

Vioxx litigation in The Netherlands

On 12 November 2008 sixteen Dutch victims of Vioxx have filed a civil lawsuit against the American pharmaceutical company Merck & Co., Inc. and its Dutch subsidiary MSD in a Dutch Court. The plaintiffs are primarily asking the Court to declare that Vioxx is a defective product as defined in Dutch products liability law (similar to the EC Directive on Products Liability). Consequently the Court is being asked to hold the defendants liable for the damages as a result of the cardiovascular problems (cardiac infarctions and strokes) the plaintiffs or their loved ones have suffered while using Vioxx.

The plaintiffs argue that Vioxx, a painkiller prescribed for arthrosis, did not provide the safety that users could reasonably expect since it caused cardiovascular accidents and also because the defendants have failed to adequately warn the users for these risks.

The Dutch Court had to be addressed after American Courts conditionally dismissed the cases of foreign plaintiffs (on the grounds of forum non conveniens) which were filed in the USA. One of the conditions is "that Merck will not act to prevent the plaintiffs from returning to the American Court if the appropriate courts in the plaintiff's home country decline to accept jurisdiction".

In September 2004 Merck announced the worldwide withdrawal of its product Vioxx from the market after clinical studies had shown increased cardiovascular problems among users of Vioxx.

In November 2007 Merck reached a settlement agreement, which provided for a \$4,85 Billion payment on behalf of American victims of Vioxx. Foreign victims were offered nothing and have to sue in their home countries.

The sixteen Dutch plaintiffs are represented by the Amsterdam firm of Beer advocaten (www.beeradvocaten.nl). Further information on this case can be acquired by contacting the attorneys Danielle Zwartjens and/or John Beer by telephone +31-20-6732199 or by e-mail vioxx@beeradvocaten.nl

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