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FEB 27 2006

ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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LORETTA G. WHYTE
CLERK
DOCKET NO. 1657

FILED
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BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VIOXX MARKETING, SALES PRACTICES AND PRODUCTS LIABILITY LITIGATION

Jess Cloud v. Merck & Co., Inc., et al., N.D. California, C.A. No. 2:05-5946

**06-1074
SECT. L MAG 3**

**CONDITIONAL TRANSFER ORDER (CTO-41)
AND SIMULTANEOUS SEPARATION AND REMAND OF CERTAIN CLAIMS**

On February 16, 2005, the Panel transferred 138 civil actions to the United States District Court for the Eastern District of Louisiana for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407. Since that time, 3,008 additional actions have been transferred to the Eastern District of Louisiana. With the consent of that court, all such actions have been assigned to the Honorable Eldon E. Fallon.

It appears that the Northern District of California action on this conditional transfer order (*Cloud*) involves questions of fact which are common to: 1) the actions in MDL-1657 previously transferred to the Eastern District of Louisiana and assigned to Judge Fallon; and 2) the centralized pretrial proceedings in the Northern District of California before the Honorable Charles R. Breyer in MDL-1699, *In re Bextra and Celebrex Marketing, Sales Practices and Products Liability Litigation*, in which *Cloud* is already included. *Cloud* comprises two sets of claims, as follows: 1) claims relating to the prescription drug Vioxx that involve common questions of fact with the previously transferred MDL-1657 actions; and 2) claims relating to the prescription drugs Bextra and/or Celebrex that involve common questions of fact with the previously transferred MDL-1699 actions.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), this action is transferred under 28 U.S.C. § 1407 to the Eastern District of Louisiana for the reasons stated in the order of February 16, 2005, 360 F.Supp.2d 1352 (J.P.M.L. 2005), and, with the consent of that court, assigned to the Honorable Eldon E. Fallon.

Inasmuch as no objection is pending at this time, the stay is lifted.

FEB 27 2006

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JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

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JUN 28 2006

Deputy Clerk, U.S. District Court
Eastern District of Louisiana
New Orleans, LA

Fee _____
Process _____
Dkt _____
Clerk/Dep _____
Dec. No _____

The claims in this action relating to Bextra and/or Celebrex are hereby separated and remanded, pursuant to 28 U.S.C. § 1407(a), to the Northern District of California for continued inclusion in the centralized pretrial proceedings in MDL-1699.

This order does not become effective until it is filed in the Office of the Clerk of the United States District Court for the Eastern District of Louisiana. The transmittal of this order to said Clerk shall be stayed fifteen (15) days from the entry thereof and if any party files a notice of opposition with the Clerk of the Panel within this fifteen (15) day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

Michael J. Beck

Michael J. Beck
Clerk of the Panel