

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

In Re: VIOXX	:	
	:	MDL Docket NO. 1657
PRODUCTS LIABILITY LITIGATION	:	
	:	SECTION L
	:	
This document relates to ALL ACTIONS	:	JUDGE FALLON
	:	MAG. JUDGE KNOWLES
	:	

**Pretrial Order No. 51
DISBURSEMENT OF COSTS**

The Court has before it the Motion for Award of Plaintiffs’ Common Benefit Counsel Fees and Reimbursement of Expenses [Doc. 17642] and Plaintiffs’ Liaison Counsel’s Supplemental Memorandum in Support of Reimbursement of Common Benefit Expenses [Doc. 21543].

Section 9.2.2 of the Settlement Agreement provides that “Common Benefit Attorneys shall [also] be entitled to reimbursement of their reasonable common benefit expenses” and that “Reimbursement of these expenses shall be deducted from the client’s net recovery.” The Court recognized that it was necessary to put in place some procedure for verifying cost submissions. Towards this end, at the outset of these proceedings, the Court appointed a CPA to collect and verify the expense submissions of Common Benefit Attorneys. Further, after the settlement agreement was perfected, the Court appointed a committee to meet, confer with counsel submitting cost reimbursement claims, and take evidence regarding the validity of these expense submissions. Together, the CPA and the committee attempted to reach a consensus regarding the appropriate amounts that Common Benefit Attorneys should be reimbursed for their expenses. Through this process, many of the disputes regarding reimbursement of expenses were successfully resolved.

Having considered that the PLC has submitted to this Court and the Claims Administrator the

above motions and supporting materials, including the audited common benefit expenses of Common Benefit Attorneys;

IT IS ORDERED BY THE COURT that pursuant to Section 9.2.2 of the Settlement Program, as set forth in the Settlement Agreement between Merck & Co., Inc. and the Plaintiffs' Negotiating Committee, dated November 9, 2007, reasonable common benefit expenses equal to one percent (1%) of the settlement amount, or \$48.5 million, shall be set aside as the Common Benefit Expense Fund.

IT IS FURTHER ORDERED BY THE COURT that the following reimbursements of common benefit expenses are hereby awarded and should be made now from the Common Benefit Expense Fund:

Law Firm	Total to be Reimbursed
1 Alex Alvarez	\$ 2,763.89
2 Alley Clark	\$ 197,945.81
3 Anapol Schwartz	\$ 579,749.50
4 Anastopoulo & Clore	\$ 80,373.47
5 Andrews Thornton	\$ 388,500.11
6 Ashcraft & Gerel	\$ 549,437.40
7 Audet & Partners	\$ 243,687.26
8 Aylstock Witkin & Sasser	\$ -
9 Balkin & Eisbrouch	\$ 2,000.00
10 Barnow	\$ -
11 Barrios, Kingsdorf & Castex, L.L.P.	\$ 20,403.98
12 Bartimus Frickeleton	\$ 486.95
13 Beasley Allen	\$ 3,935,230.05
14 Bencomo	\$ 14,055.27
15 Blizzard McCarthy	\$ 1,001,218.43
16 Bossier & Associates	\$ -
17 Branch	\$ 406,059.86
18 Brian K. Balser	\$ 12,357.19
19 Brown & Crouppen	\$ -

