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Vioxx Cases Near Trial on the West Coast

By [Amanda Bronstad](#)
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The lawyers involved in the first West Coast trial against the maker of Vioxx are butting heads over whether jurors should decide one or more of the cases at the same time.

More than 1,800 lawsuits have been filed in California against Merck & Co. Inc. alleging that executives promoted the prescription pain reliever even though they knew it might cause patients to die or suffer from heart attacks.

The suits are among more than 9,600 filed nationwide by alleged victims and their families since September 2004, when Merck removed Vioxx from the market.

The first trial in California is set for June 21. Recently, Los Angeles Superior Court Judge Victoria Chaney narrowed a list of 36 potential first cases by eliminating all but victims of myocardial infarction, an ailment similar to a heart attack.

But she left open the possibility that more than one case could go to trial—a critical issue for lawyers on both sides. *In re Vioxx Coordinated Cases*, No. JCCP 4247 (Los Angeles Co., Calif., Super. Ct.).

"I want to know more about the cases we're going to try, their similarities and dissimilarities," she told a packed courtroom of about 25 lawyers. "I need to know if it's best to do single or multiple."

MANAGING VIOXX CASES

So far, three cases against Merck have ended in verdicts, and Merck, based in Whitehouse Station, N.J., has won two of them. The company faces trial this month in Atlantic City, N.J., and Rio Grande City, Texas.

In Los Angeles, steering committees made up mostly of West Coast lawyers have spent the past year consolidating the cases filed in California.

As of last week, a total of 1,882 cases had been filed, more than half by California residents, according to lawyers' reports.

Ten law firms are representing Merck in California, where about 75 law firms have brought cases.

Plaintiffs lawyers urged the judge to pick more than one case for the upcoming trial. Mark Robinson Jr., senior partner at Robinson, Calcagnie & Robinson in Newport Beach, Calif., and a lead member of the plaintiffs' steering committee who spoke at the hearing, said that 80% of the Vioxx cases rely on the same experts. The facts of the cases are generally the same, he said.

Ralph Campillo, a partner in the Los Angeles office of San Francisco-based Sedgwick, Detert, Moran & Arnold, who is the lead defense attorney representing Merck in California, said that the cases should be tried individually.

He said that specific facts of the case -- such as the plaintiff's medical history, the physician's knowledge of the harmful effects of Vioxx and the time frame in which each patient took the drug -- could confuse the jury.

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