculated with reasonable certainty.

D. Unreimbursed Past Lost Wages/Income.

The Claims Administrator will deduct from the Past Lost Wages/Income calculation any amounts paid as benefits to the Claimant or for the Claimant's benefit from any of these Other Sources:

- (a) A group or individual Disability Insurance plan or policy.
- (b) An Employee Benefit Plan.
- (c) A Union Benefit Plan.
- (d) Disability or retirement benefits under the Social Security Act or any similar law in other countries.
- (e) A governmental retirement system or plan.
- (f) A private retirement system or plan.
- (g) Workers' Compensation, occupational disease, or compulsory benefit laws.
- (h) A salary continuation plan, wages or commissions, other than those vested before the Claimant's Eligible Event.
- (i) Severance payments.

- (j) Business buy-out agreements upon death, retirement, or disability.
- (k) Any other source determined by the Claims Administrator to have provided payments or benefits to the Claimant as earned income or in lieu of earned income.

E. Past Lost Wages/Income as a Result of the Claimant's Eligible Event(s).

1. Employees.

- (a) An employee Claimant may seek Past Lost Wages/Income only if they were caused by the Claimant's Eligible Event(s).
- (b) For Claimants who qualified on Level 1 on the Claimant's underlying claim [death caused by the Eligible Event(s)], the Claims Administrator will presume that all established Past Lost Wages/Income of a Claimant who was an employee were the result of the Eligible Event(s). This presumption will not apply to self-employed Claimants on Level 1 or to Claimants on other Injury Levels.
- (c) Except for employee Claimants who qualified on Level 1, the Claims Administrator will assess whether a change in income was the result of the Eligible Event(s) or some other health condition, or from some cause other than health conditions, such as an employer action (*e.g.*, a demotion or termination unrelated to the Claimant's health condition), or some action by the Claimant (*e.g.*, a voluntary quit).

2. Self-Employed Persons.

- (a) A self-employed Claimant may seek only Past Lost Income caused by the Claimant's Eligible Event(s).
- (b) The Claims Administrator will assess whether a change in income was the result of the Eligible Event(s), from some other health condition, or from some cause other than health conditions, such as a decline in revenues prior to the Eligible Event or otherwise from market conditions unrelated to the Eligible Event(s).

3. Disabled Claimants.

- (a) Claims for Past Lost Wages/Income will be allowed for Claimants whose Eligible Event(s) caused the Claimant to suffer either Total Disability or Partial Disability.
- (b) Total Disability: A Product User will be considered to be Totally Disabled if the Eligible Event(s) prevented the Product User from performing the

work that the Product User performed before the Eligible Event(s) and the Product User could not adjust to perform other work because of his/her medical condition(s).

- (c) Partial Disability: A Product User will be considered to be Partially Disabled if the Eligible Event(s), either temporarily or permanently, reduced the Product User's ability to function, but still permitted the Product User to perform some work of some kind, even if not the vocation of the Product User at the time of the Eligible Event(s).
- (d) IS Claimants who qualified on Level 2 will be presumed to be Total Disability Claims. No other IS Claimants will be considered to be Total Disability Claims. IS Claimants who qualified on Level 3 or Level 4 will be presumed to be Partial Disability Claims. No other IS Claimants will be presumed to be permanent Partial Disability Claims, but can seek Lost Wages/Income for periods of temporary disability resulting from an Eligible Event.
- (e) On claims involving Total Disability resulting from the Eligible Event(s), the Claims Administrator will presume that all established Past Lost Wages/Income of the Claimant who was an employee were the result of the Eligible Event(s). This presumption will not apply to self-employed Claimants.
- (f) On claims involving Partial Disability resulting from the Eligible Event(s), the Claims Administrator will not presume that all established Past Lost Wages/Income of a Claimant who was an employee or was self-employed were the result of the Eligible Event(s). Instead, the Claimant will be required to report in the EI Claim Form the gross amounts of any income received from any source during the Past Measurement Period and to submit records showing the amount of gross income received from any sources during the Past Measurement Period. If a Partial Disability Claimant received wages as an employee and/or in any self-employed capacity from any vocation during the Past Measurement Period, such gross wages and/or net taxable self-employment income will be deducted from the amount that would have been earned during the Period at the Claimant's position/vocation as of the time of the earliest Eligible Event. The Claims Administrator has discretion to reduce the Past Lost Wages/Income award of any Claimant whose records suggest an ability to earn income and an election not to attempt to do so during any period for which a loss is claimed.

F. Required Documentation of Past Lost Wages/Income.

1. Documents to be Submitted.

- (a) **Tax Records for the Past Measurement Period:** US Form 1040 or Form 1040EZ, with all attachments, for the Product User for the Past Measurement Period (date of earliest Eligible Event through 11/9/07). The attachments must include the Product User's W-2 Forms, 1099 Forms, and the K-1, Schedule C or other form reporting on self-employment income, for those years. If the Product User filed a joint tax return with his or her spouse, then all the attachments to the return pertaining to the spouse must also be submitted for the Past Measurement Period. *Label these: Tax Records for Past Measurement Period.*
- (b) **Tax Records for the Two Years Prior to the Past Measurement Period:** US Form 1040 or Form 1040EZ, with all attachments, for the Product User for the two years immediately before the year of the Product User's earliest Eligible Event. The attachments must include the Product User's W-2 Forms, 1099 Forms, and the K-1, Schedule C or other form reporting on self-employment income, for those years. If the Product User filed a joint tax return with his or her spouse, then all the attachments to the return pertaining to the spouse must also be submitted for the two years prior to the Past Measurement Period. *Label these: Tax Records for Two Prior Years.*
- (c) **Employee Claims--Pay Rate for the Past Measurement Period:** If the Extraordinary Injury Claim seeks Past Lost Wages for a Product User who was an employee for any Period of Loss, documents, such as paycheck stubs, showing the rate of pay and pay period for the Product User for the Past Measurement Period (date of earliest Eligible Event through 11/9/07). *Label these: Employee Pay Records for Past Measurement Period.*
- (d) **Employee Claims—Employment Records for the Past Measurement Period:** If the Extraordinary Injury Claim seeks Past Lost Wages for a Product User who was an employee for any Period of Loss, the personnel file for the Product User at each employer for the Past Measurement Period (date of earliest Eligible Event through 11/9/07). *Label these: Employment File for Past Measurement Period.*
- (e) **Employee Claims--Employment Records for the Two Years Prior to the Past Measurement Period:** If the Extraordinary Injury Claim seeks Past Lost Wages for a Product User who was an employee for any Period of Loss, the personnel file for the Product User at each employer for the two years immediately before the year of the Product User's earliest Eligible Event. *Label these: Employment File for Two Prior Years.*

- (f) **Self-Employed Claims—Financial Statements for the Past Measurement Period:** If the Extraordinary Injury Claim seeks Past Lost Income for a Product User who was self-employed for any Period of Loss, a financial (profit and loss) statement of the business for each year included in the Past Measurement Period (date of earliest Eligible Event through 11/9/07). *Label these: Self-Employment Records for Past Measurement Period.*
- (g) **Self-Employed Claims—Financial Statements for the Two Years Prior to the Past Measurement Period:** If this Extraordinary Injury Claim seeks Past Lost Income for a Product User who was self-employed for any Period of Loss, a financial (profit and loss) statement of the business for the two years immediately before the year of the Product User’s earliest Eligible Event. *Label these: Self-Employment Records for Two Prior Years.*
- (h) **MI Claimants Asserting Disability—Establishing the Disability:** MI Claimants asserting Total or Partial Disability during any portion of the Past Measurement Period resulting from the Product User’s Eligible Event(s), are required to submit documentation to establish such disability, consisting of:
- (1) Determination(s) by the Social Security Administration or private Disability plan administrators that establishes the Product User’s Disability and that such Disability resulted from the Product User’s Eligible Event(s); or
 - (2) If no such determination is submitted for any period in which Lost Wages/Income are claimed, Medical Records including office notes or records from office visits or in-patient care, for medical care relating to the conditions that caused the disability and showing the nature, cause and extent of the Claimant’s Disability. Physician opinions or declarations not created contemporaneously in the course of medical care (and thus not appearing in the Claimant’s Medical Records) will not be considered.