20	Bruce C. Dean	\$	-
21	Burg Simpson	\$	20,321.56
22	Cafferty Faucher	\$	1,441.62
23	Capshaw Goss	\$	2,306.50
24	Carey & Danis	\$	98,725.28
25	Charfoos	\$	4,561.00
26	Childers Buck	\$	-
27	Cohen Milstein	\$	5,699.56
28	Cohen Placitella	\$	112,452.57
29	Cuneo Gilbert	\$	210,843.97
30	Daniel E. Becnel, Jr.	\$	143,518.37
31	Davis Champ	\$	-
32	Decision Quest	\$	1,947,440.14
33	Dugan & Browne	\$	198.10
34	Engstrom Lipscomb	\$	-
35	Eric H. Weinberg	\$	144,768.90
36	Escobedo Tippit	\$	444,938.71
37	Fayard & Honeycutt	\$	-
38	Fibich Hampton	\$	80,640.50
39	Freese & Goss	\$	7,198.39
40	Friedman	\$	-
41	Gainsburgh Benjamin	\$	370,208.64
42	Gancedo & Nieves	\$	146,983.76
43	Gianni-Petoyan	\$	86,308.50
44	Girardi & Keese	\$	1,260,020.01
45	Hagens Berman	\$	-
46	Heins Mills	\$	128.91
47	Heninger Garrison	\$	269,578.55
48	Herman Herman Katz & Cotlar	\$	539,493.75
49	Hovde Dassow	\$	217,569.13
50	Irpino	\$	16,937.78
51	Jacobs Burns	\$	-
52	John Hornbeck	\$	-
53	Johnson & Perkinson	\$	8,774.86
54	Jones Verras	\$	1,639.13
55	Kasowitz Benson	\$	47,471.72
56	Keller Rohrback	\$	1,933.63
57	Kerpsack	\$	-
58	Kline & Specter	\$	544,318.33
59	Labaton Sucharow	\$	1,979.33
60	Langston	\$	-
61	Lanier	\$	8,521,265.35
62	Levin Papantonio	\$	732,471.47

63	Levin Simes	\$	3,855.42
64	Levin, Fishbein, Sedran & Berman	\$	791,435.89
65	Lewis & Roberts	\$	144,458.90
66	Lieff Cabraser	\$	1,363,233.96
67	Lockridge, Grindal, Nauen, PLLP	\$	52,452.97
68	Locks	\$	355,301.06
69	Lopez, Hodes, Restaino, Milman	\$	60,571.03
70	Lundy & Davis	\$	19,387.68
71	Martin & Jones	\$	114,842.86
72	Matthews & Associates	\$	962,802.74
73	Mithoff	\$	67,703.21
74	Morelli Ratner	\$	79,398.97
75	Motley Rice	\$	311,447.25
76	Murray Law Firm	\$	27,032.58
77	Neblett, Beard & Arsenault	\$	430,257.15
78	New Jersey Litigation Fund	\$	393,785.50
79	Panish Shea	\$	460,662.64
80	Price Waicukauski	\$	3,811.97
81	Provost Umphrey	\$	-
82	Ranier Gayle	\$	542,768.05
83	Rebecca A. Cunard	\$	17,005.57
84	Richardson Patrick	\$	6,844.33
85	Robert J. DeBry	\$	958.07
86	Robert M. Becnel	\$	1,275.58
87	Robins Kaplan	\$	48,522.82
88	Robinson, Calcagnie & Robinson	\$	3,503,013.77
89	RodaNast	\$	5,635.95
90	Sanders Viener	\$	-
91	Sanford Pinedo	\$	436,371.36
92	Seeger Weiss	\$	3,619,310.80
93	Sheller Ludwig	\$	11,691.00
94	Silverman Fodera	\$	11,323.27
95	Singleton	\$	10,531.75
96	Snapka	\$	107,264.03
97	Ted Kanner	\$	-
98	Terrell Hogan	\$	14,186.93
99	The Brandi Law Firm	\$	340,355.44
100	The Gallagher Law Firm	\$	-
101	The Holman Law Firm	\$	-
102	The Kaiser Firm	\$	-
103	The Whitehead Law Firm	\$	11,318.83
104	Ury & Moskow	\$	-
105	Watts Law Firm	\$	466,196.90

106 Weitz & Luxenberg	\$	907,403.51
107 White Meany & Wetherall	\$	41,682.61
108 Williams Kherkner	\$	870,345.22
109 Williamson & Williams	\$	651.33
110 Wold	\$	41.25
111 Zimmerman Reed	\$	6,200.82
112 Zink, Diane K.	\$	-
All Firms	\$	<u>40,049,748.16</u>

IT IS FURTHER ORDERED BY THE COURT that any firm with expenses under review or in dispute as set forth in Exhibit B to the Supplemental Affidavit of Philip Garrett, CPA, shall continue discussions with Philip Garrett and the members of the Court Appointed Fee Allocation Committee who have been appointed to address common benefit expenses, and that upon resolution of such questioned items, shall present the matters to the Court and the Claims Administrator. Following the submission, the Court will either approve of payment of an agreed upon amount from the Common Benefit Expense Fund or establish a procedure for resolution of any disputed amount claimed to be owed as reimbursement.

