

IN THE CIRCUIT COURT OF CLAY COUNTY, ALABAMA

CHERYL ROGERS, et al.,

Plaintiff,

vs.

MERCK & CO., INC., et al.,

Defendants.

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CASE NO. CV-2003-73

PLAINTIFF'S MOTION FOR SANCTIONS

Plaintiff Cheryl Rogers moves the Court for an Order imposing sanctions against Merck & Co., Inc. and for other relief against this Defendant. As grounds for her motion, Plaintiff states:

1. On December 30, 2004, this Court entered a Protective Order, the scope of which includes all documents produced in this litigation, as well as all depositions taken by the parties.
2. Merck intentionally violated the Court's Protective Order when it disclosed personal and confidential information relating to Plaintiff and her deceased husband, Howard Brad Rogers, to the news media.
3. On April 12, 2005, Merck provided to the national press the depositions of the Plaintiff and of Dr. William Clancey, who was the treating physician for Howard Brad Rogers. A *New York Times* reporter had the motion on this date apparently before it was even filed in court.

4. In addition to violating this Court's Protective Order, Merck also violated the provisions of HIPAA by disclosing personal medical information pertaining to Howard Brad Rogers.
5. Vioxx, which is no longer on the market, has been associated with approximately 40,000 deaths and well over 100,000 heart attacks and strokes.
6. Merck is guilty of a massive fraud on the public and the medical profession relating to Vioxx.
7. Releasing Merck documents would serve the public interest by exposing Merck's wrongful conduct over the years.
8. Merck has a history in prior litigation of attempts to intimidate parties, lawyers, witnesses, experts, and generally anybody who opposes them.
9. Merck's disclosure in this case was a blatant attempt to discredit Plaintiff.
10. The Motion for Summary Judgment filed by Defendant was frivolous and filed for reasons other than judicial relief.
11. Merck is guilty of attempting to poison the jury pool in this action by publicly attacking the Plaintiff and by circulating information concerning the case to local news media outlets.

WHEREFORE, Plaintiff requests that the Court enter an Order:

1. Vacating its Protective Order as it relates to documents produced by Merck & Co., Inc.;

2. Allowing Plaintiff's attorneys to use all documents obtained from Merck, or relating to Merck from any source, free from any Protective Orders;
3. Allowing for public disclosure by Plaintiff's attorneys of all the Merck documents.
4. Awarding Plaintiff her attorney's fees and expenses incurred in connection with the Defendants' Motion for Summary Judgment; and
5. Such other relief to which Plaintiff may be entitled.



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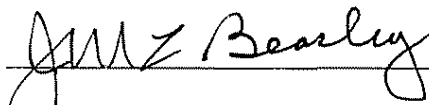
(Plaintiff's Attorneys)

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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing document upon the parties as listed below by placing a copy of same in the United States Mail, first class postage prepaid, on this the 22nd day of April, 2005.



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