Claimants shall label these documents: *Disability Proof Records*. (NOTE: IS Claimants do not have to submit these records, for the Injury Level found on the IS Claimant’s underlying claim will control the disability finding.)

- (i) **Earned Income from Any Sources:** Documents showing the amount of gross earned income received by the Product User from any sources during the Past Measurement Period. *Label these: Records Of Other Income During Past Measurement Period.* Claimants are not required to submit documents relating to unearned income received, such as dividends, interest payments, or other passive income from investments. But if the Product User earned income as an employee or from any self-employment business or activity

during the Past Measurement Period, the gross amounts of those wages or income (before deductions for taxes or benefits) will reduce the Claimant's Past Lost Wages/Income during the Past Measurement Period.

- (j) **Third Party Payments:** Documents showing payments from Disability Insurer(s) or Other Third Party Payor(s), such as Social Security benefit statements, explanation of benefit forms or other documents showing the amounts the Product User received from any Third Party as Disability insurance payments or other benefits in lieu of earned income at the time of the Claimant's earliest Eligible Event and/or during the Past Measurement Period. *Label these: Third Party Income Payment Records.*

2. **Submission Protocols.**

- (a) For every type of Required Documentation, Claimants shall submit copies of the documents and not originals. They can also be emailed as PDFs to vioxxclaimsadministrator@browngreer.com. If being submitted in hard copy, the documents should be separated into the groups described above and bundled together (by clip or rubber band) with a cover sheet containing the label required for each set, and then mailed or delivered to the Claims Administrator by September 1, 2009.
- (b) Claimants shall submit the Required Documentation in each of the required categories in support of a Past Lost Wages/Income claim, regardless of whether they had been submitted in connection with the Claimant's underlying MI or IS Claim, or whether they are being submitted in support of another type of Extraordinary Injury claim.
- (c) Other than the information in the EI Claim Form, the Claims Administrator will not rely upon any documents that were not created at or near the time of the events recorded.

V. SPECIAL MEDICAL INJURY CLAIMS

A. **Exclusions from the Special Medical Injury Category.**

1. **Qualifying Program Claimant Requirement.**

An EI Claimant must be a Qualifying Program Claimant under § 2.1 and/or § 2.9, meaning that each EI Claimant must have had an Eligible Event under § 2.2.1.1 or be deemed to have an Eligible Event under Article 2. Thus each EI Claimant who seeks any sort of Extraordinary Injury Payments, including Special Medical Injury Payments, must have been found eligible for an MI Settlement Payment or an IS Settlement Payment at a level above the Special Marker level.

2. Underlying Claim Injuries.

The injuries or medical conditions that constituted the Claimant's Eligible Event for which the Claimant received a Points Award cannot be the basis for an Extraordinary Injury Claim.

3. Second Eligible Events.

The injuries or medical conditions that constituted the basis for a Second Eligible Event for which the Claimant was awarded additional MI Points or IS Points under § 3.5 of the Settlement Agreement cannot be the basis for an Extraordinary Injury Claim.

B. The Types of Injuries Compensable as Special Medical Injuries.

1. General Guidelines.

- (a) The Settlement Agreement directs that an MI Special Medical Injury is an injury that is not adequately reflected by MI injury levels as defined in Ex.3.2.1. It describes an IS Special Medical Injury as an injury that is not adequately reflected by the Basic Activities of Daily Living or Instrumental Activities of Daily Living as defined in Ex. 3.2.1.
- (b) The Claims Administrator cannot provide Claimants with specificity on what types of injuries may qualify as Special Medical Injuries compensable in the EI Program as MI Special Medical Injury types not adequately reflected in the Ex. 3.2.1 MI Injury Levels or as IS Special Medical Injury types not adequately reflected by BADL or IADL. Because the Claimant must be one who qualified on some Injury Level for payments as an MI Claimant or an IS Claimant, the Claimant must establish a Special Medical Injury that the Claimant feels supports additional payments on a lower number Injury Level than the Claimant's underlying claim. For example, a Claimant who qualified on Injury Level 5 can attempt to show a Special Medical Injury that the Claimant feels are similar in severity to those compensable under Injury Level 2, 3, or 4.

2. Claimant Submissions.

- (a) The Claims Administrator has not adopted specific requirements for the documents to be submitted to support a Special Medical Injury claim.
- (b) Instead, Claimants are instructed to submit their positions as to why the injury asserted should be compensable as a Special Medical Injury and submit all the Medical Records substantiating the injury on which the Special Medical Injury Claim is based and any other documentation which support the claim for Special Medical Injury. *Label these: Special Medical*

Injury Records.

- (c) The Claims Administrator will review all such submissions and work with the Parties to determine the types of injuries compensable as EI Special Medical Injuries and how to place a value on such allowed injuries, based upon the nature and quantity of the Special Medical Injury Claims received.
- (d) For every type of Required Documentation, Claimants shall submit copies of the documents and not originals. They can also be emailed as PDFs to vioxclaimsadministrator@browngreer.com. If being submitted in hard copy, the documents should be separated into the groups described above and bundled together (by clip or rubber band) with a cover sheet containing the label required for each set, and then mailed or delivered to the Claims Administrator by September 1, 2009.
- (e) These documents must be submitted in support of this type of Extraordinary Injury Claim even if all or part of them were previously submitted in connection with the Claimant's underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury Claim asserted in this Form.