IT IS FURTHER ORDERED BY THE COURT that Plaintiffs' Liaison Counsel shall be provided a distribution of Five Hundred Thousand (\$500,000.00) Dollars, to be utilized as payment for additional common benefit shared expenses in this matter, which expenses shall be documented as ordered in Pre-Trial Order No. 6 or reimbursed to the Common Benefit Expense Fund.

IT IS FURTHER ORDERED BY THE COURT that Philip Garrett, CPA, shall continue to provide monthly reports to the Court of all time and expense in this matter pursuant to PTO 6.

IT IS FURTHER ORDERED BY THE COURT that prior to any firm (not including Decision Quest) receiving reimbursement expenses, they shall provide to Plaintiffs' Liaison Counsel an Affidavit, in the form attached hereto, attesting that none of the funds they are seeking to be

reimbursed or receiving reimbursement have been paid for or will be paid for by any clients or other third party.

IT IS FURTHER ORDERED BY THE COURT that if at the conclusion of the Settlement Program and after reimbursement of all common benefit expenses to attorneys seeking reimbursement of expenses pursuant to Pre-Trial Order No. 6 there are any funds remaining in the Common Benefit Expense Fund, then such remaining funds shall be reimbursed to the Vioxx claimants.

New Orleans, Louisiana, this 23rd day of September, 2009.

A handwritten signature in black ink, reading "Eldon E. Fallon". The signature is written in a cursive style with a horizontal line underneath it.

Eldon E. Fallon
United States District Court Judge

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

In Re: VIOXX :
: **MDL Docket NO. 1657**
PRODUCTS LIABILITY LITIGATION :
: **SECTION L**
: **JUDGE FALLON**
This document relates to ALL ACTIONS : **MAG. JUDGE KNOWLES**
: _____

A F F I D A V I T

STATE OF _____

PARISH/COUNTY OF _____

BEFORE ME, the undersigned authority;

PERSONALLY CAME AND APPEARED:

who after being first duly sworn, did depose and declare that:

1. I am a partner in the law firm of _____;
2. My firm submitted reimbursement for costs and expenses as plaintiff's counsel performing functions in accordance with Pre-Trial Order No. 6. These expenses were incurred for common benefit pursuant to Pre-Trial Order No. 6;
3. I consent and agree to receiving reimbursement of the total to be reimbursed for my firm as set forth in the Order issued by the Court dated _____, 2009, and further acknowledge that at the present time there are no outstanding costs by my firm that are either under review or in dispute following review by the Court appointed CPA, Philip Garrett, and the Court appointed Fee Allocation Committee; and
4. I affirm and agree that none of the costs and expenses being reimbursed to my firm have previously or will be paid or reimbursed by any client or other third party.

Print Name: _____

SWORN TO AND SUBSCRIBED
BEFORE ME THIS ____ DAY OF
_____, 2009.

NOTARY PUBLIC
Print Name: _____
Bar Roll/Notary Number: _____
My Commission Expires: _____
(APPLY SEAL)

