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WORLD-FIRST VIOXX CLASS ACTION VICTORY

A Melbourne grandfather has won the world's first class action for people injured by the arthritis drug VIOXX, with a historic win over one of the world's largest pharmaceutical companies.

Today's Federal Court win by occupational health and safety consultant Graeme Peterson, 59, of Langwarrin, paves the way for hundreds of other Australians who suffered heart attacks after using the arthritis drug.

Mr Peterson has been awarded \$287,912 plus interest.

Slater & Gordon deputy chairman Peter Gordon says today's win – the first trial outside the US and the first class action in the world for those injured by VIOXX – is also the first detailed judgment about the safety of VIOXX and the liability of Merck concerning VIOXX in the world.

"VIOXX has been proven to be a dangerous drug and Merck has been proven to have acted wrongfully in marketing a drug which contributed to Mr Peterson's heart attack," he said.

Justice Jessup held that VIOXX was unfit for its purpose and not of merchantable quality. He awarded compensation to Mr Peterson for breaches of the Trade Practices Act.

He also determined that Merck had breached its duty of care to VIOXX consumers and engaged in misleading and deceptive conduct by its failure to warn the applicant's doctor of the potential cardiovascular risk and the emphasis given by its sales representatives to the safety of VIOXX in their discussions with his doctor.

Mr Gordon says the historic victory would not have been achieved without Mr Peterson's courage and conviction to carry the flag for all VIOXX victims in Australia.

"Just as he has done all his life, whether by working to make workplaces safer, adopting a child to offer her a better life or setting up a support group for cardiac victims after his own heart attack, Graeme has always put others first," Mr Gordon said.

"He always made clear to us he wanted to pursue this case for all the people who took this drug and suffered serious injuries.

"Graeme and his wife Julia faced unrelenting cross-examination from Merck's local lawyers, who were the visible tip of a global defence which included Australian lawyers, American lawyers, and both local and imported public relations workers.

"We think Graeme and Julia are very special people."

Today's judgement follows five years of litigation, a trial of 48 days, 25 witnesses including experts from all over the world, and examination of more than a million pages in hundreds of thousands of documents.

Peter Gordon says Merck should now end the court battle and settle its liabilities, just as it compensated US VIOXX victims with a \$4.85 billion package in 2007.

"It is now time for Merck to treat Australians in the same manner they have treated Americans and come to the table to settle outstanding claims," Mr Gordon said.

“Everyone has respected the right of a corporate giant like Merck to its 48 days in court but enough is enough.

“The time has come for this company to offer the same justice to its Australian victims it offered its American consumers three years ago.”

Mr Gordon acknowledged the international interest in the Australian case.

“Over the past four years, Slater & Gordon received invaluable assistance from senior lawyers at the Mark Lanier law firm including Mr Lanier himself. At the trial of the action, our trial team was also assisted by New Jersey lawyer Eric Weinberg. We are grateful for that critical assistance.

“Slater & Gordon has also received a number of requests for assistance from lawyers and VIOXX victims in the UK. We have responded to all such inquiries by repeatedly making it clear we think the case against VIOXX is strong and that litigants ought to be prepared to aggressively pursue the claims. In the light of today’s judgment, we re-iterate that message.”

- **Australians who suffered heart attacks and other medical conditions after using VIOXX should call Slater & Gordon on 1800 555 777 or make an online enquiry at www.slatergordon.com.au.**

For more information

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