VI. ADDITIONAL EXTRAORDINARY DAMAGES

A. General Considerations.

If a Claimant qualifies for Extraordinary Injury Payments based upon Specified Economic Damages of \$250,000 or more, or on the basis of a Special Medical Injury, the Parties to the Settlement Agreement intended that such Claimants be able to seek from the Extraordinary Injury Funds damages for injuries or losses that the Claimant feels and can establish were truly extraordinary. The Claims Administrator can consider such submissions in evaluating the damages to be allowed on a particular Extraordinary Injury claim. As a result, the EI Claim Form will allow a Claimant to describe the type of damages not otherwise compensable on the Claimant's underlying Claim and excluded from the calculation of Past Out-of-Pocket Medical Expenses or Past Lost Wages/Income, if the Claimant can show that such expenses were extraordinary under the circumstances. For example, if a Claimant believes he or she has incurred Out-of-Pocket Medical Expenses since the end of the Past Measurement Period (11/9/07) or will incur Out-of-Pocket Medical Expenses in the future that are extraordinary and that can be established to a reasonable degree of certainty by documents the Claimant can submit, such Out-of-Pocket Medical Expenses will be a factor in the evaluation of the total Extraordinary Injury damages of a Claimant who satisfies the Threshold Eligibility requirements to recover Extraordinary Injury Payments. Similarly, if a Claimant believes he or she has incurred Past Lost Wages/Income since the end of the Past Measurement Period (11/9/07) or will incur Lost Wages/Income in the future that are extraordinary and that can be established to a reasonable degree of certainty by documents the Claimant can submit, such Lost Wages/Income will be a factor in the evaluation of the total

Extraordinary Injury damages of a Claimant who satisfies the Threshold Eligibility requirements to recover Extraordinary Injury Payments. In addition, if a Claimant believes he or she has incurred out-of-pocket expenses which are excluded from the calculation of Past Out-of-Pocket Medical Expenses or Past Lost Wages/Income, such as amounts paid for lodging or meals while obtaining medical treatment, and these expenses are extraordinary and can be established with a reasonable degree of certainty by documents the Claimant can submit, such expenses will be a factor in the evaluation of the total Extraordinary Injury damages of a Claimant who satisfies the Threshold Eligibility requirements to recover Extraordinary EI Payments.

B. Submissions in Support of Additional Extraordinary Damages Claimed.

1. Required Documentation.

- (a) A Claimant who seeks consideration by the Claims Administrator of Additional Extraordinary Damages shall submit in the Claimant's EI Claim Form a description of the damages asserted, and must submit all medical records, financial records, and other records that the Claimant feels substantiate that the damages sought are truly extraordinary and that they can be ascertained and quantified to a reasonable degree of certainty. Claimants shall label these records with titles that will indicate the purpose of submission of the documents. The Claims Administrator cannot provide any more specificity on what types of materials are necessary to substantiate such a claim.
- (b) If the Claimant seeks consideration of future Out-of-Pocket Medical Expenses or future Lost Wages/Income, or asserts a Special Medical Injury claim and seeks consideration of any economic losses resulting from the Special Medical Injury, the Claimant must submit the same types of documents required to establish Past Out-of-Pocket Medical Expenses or Past Lost Wages/Income, to the extent such documents exist, including a list or table containing the information required by the Extraordinary Injury Claim Form for each Date of Service for Medical Expenses and each Source of Income for Past Lost Wages/Income. *Label all these documents: Additional Extraordinary Damages.*

2. Submission Protocols.

- (a) For every type of Required Documentation, Claimants shall submit copies of the documents and not originals. They can also be emailed as PDFs to vioxxclaimsadministrator@browngreer.com. If being submitted in hard copy, the documents should be separated into the groups described above and bundled together (by clip or rubber band) with a cover sheet containing the label required for each set, and then mailed or delivered to the Claims Administrator by September 1, 2009.

- (b) These documents must be submitted in support of this type of Extraordinary Injury claim even if all or part of them were previously submitted in connection with the Claimant's underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury claim asserted in this Form.

VII. THE VALUATION OF EXTRAORDINARY INJURY DAMAGES

A. Specified Economic Damages.

1. Past Medical Expenses Amount.

The amount determined to be the Claimant's Unreimbursed Past Medical Expenses in the Threshold Eligibility Phase shall be the *Past Medical Expenses Amount*.

2. Past Lost Wages/Income Amount.

The amount determined to be the Claimant's Unreimbursed Past Lost Wages/Income in the Threshold Eligibility Phase shall be the *Past Lost Wages Amount*.

3. Specified Economic Damages Amount.

The total of the Claimant's Past Medical Expenses Amount and Past Lost Wages Amount shall be the Claimant's *Specified Economic Damages Amount*. If this Amount is greater than or equal to \$250,000, the Claimant qualifies for Extraordinary Injury Payments.

B. Special Medical Injury Claims.

The Claims Administrator will review with the Parties the nature and quantity of the Special Medical Injury Claims submitted to adopt an appropriate method to value such allowed Claims to determine a Claimant's Allowed Special Medical Injury Amount. For any qualifying Special Medical Injury that would place the Claimant on a more severe Injury Level than the Claimant was awarded for an Eligible Event or Second Eligible Event, it is likely that the incremental dollar value the Claimant would have received on the more severe Injury Level will be assigned as the dollar value of the Special Medical Injury Claim.

C. Additional Extraordinary Damages.

Under such criteria developed by the Claims Administrator and agreed upon by the Parties, a Claimant's documented Additional Extraordinary Damages will be calculated and allowed on the Claimant's claim to derive the Claimant's *Allowed Additional*

Extraordinary Damages Amount. These criteria will depend upon the nature and quantity of such claims received.

D. Relative Points Value Adjustment.

1. Application of Relative Points Value Adjustment.

The underlying Points Awards of each Claimant seeking EI Payments will vary, depending upon Injury Level, Duration of Use, Age at Eligibility Event(s), Label and Consistency Adjustments, and Risk Factor Adjustments. The EI Payment awards for these Claimants will preserve that relative standing among the Claimants. Because the Special Medical Injury category will consist of injuries not adequately placed on the MI or IS grids and such considerations will be applied in the assessment of the incremental awards a Claimant would have received on a more serious Injury Level, the need to preserve the relative positions of all Claimants in light of the factors that placed them on the Injury Levels does not apply to the Special Medical Injury awards. As a result, the Relative Points Value Adjustment will not be applied separately to the value used to derive the Claimant’s Allowed Special Medical Injury Amount. The Relative Points Value Adjustment will be applied to each Claimant’s Specified Economic Damages Amount and Allowed Additional Extraordinary Damages Amount.

2. Relative Points Adjustment Formula.

- (a) The underlying point score positions of the Claimants who qualify for EI Payment will be preserved by: (1) multiplying each Claimant’s underlying Points Award relative to the total points available on an MI or IS claim (1,000 points) times the Claimant’s Specified Economic Damages Amount to derive the Claimant’s *Adjusted Specified Economic Damages Amount*; and (2) multiplying each Claimant’s underlying Points Award relative to the total points available on an MI or IS claim (1,000 points) times the Claimant’s Allowed Additional Extraordinary Damages Amount (if any) to derive the Claimant’s *Adjusted Additional Extraordinary Damages Amount*, in this manner:

$\frac{\text{Claimant's Underlying Points Award}}{1,000}$	X	$\text{Claimant's ED or AED Amount}$	=	$\text{Claimant's Adjusted ED or AED Amount}$
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- (b) The Relative Points Adjustment Formula thus will value EI Payments for these types of EI damages of Claimants on the same ratio to each other as their underlying Points Awards bore to each other.

E. Base Extraordinary Injury Award.

A Claimant’s *Base Extraordinary Injury Award* shall be the total of the Claimant’s:

- (1) Adjusted Specified Economic Damages Amount;
- (2) Adjusted Additional Extraordinary Injury Amount; and
- (3) Allowed Special Medical Injury Amount.

