

## HEARINGS NOTICE

LONG FORM

### **Notice of Vioxx Settlement Approval Hearings**

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#### **Background**

Class proceeding lawsuits have been initiated across Canada in relation to the ingestion and/or purchase of Vioxx. Vioxx is a prescription pain medication that was sold in drug stores until September 30, 2004.

On July 28, 2008, the Ontario Court certified a class proceeding brought on behalf of “All persons in Canada, including their estates, other than residents of Quebec and Saskatchewan, who were prescribed and ingested Vioxx,” and a family class of “All persons who by reason of his or her relationship to a member of the Class are entitled to make claims under any of the Dependents Statutes as a result of the death or personal injury of such member of the Class.”

On November 9, 2006, the Quebec Superior Court authorized the bringing of a class action on behalf of a class of “All individuals and their successors who, in Quebec, consumed the medication described as Vioxx from October 1, 1999, to September 30, 2004 and who suffered damages pursuant to the consumption of the said medication.” On May 22, 2008, the Quebec Superior Court authorized the bringing of a class action on behalf of a class of “All persons who suffered damages because of their family relationship with persons who, in the Province of Quebec, consumed the medication described as Vioxx from October 1999 to September 30, 2004 and who suffered damages pursuant to the consumption of said medication, including spouses, fathers and mothers or descendants.”

On May 29, 2012, the Saskatchewan Court conditionally certified a class of “All persons who, by reason of residence in Saskatchewan, are not members of the class in either the Certified Ontario Class Action or the Certified Quebec Class Action, including their estates, and who were prescribed and ingested Vioxx (the “Saskatchewan Primary Class”)” and a family class of “All persons in Saskatchewan who by reason of his or her relationship to a member of the Saskatchewan Primary Class are entitled to make claims under any Derivative Claim Statute as a result of the death or personal injury of that class member.”

The deadline for class members to opt-out (or request exclusion) of the classes certified in Ontario and Quebec has passed. Class members who have not already opted-out will be bound by any settlements achieved or orders issued in the litigation.

Class members in Saskatchewan have an opportunity to opt out of the class conditionally certified for purposes of the settlement on or before **July 9, 2012** as set out at <http://www.vioxxnationalclassaction.ca>. Class members who opt out will not be eligible for payment under the settlement described below and will not have the right to oppose the settlement as described below (as they will no longer be class members).

#### **Class Action Settlement**

A settlement has been reached of all litigation in Canada relating to Vioxx. If the settlement is approved by the Courts and is not terminated by the parties, the defendants will pay a sum of approximately \$33,112,500 (inclusive of the payments to provincial and territorial governments described hereinbelow, and of up to \$6 million towards any awarded class counsel fees and disbursements and up to \$1 million of administrative expenses), subject to a possible increase to up to \$36,881,250 or decrease to no less than \$21,806,250, depending upon the number of eligible claims filed, in exchange for a full release of all claims against them connected with Vioxx. Provincial governments will receive \$3.5 million of this settlement fund in exchange for a full release of all claims connected with Vioxx. The settlement represents the resolution of disputed claims. The defendants deny the allegations and any wrongdoing or liability whatsoever.

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If the settlement is approved, individuals (or their estates) may be eligible to receive settlement payments if they took Vioxx and then experienced a heart attack (myocardial infarction), sudden cardiac death or ischemic stroke. Eligible claimants who had an ischemic stroke (or their estates) will receive a payment of no more than **\$5,000**. The size of payments to eligible claimants who had a myocardial infarction or sudden cardiac death (or their estates) will be based on the number of approved claims and other factors, including length of duration of use of Vioxx and risk factors including age, smoking, high cholesterol, hypertension, diabetes, obesity, family history, alcohol or drug abuse.

Spouses and children of eligible claimants who had a myocardial infarction or sudden cardiac death may also be eligible for settlement payments.

If you would like a copy of the settlement agreement, it is available at <http://www.vioxxnationalclassaction.ca> or a copy can be obtained from Class Counsel as listed below.

In order for the settlement to become effective, it must be approved by the Courts of Ontario, Quebec and Saskatchewan, and the courts of all other provinces must grant orders recognizing the Ontario certification and settlement approval orders as applicable within those jurisdictions.

Motions to approve the settlement will be heard by the Ontario Court in London on **July 17, 2012** at 10:00 a.m., by the Quebec Court in Montreal on **September 7, 2012** at 10:00 a.m. and by the Saskatchewan Court in Saskatoon on **July 25, 2012** at 2:00 p.m. At these motions, Class Counsel will also seek approval of fees, not to exceed 25% of the settlement value, plus disbursements and taxes.

At these motions, the Courts will determine whether the settlement is fair, reasonable, and in the best interests of class members.

Class members who do not oppose the settlement need not appear at the hearing or take any other action at this time to indicate their desire to participate in the settlement. All Class members have the right to present their arguments to the court as regards the settlement and the distribution of any balance remaining by making a written submission postmarked no later than **July 3, 2012** to the Administrator identified below. If no written submission is filed, you may not be entitled to participate, through oral submissions or otherwise, in the settlement approval hearing.

The written objection should include the following information:

1. The individual's name, address, telephone number, fax number and e-mail address.
2. A statement that he or she is a member of the Ontario, Quebec or Saskatchewan class.
3. A brief statement of the nature of and reasons for the objection.
4. Whether he or she intends to appear at the Court hearing in person or through a lawyer and if through a lawyer, the lawyer's name, address, telephone number, fax number and e-mail address.

Orders will be sought, without further notice, from the Courts of all provinces other than Ontario, Quebec and Saskatchewan recognizing and enforcing the settlement and ending litigation relating to Vioxx in those provinces. Class members from jurisdictions other than Ontario, Quebec and Saskatchewan who wish to object to the settlement should do so in connection with the Ontario hearing by contacting the Administrator.

If the Settlement Agreement becomes effective, a further notice will be published to provide information about submitting a claim, including the deadline for doing so. Claimants will be required to submit specified pharmacy and medical records in addition to a specific claim form. A claims administrator appointed by the courts will adjudicate claims based upon the criteria set out in the settlement.

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Additional Information

Additional information is available online at [www.vioxxnationalclassaction.ca](http://www.vioxxnationalclassaction.ca) or [www.vioxxclassactionsettlement.ca](http://www.vioxxclassactionsettlement.ca). If you have questions that are not answered online, please contact the appropriate class counsel:

1. class members outside Quebec or Saskatchewan, contact Siskinds LLP toll free at 1-800-461-6166 or by email at [michael.peerless@siskinds.com](mailto:michael.peerless@siskinds.com).
2. class members in Quebec, contact Siskinds Desmeules s.e.n.c.r.l. at 418-694-2009 or [eric.lemay@siskindsdesmeules.com](mailto:eric.lemay@siskindsdesmeules.com).
3. class members in Saskatchewan, contact Grant J. Scharfstein, Q.C., Scharfstein Gibbings Walen Fisher LLP at 306-653-2838 or [gscharfstein@scharfsteinlaw.com](mailto:gscharfstein@scharfsteinlaw.com).

The Administrator may be contacted at: NPT RicePoint Class Action Services  
P.O. Box 3355  
London, ON N6A 4K3  
1-888-507-8759  
[vioxx@nptricepoint.com](mailto:vioxx@nptricepoint.com)

This notice contains a summary of some of the terms of the Settlement Agreement. If there is a conflict between this notice and the Settlement Agreement, the terms of the Settlement Agreement shall prevail.

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