EXHIBIT B**VIOXX MDL 1657
Total Costs
AS OF September 16,2009**

	Law Firm	Total per Exhibit "A"	Costs under review or in dispute	Total including Costs under review or in dispute
1	Alex Alvarez	\$ 2,763.89	-	\$ 2,763.89
2	Alley Clark	\$ 197,945.81	-	\$ 197,945.81
3	Anapol Schwartz	\$ 579,749.50	-	\$ 579,749.50
4	Anastopoulo & Clore	\$ 80,373.47	-	\$ 80,373.47
5	Andrews Thornton	\$ 388,500.11	-	\$ 388,500.11
6	Ashcraft & Gerel	\$ 549,437.40	-	\$ 549,437.40
7	Audet & Partners	\$ 243,687.26	-	\$ 243,687.26
8	Aylstock Witkin & Sasser	\$ -	-	\$ -
9	Balkin & Eisbrouch	\$ 2,000.00	-	\$ 2,000.00
10	Barnow	\$ -	-	\$ -
	Barrios, Kingsdorf &			
11	Castex, L.L.P.	\$ 20,403.98	-	\$ 20,403.98
12	Bartimus Frikleton	\$ 486.95	-	\$ 486.95
13	Beasley Allen	\$ 3,935,230.05	-	\$ 3,935,230.05
14	Bencomo	\$ 14,055.27	-	\$ 14,055.27
15	Blizzard McCarthy	\$ 1,001,218.43	-	\$ 1,001,218.43
16	Bossier & Associates	\$ -	-	\$ -
17	Branch	\$ 406,059.86	-	\$ 406,059.86
18	Brian K. Balser	\$ 12,357.19	-	\$ 12,357.19
19	Brown & Crouppen	\$ -	-	\$ -
20	Bruce C. Dean	\$ -	-	\$ -
	Burg, Simpson, Eldredge, Hersh &			
21	Jardine, P.C.	\$ 20,321.56	-	\$ 20,321.56
22	Cafferty Faucher	\$ 1,441.62	-	\$ 1,441.62
23	Capshaw Goss	\$ 2,306.50	1,000.00	\$ 3,306.50

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25	Charfoos	\$ 4,561.00	-	\$ 4,561.00
26	Childers Buck	\$ -	-	\$ -
27	Cohen Milstein	\$ 5,699.56	-	\$ 5,699.56
28	Cohen Placitella	\$ 112,452.57	-	\$ 112,452.57
29	Cuneo Gilbert	\$ 210,843.97	-	\$ 210,843.97
30	Daniel E. Becnel, Jr.	\$ 143,518.37	6,343.71	\$ 149,862.08
31	Davis Champ	\$ -	-	\$ -
32	Decision Quest	\$ 1,947,440.14	-	\$ 1,947,440.14
33	Dugan & Browne	\$ 198.10	-	\$ 198.10
34	Engstrom Lipscomb	\$ -	-	\$ -
35	Eric H. Weinberg	\$ 144,768.90	66,131.58	\$ 210,900.48
36	Escobedo Tippit	\$ 444,938.71	-	\$ 444,938.71
37	Fayard & Honeycutt	\$ -	-	\$ -
38	Fibich Hampton	\$ 80,640.50	-	\$ 80,640.50
39	Freese & Goss	\$ 7,198.39	3,040.98	\$ 10,239.37
40	Friedman	\$ -	-	\$ -
41	Gainsburgh Benjamin	\$ 370,208.64	-	\$ 370,208.64
42	Gancedo & Nieves	\$ 146,983.76	-	\$ 146,983.76
43	Gianni-Petoyan	\$ 86,308.50	-	\$ 86,308.50
44	Girardi & Keese	\$ 1,260,020.01	-	\$ 1,260,020.01
45	Hagens Berman	\$ -	-	\$ -
46	Heins Mills	\$ 128.91	-	\$ 128.91
47	Heninger Garrison	\$ 269,578.55	-	\$ 269,578.55
48	Herman Herman Katz & Cotlar	\$ 539,493.75	-	\$ 539,493.75
49	Hovde Dassow	\$ 217,569.13	-	\$ 217,569.13