F. Pro Rata Adjustment.

1. The Pro Rata Requirement.

If the aggregate MI EI Payments or aggregate IS EI Payments exceed the MI Payments Cap Amount or IS Payments Cap Amount, then all EI awards shall be reduced pro rata to the extent necessary so that such aggregate MI EI Payment awards or IS EI Payment awards exactly equal the MI EI Payments Cap Amount or IS EI Payments Cap Amount. To accomplish the pro rata allocation mandated by Section 4.2.8 of the Settlement Agreement in those circumstances, the Base Extraordinary Injury Awards of all qualifying MI EI Claimants and the Base Extraordinary Injury Awards of all qualifying IS EI Claimants must be determined, and then the amount available to be distributed to all qualifying EI Claims from each EI Fund must be allocated on a pro rata basis to each eligible EI Claimant to derive the Claimant's *Individual MI EI Payment Award* or the Claimant's *Individual IS EI Payment Award*. The MI EI Payments Cap Amount and the IS EI Payments Cap Amount are fixed sums that do not earn income or pay administrative expenses.

2. The Pro Rata Adjustment for MI EI Claims (if Required).

<u>Claimant's Base MI EI Award</u> Total Base MI EI Awards of All MI EI Eligible Claimants	X	\$195,000,000	=	Claimant's Individual MI EI Payment Award
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3. Pro Rata Adjustment for IS EI Claims (if Required).

<u>Claimant's Base IS EI Award</u> Total Base IS EI Awards of All IS EI Eligible Claimants	X	\$105,000,000	=	Claimant's Individual IS EI Payment Award
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VIII. PROCESSING AND APPEAL OF INDIVIDUAL EI AMOUNTS

A. Claims Administrator Determinations of EI Payments.

1. Base EI Points Assessment.

The Claims Administrator will review the EI Claim Form and Required Documentation submitted and determine: (a) whether the Claimant has shown \$250,000 or more in Past Out-of-Pocket Medical Expenses and/or Past Lost Wages/Income and if so the amount established; (b) whether the Claimant has shown a Special Medical Injury and its value; (c) whether the Claimant has shown any Additional Extraordinary Damages and if so the amount established; and (d) the Relative Points Value adjustment as applied to (a) and (c); and (e) the Claimant's resulting Base EI Points Assessment.

2. Notice of Base EI Points Assessment.

After conclusion of the review in Section VIII.A.1, the Claims Administrator will issue a Notice of Base EI Points Assessment to the Claimant specifying the EI Points assessed on the claim and explaining how the Points were determined. The Notice of Base EI Points Assessment will give the Claimant the opportunity, within 30 days after the date of the Notice, to: (a) make a Second Review Request to have the Claims Administrator perform a Second Review of the claim; (b) specify the aspects of the Base EI Points Assessment on which the Claimant requests a Second Review; and (c) submit any additional documentation the Claimant wishes the Claims Administrator to consider in the Second Review. If no timely Second Review Request is made, the Base EI Points Assessment shall become the Final Base EI Points Assessment on the claim and shall not be subject to appeal.

B. Second Review by the Claims Administrator.

1. Base EI Points Assessment After Second Review.

If a timely Second Review Request is made upon receipt of a Notice of Base EI Points Assessment, the Claims Administrator will re-review the claim and issue to the Claimant a Base EI Points Assessment After Second Review. In this Second Review, the Claimant's EI Points may increase, decrease, or stay the same.

2. Notice of Base EI Points Assessment After Second Review and Right of Appeal After Second Review.

After the re-review, the Claims Administrator will issue a Notice of Base EI Points Assessment After Second Review to explain the determinations made in the Second Review. This Notice will give the Claimant the opportunity, within

20 days after the date of the Notice, to appeal the Base EI Points Assessment After Second Review to the Special Master by submitting to the Claims Administrator a Notice of EI Appeal. If no timely Notice of EI Appeal is made, the Base EI Points Assessment After Second Review shall become the Final Base EI Points Assessment on the claim and shall not be subject to appeal.

C. EI Appeal to the Special Master.

1. Notice of EI Appeal.

The Claimant may appeal the Base EI Points Assessment After Second Review to the Special Master by submitting to the Claims Administrator a Notice of EI Appeal within 20 days after the date of the Notice of Base EI Points Assessment After Second Review. The Claimant must specify in the Notice of EI Appeal the determinations of the Claims Administrator being appealed. No additional documentation may be submitted on an appeal. If no timely Notice of EI Appeal is made, the Base EI Points Assessment After Second Review shall become the Final Base EI Points Assessment on the claim and shall not be subject to appeal.

2. EI Appeal Fee.

A Claimant submitting a Notice of EI Appeal shall submit with such Notice payment by check or cashier's check payable to the Claims Administrator an EI Appeal Fee of \$700 to defray the costs of review by the Special Master and other costs associated with the appeal process. If this EI Appeal Fee is not timely paid, the EI Appeal shall not proceed and the Revised Base EI Points Assessment on the claim shall become the Final Base EI Points Assessment on the claim and shall not be subject to appeal.

3. Determinations of the Special Master on an EI Appeal.

After reviewing the record of the claim on an EI Appeal, the Special Master shall issue a determination to the Claims Administrator on the determinations of the Claims Administrator being appealed and on whether the Claimant's Revised Base EI Points Assessment should increase, decrease, or remain the same, and shall specify the reasons for the decision and the number of Points, if any, by which the Assessment should increase or decrease.

4. Claims Administrator Determinations After a Special Master Decision on an EI Appeal.

After receipt of a decision by the Special Master on an EI Appeal, the Claims Administrator shall: (a) review the decision of the Special Master and seek clarification from the Special Master of aspects of the decision, if any, on which the Claims Administrator determines clarification is needed; (b) make such adjustment in the Claimant's Base EI Points Assessment as is necessary pursuant

to the decision of the Special Master; and (c) have discretion to make comparable adjustments in the Final Base EI Points Assessments of other EI Claimants as are necessary to implement the Special Master's decision to increase a Points Assessment, in a manner consistent with the circumstances of similarly situated Claimants.

5. Notice of Final Base EI Points Assessment After an EI Appeal.

After the Claims Administrator takes the actions required by Section VIII.C.4, the Claims Administrator shall issue a Notice of Final Base EI Points Assessment to the appealing Claimant and a Notice of Adjustment to Final Base EI Points Assessments of any other Claimants affected by the outcome of the appeal. Such Final Base EI Points Assessments shall not be subject to any further appeal.

IX. PAYMENT OF INDIVIDUAL EI AMOUNTS

A. Timing of EI Payments.

1. Relative to Underlying Payments.

Threshold Eligibility for EI Payments cannot be determined until the Claimant has been found to be a Qualifying Program Claimant on the underlying MI or IS claim. In addition, the Relative Points Adjustment cannot be applied until the Claimant's Points Award on the Claimant's underlying claim is final (by Claimant's acceptance or Special Master decision).

2. Pro Rata Payment Process.

No EI Payments can be made until all Base Extraordinary Injury Award determinations have been made, because those awards are necessary to apply the Pro Rata Adjustment.

3. Interim Payments.

No Interim Payments will be made on EI awards.

B. Payment Processes.

The processes of the Escrow Agent used for MI and IS Payments will apply to issue EI Payments, including the Payees on checks/wires.

C. **Liens.**

1. **Private Liens.**

- (a) The Claimants and their counsel will be reminded of their obligation to satisfy and discharge private liens under Section 12.1 of the Settlement Agreement.
- (b) The Claims Administrator will observe any applicable Claims Administration Procedure for the handling of private lien notices as observed in the payment of MI and IS Extraordinary Injury Payments.

