

MEMORANDUM TO ALL VIOXX CLIENTS
FROM LEVIN, FISHBEIN, SEDRAN & BERMAN

After more than three years of hard-fought and difficult litigation, Merck has agreed to a settlement program to resolve certain Vioxx-related claims involving plaintiffs who have suffered a heart attack (including sudden cardiac death) or stroke. As you might have heard through the media, Merck has agreed to pay one sum, \$4.85 billion, which will be allocated among thousands of qualifying claims based upon an evaluation of each claimant's medical records by a Claims Administrator. Details regarding the Settlement Program, including eligibility requirements and the claims valuation process, are enclosed.

As your legal counsel, we have carefully reviewed the details of the Settlement Program Agreement and believe that it is in the best interest of each of our qualifying clients. We therefore strongly recommend that you agree to participate.

Our strong recommendation that each of our qualifying clients participates is based, in large part, on the following facts:

- To date, throughout the country, there have been 16 Vioxx trials involving 17 plaintiffs. Of these trials, plaintiffs have won 5, Merck has won 7, and the remaining 5 are awaiting a new trial. Merck has appealed each of the five cases in which the plaintiff was victorious, and all of those appeals are still pending.
- To date, not even the five plaintiffs with hard fought victories against Merck at trial have received any money from Merck. The first verdict in favor of a plaintiff was in August 2005, more than two years ago. Merck has not yet paid a single dollar of that verdict, and has no legal obligation to do so unless and until all appeals are exhausted and the verdict in favor of the plaintiff is upheld.
- If Merck insists on taking each individual case to trial, it could take decades to obtain verdicts in all the Vioxx-related cases currently pending against Merck, and additional years for Merck to exhaust its appeals in cases in which the plaintiff prevailed.
- There is one case currently pending before the United States Supreme Court that could result in changes in the law that would limit the ability of plaintiffs to recover against drug companies if a drug has been approved for marketing by the FDA.

Given all of the above, we believe that the claim valuation process and the estimated settlement values ranges under the Settlement Program Agreement are fair ones. We further believe that participation in the Settlement Program is the best opportunity for you to receive fair compensation for your Vioxx claims in the foreseeable future.

If you choose to follow our recommendation and agree to participate in this Settlement Program, you should carefully review all of the enclosed documents, and then sign and return BOTH (a) this letter (where indicated at the end) AND (b) the enclosed [Release/Election to

Participate form] as soon as possible. Once we receive your signed Election to Participate form, we will forward you a Release for your signature after we have received it from the Claims Administrator. Your properly executed Release and your medical records must be submitted to the Claims Administrator for your claim to be processed. Please note, however, that Merck has the option not to fund the Settlement Program and to terminate the Settlement Program if a minimum number of potentially eligible Claimants nationwide does not agree to participate. In the event of such a termination by Merck, any Release you sign in the future would be void, your claim would return to the tort system, and you would be returned essentially to the same position you are in today.

You should also note that at this time neither we nor anyone else can tell you or any other Claimant what your precise settlement value will be under the Settlement Program. This is because the settlement fund for Claimants alleging a heart attack/myocardial infarction (“MI”) under the Settlement Program is limited to \$4 billion, and the settlement fund for Claimants alleging a stroke (“IS”) is limited to \$850 million, from which all potentially eligible, participating claimants must be paid. The Claims Administrator will not be able to determine the precise value of any claim until he knows: (a) how many of the potentially eligible Claimants nationwide will be participating in the Settlement Program; and (b) what each participating Claimant’s medical records state regarding each Claimant’s injury type, level of injury, duration of Vioxx use, and certain other aspects of the Claimant’s Vioxx use and medical history that would be expected to affect the value of the Claimant’s claim within the tort system.

Due to the volume of cases to be reviewed by the Claims Administrator, we anticipate that the claim review and valuation process will take one to two years. Participating Claimants’ precise settlement values will not be known until that process is complete. However, an interactive website is available for you to input basic information about your claim to determine an *estimate* of its gross settlement value (before attorney’s fees and expenses are deducted) based on the information you input. To access the claim valuation calculator, go to www.OfficialVioxxSettlement.com.

In addition, the Settlement Program provides that an initial payment of approximately forty percent (40%) of a qualifying Claimant’s *estimated* final gross settlement value will be made to each participating Claimant whose properly executed Release and medical records are timely submitted to the Claims Administrator. These initial payments to qualifying MI Claimants may be as early as September 2008, and may be as early as March 2008 for qualifying IS Claimants. The remainder of a qualifying Claimant’s final gross settlement value will be paid when all eligible, participating claims nationwide have been fully processed, which is currently expected to be in approximately one to two years.

The decision whether to participate in the Settlement Program is yours to make but we strongly recommend that you participate. If you wish to follow our recommendation and agree to participate, please note that by doing so you are agreeing **both** to give up your right to a trial against Merck **and** to accept the settlement value that your claim will be accorded through the Settlement Program.

As you know, trial is risky because you could win or lose your case against Merck. If you go to trial, the jury could award you more, less, or no money from this Defendant. In addition, even if you are successful at trial, a Defendant always has the right to appeal your jury award. The appeal process may take several years to complete and will result in additional costs and expenses in your case. Any monies awarded by the jury cannot be paid to you until the appeal process is complete and a finding has been made in your favor. Further, an appeal could also result in a new trial being ordered and the entire litigation process would then start over again. Thus, provided you have a qualifying claim, there is little doubt that you will receive compensation for your claim more quickly under the Settlement Program than through the tort system.

The enclosed Description of Settlement Program and Claim Valuation Examples explain the Program in more detail. Please review them carefully.

Should you have immediate questions, please feel free to call us at 1-877-882-1011. We look forward to continuing to serve you over the coming months as we work to bring your Vioxx claim to a successful resolution.