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51	Jacobs Burns	\$ -	-	\$ -
52	John Hornbeck	\$ -	-	\$ -
53	Johnson & Perkinson	\$ 8,774.86	-	\$ 8,774.86
54	Jones Verras	\$ 1,639.13	-	\$ 1,639.13
55	Kasowitz Benson	\$ 47,471.72	-	\$ 47,471.72
56	Keller Rohrback	\$ 1,933.63	-	\$ 1,933.63
57	Kerpsack	\$ -	-	\$ -
58	Kline & Specter	\$ 544,318.33	-	\$ 544,318.33
59	Labaton Sucharow	\$ 1,979.33	1,435.66	\$ 3,414.99
60	Langston	\$ -	13,652.84	\$ 13,652.84
61	Lanier	\$ 8,521,265.35	-	\$ 8,521,265.35
62	Levin Papantonio	\$ 732,471.47	-	\$ 732,471.47
63	Levin Simes	\$ 3,855.42	-	\$ 3,855.42
64	Levin, Fishbein, Sedran & Berman	\$ 791,435.89	-	\$ 791,435.89
65	Lewis & Roberts	\$ 144,458.90	-	\$ 144,458.90
66	Lieff Cabraser	\$ 1,363,233.96	-	\$ 1,363,233.96
67	Lockridge, Grindal, Nauen, PLLP	\$ 52,452.97	-	\$ 52,452.97
68	Locks	\$ 355,301.06	-	\$ 355,301.06
69	Lopez, Hodes, Restaino, Milman	\$ 60,571.03	-	\$ 60,571.03
70	Lundy & Davis	\$ 19,387.68	-	\$ 19,387.68
71	Martin & Jones	\$ 114,842.86	-	\$ 114,842.86
72	Matthews & Associates	\$ 962,802.74	-	\$ 962,802.74

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74	Morelli Ratner	\$ 79,398.97	-	\$ 79,398.97
75	Motley Rice	\$ 311,447.25	-	\$ 311,447.25
76	Murray Law Firm Neblett, Beard &	\$ 27,032.58		\$ 27,032.58
77	Arsenault New Jersey Litigation	\$ 430,257.15		\$ 430,257.15
78	Fund	\$ 393,785.50		\$ 500,000.00
79	Panish Shea	\$ 460,662.64	-	\$ 460,662.64
80	Price Waicukauski	\$ 3,811.97	-	\$ 3,811.97
81	Provost Umphrey	\$ -		\$ -
82	Ranier Gayle	\$ 542,768.05		\$ 542,768.05
83	Rebecca A. Cunard	\$ 17,005.57		\$ 17,005.57
84	Richardson Patrick	\$ 6,844.33		\$ 6,844.33
85	Robert J. DeBry	\$ 958.07		\$ 958.07
86	Robert M. Becnel	\$ 1,275.58		\$ 1,275.58
87	Robins Kaplan Robinson, Calcagnie &	\$ 48,522.82	-	\$ 48,522.82
88	Robinson	\$ 3,503,013.77	-	\$ 3,503,013.77
89	RodaNast	\$ 5,635.95	-	\$ 5,635.95
90	Sanders Viener	\$ -		\$ -
91	Sanford Pinedo	\$ 436,371.36	-	\$ 436,371.36
92	Seeger Weiss	\$ 3,619,310.80	-	\$ 3,619,310.80
93	Sheller Ludwig	\$ 11,691.00	-	\$ 11,691.00
94	Silverman Fodera	\$ 11,323.27	-	\$ 11,323.27
95	Singleton	\$ 10,531.75	-	\$ 10,531.75
96	Snapka	\$ 107,264.03		\$ 107,264.03

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97	Ted Kanner	\$ -		\$ -
98	Terrell Hogan	\$ 14,186.93		\$ 14,186.93
99	The Brandi Law Firm	\$ 340,355.44	-	\$ 340,355.44
100	The Gallagher Law Firm	\$ -		\$ -
101	The Holman Law Firm	\$ -		\$ -
102	The Kaiser Firm	\$ -		\$ -
103	The Whitehead Law Firm	\$ 11,318.83		\$ 11,318.83
104	Ury & Moskow	\$ -		\$ -
105	Watts Law Firm	\$ 466,196.90		\$ 466,196.90
106	Weitz & Luxenberg White Meany &	\$ 907,403.51	-	\$ 907,403.51
107	Wetherall	\$ 41,682.61		\$ 41,682.61
108	Williams Kherkher	\$ 870,345.22		\$ 870,345.22
109	Williamson & Williams	\$ 651.33	-	\$ 651.33
110	Wold	\$ 41.25		\$ 41.25
111	Zimmerman Reed	\$ 6,200.82	-	\$ 6,200.82
112	Zink, Diane K.	\$ -		\$ -
	All Firms	\$ 40,049,748.16	\$ 91,604.77	\$ 40,247,567.43
	Future Continuing Costs			\$ 2,000,000.00
	Total Accepted Costs and Estimated Future Costs			\$ 42,247,567.43