2. **Government Liens.**

EI Payments based upon Economic Damages will not be subject to any further processes of the Lien Resolution Administrator or deductions for Medicare, Medicaid, or other Governmental Liens. EI Payments based on Special Medical Injuries, however, could give rise to additional deductions to satisfy Medicare, Medicaid or other Governmental Liens, depending upon the nature of the medical injury found compensable. The amounts withheld from payments on a Claimant's principal MI or IS claim were specific to the injuries on which that principal claim was based. If the Special Medical Injury rests on injuries as to which Medicare, Medicaid or another Governmental entity made payments for medical care distinct from payments for the MI or IS injuries of the principal claim, a further lien may exist that the Lien Resolution Administrator will satisfy from amounts withheld from an EI Award.

**APPENDIX A: INSTRUCTIONS FOR COMPLETION OF EXTRAORDINARY
INJURY CLAIM FORM: UNREPRESENTED CLAIMANTS**

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

These Instructions explain the documents needed and each step required in the Extraordinary Injury Claim process for Claimants who are not represented by a lawyer. These Instructions do not apply to Represented Claimants or Primary Counsel.

You will use Form V2047A to seek Extraordinary Injury Payments. Fill out the applicable sections of the Form for your type of Extraordinary Injury Claim, sign it, and send it to the Claims Administrator with a copy of the records requested by this Form. When you put together the supporting documentation, organize them by each category of documentation as required by this Form. Place a cover sheet with the category label as the first page of each category of documentation and bundle each set by clip or rubber band or by putting them in separate file folders. If you decide to send us all this by email, then create electronic folders for each category of documentation using the naming conventions in this Form and save PDFs of the documentation in their corresponding folders.

Deadline to be Considered for EI Payment: The Parties have determined that the period for applying for EI Payments begins on March 2, 2009, and ends on September 1, 2009. **The deadline for applying for EI Payments thus is September 1, 2009.** An unrepresented Claimant will be considered for EI Payment if the Claimant: (1) is eligible to receive EI Payments under Section 4.2 of the Settlement Agreement (as amended by the Second Amendment); (2) submits a completed EI Claim Form to the Claims Administrator by September 1, 2009; and (3) submits all Required Documentation as specified in the EI Claim Form to support the claim no later than September 1, 2009.

A. GENERAL INSTRUCTIONS FOR THE EI CLAIM FORM

STEP

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| A.1. | General Instructions: You need to complete an EI Claim Form to apply for EI Payments. These Instructions refer to the person who took Vioxx as the “Product User.” When these Instructions say “you” they are referring to the person who used Vioxx, even though someone else may be filling out the EI Claim Form for that person. Be sure to refer to the Instruction Manual for Unrepresented Claimants for the Vioxx Extraordinary Injury Program for more detailed information on the Program. These EI Claim Form Instructions just tell you how to fill out the EI Claim Form. Read the Manual to find out what kinds of damages you can claim as Extraordinary Injury. |
| A.2. | Obtain Form V2047A: Contact the Claims Administrator to obtain a copy of the Pro Se EI Claim Form. The Claims Administrator will send you a Form by mail or electronic transmission, according to your preference. |
| A.3. | Complete EI Claim Form: Follow the instructions on the EI Claim Form and follow the steps below to complete the applicable sections of the Form. Type or print in black ink all answers in the Form. |
| A.4. | Submit the EI Claim Form: After you have completed the EI Claim Form and confirmed that the information in the Form is true and correct, follow the instructions in Section I to submit your Claim Form and Required Documentation to the Claims Administrator. |

B. CLAIMANT INFORMATION

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|-------------|---|
| B.1. | Section I of the EI Claim Form: Section I of the EI Claim Form contains information on the Product User on whose Vioxx use this claim is based. If this section is empty, fill in all the information on the Product User. |
| B.2. | Correcting Information Shown in Section I: If you asked the Claims Administrator to send you an EI Claim Form, then the personal information in Section I has been filled in for you. Check the information there and make sure it is correct. If any of it needs to be changed, mark through that information and type in or write in with black ink the correct information. Be sure to fill in any sections that are blank too. |

C. TYPE OF EXTRAORDINARY INJURY CLAIM

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

STEP

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|-------------|--|
| C.1. | Section II of the EI Claim Form. You must complete Section II of the EI Claim Form to apply for Extraordinary Injury Payments. This is where you indicate the type of EI Claim(s) you are submitting. You can check YES for more than one Claim type. If you do not check YES or NO for a Claim type, the Claims Administrator will interpret it as a NO. |
| C.2. | Past Out-of-Pocket Medical Expenses. Check YES to indicate that you seek Past Out-of-Pocket Medical Expenses. Check NO to indicate that these damages are not sought. If you check YES, enter in the space provided the total amount you claim as Past Out-of-Pocket Medical Expenses that you paid for treatment relating to your Vioxx injury (your Eligible Event) that you incurred from the date of your Vioxx Eligible Event through 11/9/07, that you paid and that were not paid by health insurance or anyone else. Fill in dollars and cents. |
| C.3. | Past Lost Wages/Income. Check YES to indicate that you seek Past Lost Wages/Income. Check NO to indicate that these damages are not sought. If you check YES, enter in the space provided the total amount you claim as Lost Wages/Income that would have been received from the date of the Eligible Event through 11/9/07 but were not received and were not paid by disability insurance, Social Security disability payments, or by anyone else. Fill in dollars and cents. |
| C.4. | Special Medical Injury. Check YES to indicate that you seek damages for an injury asserted to be a Special Medical Injury, as described in the Manual. Check NO to indicate that these damages are not sought. If you check YES, you do not enter any dollars sought on this sort of EI Claim. |

D. CLAIMING PAST OUT-OF-POCKET MEDICAL EXPENSES

STEP

- | | |
|-------------|--|
| D.1. | Claiming Out-of-Pocket Medical Expenses in Section II: As described in Section C of these Instructions, you claim these damages by checking YES next to Past Out-of-Pocket Medical Expenses EI Claim Type in Section II of the EI Claim Form, if the Claimant's Past Out-of-Pocket Medical Expenses were \$250,000 or more (or you had Past Out-of-Pocket Medical Expenses and Past Lost Wages/Income that together were \$250,000 or more). |
| D.2. | Complete Section III of the EI Claim Form: To seek any benefits for Past Out-of-Pocket Medical Expenses, you have to fill in the information required in the spaces in Section III for each Provider and/or Service Period you wish to claim. If you have different hospital stays or treatment periods for which you seek Medical Expenses, include all of these in the spaces provided or on a separate sheet of paper using the same format, if needed. Use the Instructions in the EI Claim Form itself and the following Instructions to complete Section III for each Provider or Service Period you wish to claim. Be sure to refer to the Manual for more detail on what you can claim. |
| D.3. | Provider: Identify the name of the Provider of each Service resulting in the Medical Expenses claimed. The Provider is the doctor or hospital or other health care provider who rendered medical treatment or care. If the same doctor or facility provided care more than one time over the period, you can add them all up and put all of it in one row for all of the care. Or you can break each one up and do them separately. |
| D.4. | Date(s) of Service: For Date(s) of Service, provide the starting date and the end date of the healthcare services being claimed as expenses. Each Date of Service must be on or after the date of the Product User's Eligible Event and on or before 11/9/07. |
| D.5. | Amount Charged: For Amount Charged in Row C, identify the total dollar amount charged for each service that forms the basis for this entry. This is the total before any insurance payments or write-offs or your payments. |

