

VIOXX CLASS ACTION

Deadline for registration of intention to claim

Representative proceedings are underway in the Federal Court of Australia against Merck Sharp & Dohme (Australia) Pty Ltd.

The applicant, Graeme Peterson, claimed compensation for loss and damage arising from a myocardial infarction (heart attack) allegedly suffered as a result of consuming the anti-inflammatory drug, Vioxx. Vioxx was withdrawn worldwide on 30 September 2004. Mr Peterson succeeded in his personal claim against Merck Sharp & Dohme (Australia) Pty Ltd under sections 74B and 74D of the *Trade Practices Act* (1974) (Cth). Owing to circumstances specific to his individual claim, the Court dismissed his personal claims in negligence and under sections 52 and 82 of the *Trade Practices Act*.

The claims of group members who suffered from injuries other than a myocardial infarction (heart attack) were dismissed. The Court also dismissed all claims against Merck & Co. Inc. as well as all claims under section 75AD of the *Trade Practices Act*.

The findings of the Court may allow group members in the proceeding who suffered a myocardial infarction (heart attack) to advance claims under sections 74B and 74D of the *Trade Practices Act* as well as in negligence and under sections 52 and 82 of the *Trade Practices Act* with regard to Vioxx. Merck Sharp & Dohme (Australia) Pty Ltd is appealing against these findings and its appeal is now pending before the Full Federal Court.

On 3 August 2010, the Court made orders requiring that this notice be published in newspapers within Australia and brought to the attention of group members in the proceeding. The Court ordered that every group member who intends to make an individual claim in this proceeding register his or her intention to do so by no later than 4:00pm on Wednesday, 25 August 2010, by either contacting the applicant's lawyers, Slater & Gordon Lawyers, or by completing and delivering or sending a registration form to the Federal Court, as described below.

Who is a group member?

You are a group member and may be able to advance your claim if **all** of the following apply to you:

1. You obtained at least one prescription of Vioxx tablets from a doctor in Australia after 30 June 1999.
2. After 30 June 1999, you completed at least one prescription of Vioxx tablets purchased in Australia.

3. You suffered and were diagnosed with a myocardial infarction (heart attack).
 4. You suffered from a heart attack at any time after completing your first prescription of Vioxx but before the day 30 weeks after the date when you stopped taking Vioxx. You should note that you may satisfy this condition even if you were still taking Vioxx at the time that you suffered your injuries.
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5. In response to the Notice ordered by the Court on 31 July 2006, you did not lodge an Opt Out Notice with the Federal Court on or before 31 October 2006.

If you are a group member then the current proceedings will determine your rights, if any, in the proceedings. You will be bound by the findings that have already been made in the proceedings which are applicable to your individual claim.

What you must do

If you satisfy the above criteria, you may have a right to advance your claim against Merck Sharp & Dohme (Australia) Pty Ltd.

If you believe you are a group member and wish to advance your claim you must take steps to register your intention to do so. You can do this in one of two ways:

1. By contacting Slater & Gordon, the lawyers for the applicant and some group members, by calling 1800 555 777 or emailing vioxx@slatergordon.com.au.
2. By completing and sending the form below to the Federal Court Victoria Registry, Owen Dixon Commonwealth Law Courts Building, 305 William Street, Melbourne VIC 3000.

Please note that submitting the form below to the Court or contacting Slater & Gordon does **not** amount to the initiation of proceedings to advance your claim any further. To do this, if you are not represented by Slater & Gordon, you or your lawyers will need to make an application to appear in the proceeding for the purposes of determining your individual claim. Before deciding whether to take such action, you should obtain legal advice, either from Slater & Gordon or your own lawyers.

There is no obligation for you to contact Slater & Gordon or retain Slater & Gordon to act for you if you wish to make a claim.

If you wish to advance your claim, you must complete one of the above steps by **4:00pm, Wednesday, 25 August 2010**.

If you believe you are a group member, but do not wish to advance your claim, you are not required to do anything.

If you do not register your interest in one of the ways listed above by 4:00pm, Wednesday 25 August 2010 you may not be able to make a claim in these proceedings.

Legal costs

You will not be liable for any legal costs merely by notifying your intention to advance your claim. However, that is subject to the qualification that the Court has power to order that the costs reasonably incurred by the applicant in prosecuting the claim on his behalf and on behalf of the group members be paid out of the remainder of any amount awarded to group members in the proceedings which are not recovered from the respondent.

In addition, if you seek to prove that you suffered some individual loss or damage, you may be liable for costs associated with the determination of issues concerned only with your individual claim.

REGISTRATION OF INTENTION TO CLAIM

(Filed in the Victoria District Registry)

Graeme Peterson v Merck Sharp & Dohme (Australia) Pty Ltd No. VID 451/2006

TO: The Registrar
Federal Court of Australia (Melbourne)
305 William Street
Melbourne VIC 3000

I, [name], believe that I am a group member in the above proceeding, and wish to register my intention to advance an individual claim.

Dated [insert date].....

Signed.....

Name and Address

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