

First ruling in Vioxx litigation in The Netherlands

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18 Dutch victims of Vioxx, and their relatives, have filed suit against Merck, Inc. and its Dutch subsidiary MSD in the District Court of Haarlem in the Netherlands. The plaintiffs are represented by the Amsterdam based law firm Beer advocaten (www.beeradvocaten.nl).

The plaintiffs are seeking recovery for damages as a result of heart attacks and strokes which are results of the use of Vioxx.

In this litigation the District Court has given a first ruling on November 11, 2009 regarding the following topics:

1. Defendants had objected against the way the plaintiffs have structured their legal action. Plaintiffs have primarily requested the Court to find that Vioxx is a defective product, and thereafter decide on causation and damages in each of the individual cases. The Court has now ruled that the plaintiffs have a reasonable interest in the approach that they have proposed and has denied a motion of the defendants to dismiss the action of the plaintiffs.
2. Defendants had requested the Court to urge the plaintiffs to produce their full medical records. The Court has now denied this request because the first decision to be taken in this proceedings, relating to the defective character of Vioxx, does not require the plaintiffs to provide their medical records yet.
3. Plaintiffs had requested the Court to urge the defendants to produce the registration file (containing the documents which defendants have provided to the regulatory bodies before receiving permission to distribute Vioxx on the Dutch market) and their marketing plans on the distribution of Vioxx. Defendants have resisted this request vigorously. The Court has now found that the documents regarding the information the defendants have provided to the regulatory bodies, how the product was marketed and which safety warnings were and were not given, are unmistakably of interest in answering the question whether Vioxx is a defective product. The Court finds that the registration file and the marketing plans are the documents which contain this relevant information. Therefore the Court has ruled that the plaintiffs are entitled to these documents. Since the defendants have claimed that these are confidential documents the Court will hear both parties in the near future as how to arrange for proper confidentiality.
4. The defendants can appeal this decision.

Further information on these proceedings can be obtained through Danielle Zwartjens and/or John Beer (telephone +31206732199 or e-mail vioxx@beeradvocaten.nl).