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

D.6.	Name of Insurer or Other Third Party/Parties: If there was health insurance or other Third Party coverage for the identified Provider/Service, fill in the name of any Insurer or other Third Party Coverage in the space provided in Row D. If there is more than one Insurer or Third Party Coverage, enter all Third Parties in the space provided and separate each by a semi-colon. Insert “None” in this space for each Provider entry where the Product User had no health insurance, employee plan, Medicare, Medicaid or any other source of coverage or payment by a Third Party for Medical Expenses for any of the Date(s) of Service shown in this Form.
D.7.	Amount Reimbursed or Paid by Insurer or Other Third Party/Parties or Eligible for Such Payments: Specify in Row E in dollars and cents the Amount Reimbursed or Paid by Insurer or Other Third Party/Parties or eligible for such payments, if applicable, for each Provider and Date(s) of Service you are claiming. If there is more than one Insurer or Third Party Coverage, add all reimbursed amounts together and enter the total here.
D.8.	Out-of-Pocket Expenses Paid or Due by Claimant for this Period of Service: Specify in Row F in dollars and cents the Out-of-Pocket Expenses Paid or Due by the Product User or by his or her estate for each service in the corresponding space for this amount. This is the amount you paid out of pocket. This is the amount you can claim as damages. It should be the difference between the total charges you entered and the amounts paid by insurance or other Third Party.
D.9.	<p>Required Documents: You must send in with your EI Claim Form the documentation identified in the Required Documents section to complete your Past Medical Expenses claim for EI Payments. Enclose true and complete copies of the required records with your EI Claim Form. Check the appropriate box next to each category of documents in your Form to indicate whether the necessary documentation is enclosed with your Form. If you do not submit the documents to show the amounts you are claiming, the claim will be denied.</p> <p>NOTE: These documents must be submitted in support of this type of Extraordinary Injury claim even if all or part of them were previously submitted in connection with the Product User’s underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury claim asserted in this Form.</p>

E. CLAIMING PAST LOST WAGES/INCOME

	STEP
E.1.	Claiming Past Lost Wages/Income in Section II: As described in Section C of these Instructions, you claim these damages by checking YES next to Past Lost Wages/Income EI Claim Type in Section II of the EI Claim Form, if the Claimant’s Past Lost Wages/Income was \$250,000 or more (or you had Past Out-of-Pocket Medical Expenses and Past Lost Wages/Income that together were \$250,000 or more). Enter in the space provided the amount of Past Lost Wages/Income that you are claiming from the date of the Product User’s Vioxx injury (Eligible Event) through 11/9/07.
E.2.	Complete Section IV of the EI Claim Form: To seek any benefits for Past Lost Wages/Income, you have to fill in the information required in the spaces in Section IV of the EI Claim Form. If you have multiple pre-event sources of income, years of post-event income, or conditions giving rise to Past Lost Wages/Income, include all of these in the spaces provided or attach additional sheets of paper using the same format, if needed. Use the Instructions in the EI Claim Form itself and the following Instructions to complete this Section IV for the Period of Loss you wish to claim. Be sure to refer to the Manual for more detail on what you can claim.
E.3.	Period of Loss: Identify the Period of Loss in the space in Row A. The Period of Loss must begin on or after the date of the Product User’s Eligible Event and end on or before 11/9/07.

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

E.4. Pre-Event Wages/Income (Row B-1):

- (a) **Source of Income:** In the Source field, identify each Employer, Business or other Third Party that provided the source of wages or income that the Product User was receiving as of the Eligible Event. If there is more than one Employer, Business or other Third Party that provided the source of wages or income that the Product User was receiving as of the Eligible Event, fill in the additional Sources in separate Pre-Event Wages/Income sections (*e.g.*, Rows B-2, B-3, B-4). Include any Social Security income, disability payments or any types of benefits to compensate for lost Wages or Income from any insurance carrier, that the Product User or his heirs received.
- (b) **Nature of Source:** In the Nature of Source space, indicate the Nature of the Wages/Income that the Product User received from each Source by selecting one of the following: Hourly (income received as an Employee paid by the hour), Salary (income received as an Employee paid on a monthly or annual salary), Self-Employment Income (income received through self-employment), and Social Security Income or Disability benefits (income received on a monthly or yearly amount).
- (c) **Amount:** Identify the Amount of Pre-Event Wages/Income received in dollars and cents. For Hourly Wages, provide the hourly rate and number of hours. For Salary and Social Security Income or Disability benefits, provide the Monthly or Yearly amount. For Self-Employment Income, provide the average of the Claimant's taxable net income for the year of the Claimant's earliest Eligible Event and the two years preceding the year of the Claimant's earliest Eligible Event (the "Self-Employed Base Period").

If there is more than one Source of Pre-Event Wages/Income, once you have completed the required information for one Source, go to the next Pre-Event Wages/Income section to provide information for another Source.

E.5. Post-Event Wages/Income (Row C-1):

- (a) **Source of Income:** If the Product User earned income during the Period of Loss, identify the Source(s) of Earned Income in the spaces provided. Earned income is wages from a job or income from a self-employed business. It does not include unearned income, such as interest, or dividends, or capital gains from the sale of non-business assets. If there is more than one Source of Earned Income, provide all Sources in separate Post-Event Wages/Income sections (*e.g.*, Rows C-2, C-3, C-4) for each year the Product User received income. Include any Social Security income, disability payments or any types of benefits to compensate for lost Wages or Income from any insurance carrier, that the Product User or his heirs received. If the Product User did not receive any earned income during the Period of Loss from any Source, write "None" in this space in Row C-1.
- (b) **Year:** For the Year, provide the calendar year that the Product User earned income during the Period of Loss.
- (c) **Amount:** For the Amount, provide in dollars and cents the total gross amount of Wages or Income that the Product User received after the Eligible Injury for that year.

Using the additional rows for Post-Event Wages/Income, provide separate Source information for each calendar year that the Product User or his heirs received earned income during the Period of Loss. If there is more than one Source of Post-Event Wages/Income per year, use additional rows to identify all Sources of Post-Event Wages/Income by year.

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

E.6. Condition Giving Rise to Lost Wages/Income (Row D-1):

(d) Condition: Specify the condition giving rise to the Past Lost Wages/Income for the Post-Event Wages/Income. Write in one of the following: Deceased, Totally Disabled, or Partially Disabled. Use the one that describes the Product User’s condition during the period for which the lost wages or income is being claimed. If the condition changed over time, complete separate sections for each condition (*e.g.*, Rows D-2, D-3). For example, if the Product User was Totally Disabled for a time and then passed away, enter the first condition as Totally Disabled and the second condition as Deceased, in separate sections with separate Date Periods.

(e) Date Period: Identify the Start Date and End Date or Date of Death, if applicable, of the Condition giving rise to the Lost Wages/Income claimed.

E.7. Required Documents: You must provide with your EI Claim Form the documentation identified in the Required Documents section to complete your Past Lost Wages/Income claim for EI Payments. Enclose true and complete copies of the required records with your EI Claim Form. Check the appropriate box next to each category of documents in your Form to indicate whether the necessary documentation is enclosed with your Form. If you do not submit the documents to show the amounts you are claiming, the claim will be denied.

NOTE: These documents must be submitted in support of this type of Extraordinary Injury claim even if all or part of them were previously submitted in connection with the Product User’s underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury claim asserted in this Form.

F. CLAIMING SPECIAL MEDICAL INJURY

STEP

F.1. Claiming Special Medical Injury in Section II: As described in Section C of these Instructions, you claim these damages by selecting Special Medical Injury in Section II of the EI Claim Form by checking YES for this EI Claim Type in Section II of the EI Claim Form, if the Claimant’s Special Medical Injury provides a basis for your claim for EI Payments. Refer to the Manual for more information on what can be claimed here. Remember that anyone who seeks Extraordinary Injury Payments must have received a Points Award above the Special Marker Level on a MI (heart attack) or IS (stroke) claim, so you cannot claim as a Special Medical Injury an injury that failed the Injury Gate in Claims Review.

F.2. Complete Section V of the EI Claim Form: You must complete Section V of the EI Claim Form to assert a Special Medical Injury Claim.

F.3. Basis of Special Medical Injury Claim: Identify the basis of the Special Medical Injury Claim by checking the corresponding box on whether the Product User was an MI or IS Claimant on the underlying Vioxx claim. You must check one of these boxes to continue.

F.4. Brief Description of the Special Medical Injury Claimed: Briefly describe the Special Medical Injury claimed in the space provided using 50 or fewer words. You may include any other explanation in the Required Documentation submitted with your claim (use the Special Medical Injury Records Document Label for any longer explanation you provide in that way).

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

F.5. Required Documents: You must provide with your EI Claim Form the documentation identified in the Required Documents section to complete your Special Medical Injury claim for EI Payments. Enclose true and complete copies of the required records with your EI Claim Form. Check the appropriate box next to Special Medical Injury Medical Records in your Form to indicate whether the necessary documentation is enclosed with your Form. If you do not submit the documents to show the amounts you are claiming, the claim will be denied.

NOTE: These documents must be submitted in support of this type of Extraordinary Injury claim even if all or part of them were previously submitted in connection with the Product User's underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury claim asserted in this Form.

G. CLAIMING ADDITIONAL EXTRAORDINARY DAMAGES

STEP

G.1. Complete Additional Extraordinary Damages Section: Place a check in the checkbox in the Additional Extraordinary Damages section if you seek and qualify for Extraordinary Injury Payments based on \$250,000 or more in Past Out-of-Pocket Medical Expenses and/or Past Lost Wages/Income, and/or based on Special Medical Injury, and you claim to have suffered extraordinary damages in addition to the damages claimed elsewhere in this Form. Include a brief description (50 words or less; attach an additional sheet if necessary) describing the nature and amount of additional damages sought in the space provided and the documentation required with this Form. This is not for asserting some other kind of medical injury, but instead is for other losses you feel the Product User suffered as a result of the other injuries described in the Form, such as Out-of-Pocket Medical Expenses after 11/9/07 or Lost Wages/Income after 11/9/07. We cannot say if such losses will be recoverable, but they will be a factor in the evaluation of Extraordinary Injury claims. Refer to the Manual for more information on what can be claimed.

G.2. Brief Description of Additional Extraordinary Damages Claimed: Briefly describe the nature and amount of additional damages sought in the space provided, using 50 or fewer words. You may include any other explanation in the Required Documentation submitted with your claim (use the Additional Extraordinary Damages Document Label for any longer explanation you provide in that way).

G.3. Required Documents: You must provide with your EI Claim Form the documentation identified in the Required Documents section to complete your Additional Extraordinary Damages claim for EI Payments. Enclose true and complete copies of the required records with your EI Claim Form. Check the appropriate box next to each category of documents in your Form to indicate whether the necessary documentation is enclosed with your Form. If you do not submit the documents to show the amounts you are claiming, the claim will be denied.

NOTE: These documents must be submitted in support of this type of Extraordinary Injury claim even if all or part of them were previously submitted in connection with the Product User's underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury claim asserted in this Form.

H. SUBMITTING REQUIRED DOCUMENTS

STEP

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

H.1. General Instructions: You have to send the Claims Administrator hard copies of the documents listed in the EI Claim Form to support the kind of EI Claim you are making. These documents must be submitted pursuant to the Instructions for each type of EI Claim, even if all or part of the documents were previously submitted in connection with the Product User's underlying MI or IS claim or are also being submitted in connection with another type of Extraordinary Injury claim asserted in the Form. For example, if you are applying for Past Lost Wages/Income and Special Medical Injury and both require proof of Disability to support the claims, you must submit the documentation twice, once using the Document Type "Disability Proof Records" for the Past Lost Wages/Income claim and once using the Document Type "Special Medical Injury Records" for the Special Medical Injury claim.

H.2. Separate and Label Your Documents: Separate the sets of documents you are submitting according to the different categories listed in the EI Claim Form. If one document belongs in more than one set, copy it more than once and put it in each set. Rubber band or clip each set or place each set in a separate file folder to keep them apart. Put a cover sheet on top of each set with the label with the "Label these" title given in the Instructions for each set.

I. SUBMISSION OF CLAIM FORM

I.1. Signing the Claim Form: After you have completed the applicable sections of the EI Claim Form for your type of Extraordinary Injury Claim, you must sign your name in the space provided in Section VII of the Form. If you are a Representative Claimant signing the EI Claim Form on behalf of a deceased or incapacitated Product User Claimant, you must indicate your capacity to sign on behalf of the Product User by completing the "Capacity of Individual Signing the EI Claim Form" section, which appears below the signature line.

I.2. 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

I.3. Deadline to be Considered for EI Payment: The Parties have determined that the period for applying for EI Payments begins on March 2, 2009, and ends on September 1, 2009. ***The deadline for applying for EI Payments thus is September 1, 2009.*** A Claimant will be considered for EI Payment if the Claimant: (1) is eligible to receive EI Payments under Section 4.2 of the Settlement Agreement (as amended by the Second Amendment); (2) submits a completed EI Claim Form to the Claims Administrator by September 1, 2009; and (3) submits all Required Documentation as specified in the EI Claim Form to support the claim no later than September 1, 2009. If you have not yet heard whether you qualify for a Points Award on the underlying MI or IS claim, but want to seek Extraordinary Injury Payments, make sure you submit your EI Claim Form and all Required Documentation no later than September 1, 2009. Do not wait to find out the result on your underlying MI or IS claim.

EI CLAIM FORM INSTRUCTIONS: UNREPRESENTED CLAIMANTS

- I.4. Timeliness of Submissions:** Section 16.2 of the Settlement Agreement prescribes how delivery is measured for purposes of complying with deadlines:
- (a) Mailed documents must be postmarked on or before the deadline date.
 - (b) Documents delivered by overnight delivery must be placed in the hands of a carrier on or before the deadline date.
 - (c) Emailed documents must be sent on or before the deadline date, but only if the email is sent and is capable of being received by the Claims Administrator prior to midnight on the deadline date. Because of possible heavy email traffic, emails sent too close to midnight may not be received by the Claims Administrator until after midnight and will risk not meeting the deadline.

ATTACHMENT 1 – REQUIRED DOCUMENTATION

Place a cover sheet with the category label as the first page of each category of documentation and bundle (by clip or rubber band) all required documentation together for hard copy submission, or place each set in a separate file folder to keep them all apart. If submitting documentation by email, create folders for each category of documentation using the naming conventions in this Form and save PDFs of the documentation in their corresponding folders.

Table A. Medical Expenses Required Documentation: Use the appropriate Document Label for each type of documentation required in the EI Claim Form for a Medical Expenses Claim:

No.	Document Label	Document Description
1.	Past Medical Expenses	Billing statements or invoices showing the charges listed in this Form and the nature of the service or treatment giving rise to the charge. If the billing statements or invoices above do not sufficiently describe the service or treatment to establish that they resulted from the Claimant’s Eligible Event(s), submit office notes, hospital records, or other documents showing the medical services rendered on the Date(s) of Service listed in this Form.
2.	Medical Expenses Paid	Canceled Checks, credit card statements, billing statements marked as PAID or other documents showing the payment of the Out-Of Pocket Expenses claimed in this Form.
3.	Medical Expenses Due But Unpaid	A current statement or invoice issued by any healthcare provider detailing medical expenses that remain due and owing but have not been paid and documents reflecting any payments made on such expenses not appearing in the current statement or invoice, such as amounts collected through garnishment proceedings or other collections activity.
4.	Third Party Medical Expense Payments	If the documents submitted above do not establish what the Claimant paid as Medical Expenses as opposed to what an insurance carrier or other third party paid or reimbursed the Claimant for such expenses, then also submit copies of Explanations of Benefits or other documents issued by any insurance carrier showing the reimbursements or payments by third parties.

Table B. Lost Wages/Income Required Documentation: Use the appropriate Document Label for each type of documentation required in the EI Claim Form for a Lost Wages/Income Claim:

No.	Document Label	Document Description
1.	Tax Records for Past Measurement Period	US Form 1040 or Form 1040EZ, with all attachments, for the Product User for the Past Measurement Period (date of earliest Eligible Event through 11/9/07). The attachments must include the Product User’s W-2 Forms, 1099 Forms, and the K-1, Schedule C or other form reporting on self-employment income, for those years. If the Product User filed a joint tax return with his or her spouse, then all these tax records for the spouse, including all W-2 Forms and attachments to the return, must also be submitted for the Past Measurement Period.
2.	Tax Records for Two Prior Years	US Form 1040 or Form 1040EZ, with all attachments, for the Product User for the two years immediately before the year of the Product User’s earliest Eligible Event. The attachments must include the User Claimant’s W-2 Forms, 1099 Forms, and the K-1, Schedule C or other form reporting on self-employment income, for those years. If the Product User filed a joint tax return with his or her spouse, then all these tax records for the spouse, including all W-2 Forms and other attachments to the return, must also be

Table B. Lost Wages/Income Required Documentation: Use the appropriate Document Label for each type of documentation required in the EI Claim Form for a Lost Wages/Income Claim:

No.	Document Label	Document Description
		submitted for the two years before the Past Measurement Period.
3.	Employee Pay Records for Past Measurement Period	If this Extraordinary Injury Claim seeks Lost Wages for a Product User who was an employee for any Period of Loss, documents, such as paycheck stubs, showing the rate of pay and pay period for the Product User for the Past Measurement Period (date of earliest Eligible Event through 11/9/07).
4.	Employee Pay Records for Two Prior Years	If this Extraordinary Injury Claim seeks Lost Wages for a Product User who was an employee for any Period of Loss, documents, such as paycheck stubs, showing the rate of pay and pay period for the Product User for the two years immediately before the year of the Product User's earliest Eligible Event.
5.	Employment File for Past Measurement Period	If this Extraordinary Injury Claim seeks Lost Wages for a Product User who was an employee for any Period of Loss, the personnel file for the Product User at each employer for the Past Measurement Period (date of earliest Eligible Event through 11/9/07).
6.	Employment File for Two Prior Years	If this Extraordinary Injury Claim seeks Lost Wages for a Product User who was an employee for any Period of Loss, the personnel file for the Product User at each employer for the two years immediately before the year of the Product User's earliest Eligible Event.
7.	Self-Employment Records for Past Measurement Period	If this Extraordinary Injury Claim seeks Lost Income for a Product User who was self-employed for any Period of Loss, a financial (profit and loss) statement of the business for each year included in the Past Measurement Period (date of earliest Eligible Event through 11/9/07).
8.	Self-Employment Records for Two Prior Years	If this Extraordinary Injury Claim seeks Lost Income for a Product User who was self-employed for any Period of Loss, a financial (profit and loss) statement of the business for the two years immediately before the year of the Product User's earliest Eligible Event.
9.	Disability Proof Records	<p>If this Extraordinary Injury Claim is made by an MI Product User (<i>i.e.</i>, whose Primary Injury was an MI) seeking Past Lost Wages/Income based upon a Total or Partial Disability during any portion of the Past Measurement Period resulting from the Product User's Eligible Event(s), documentation to establish such Disability, consisting of:</p> <ol style="list-style-type: none"> 1) Determination(s) by the Social Security Administration or private Disability plan administrators that establishes the Product User's Disability and that such Disability resulted from the Product User's Eligible Event(s); or 2) If no such determination is submitted for any period in which Lost Wages/Income are claimed, Medical Records including office notes or records from office visits or in-patient care, for medical care relating to the conditions that caused the Disability and showing the nature, cause and extent of the Product User's Disability. Physician opinions or declarations not created contemporaneously in the course of medical care (and thus not appearing in the Product User's Medical Records) will not be considered. <p>NOTE: IS Claimants do not have to submit these records, for the Injury Level found on</p>

Table B. Lost Wages/Income Required Documentation: Use the appropriate Document Label for each type of documentation required in the EI Claim Form for a Lost Wages/Income Claim:

No.	Document Label	Document Description
		the IS Claimant's underlying claim will control the disability finding.
10.	Records of Earned Income During Past Measurement Period	Documents showing the amount of gross earned income received from any Sources during the Past Measurement Period.
11.	Third Party Income Payment Records	Documents showing payments from Disability Insurer(s) or Other Third Party Payor(s), such as Social Security benefit statements, explanation of benefit forms or other documents showing the amounts the Product User received from any Third Party as Disability insurance payments or other benefits in lieu of earned income at the time of the Claimant's earliest Eligible Event and/or during the Past Measurement Period.

Table C. Special Medical Injury Required Documentation: Use the appropriate Document Label for the type of documentation required in the EI Claim Form for a Special Medical Injury Claim:

Document Label	Document Description
Special Medical Injury Records	Medical Records substantiating the injury on which this Special Medical Injury claim is based and any other documentation which support this claim for Special Medical Injury.

Table D. Additional Extraordinary Damages Required Documentation: Use the appropriate Document Type for each type of documentation required in the EI Claim Form for Additional Extraordinary Damages:

Document Label	Document Description
Additional Extraordinary Damages	All medical records, financial records, and other materials that support the claim for Additional Extraordinary Damages. If such Additional Extraordinary Damages are sought for future Out-of-Pocket Medical Expenses and/or future Lost Wages/Income, or for any economic losses resulting from a claim for a Special Medical Injury, then the same type of documentation required in this Form for Past damages of that kind, including a list or table containing the information required by this Form for each Date of Service for Medical Expenses and each Source of Income for Lost Wages/Income, must be submitted.