

Alley ♦ Clark ♦ Greiwe ♦ Fulmer

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Alley ♦ Clark ♦ Greiwe ♦ Fulmer
Attorneys At Law

Representing Plaintiffs Exclusively in the Following Cases:

- Medical Malpractice
- Nursing Home
- Automobile Accidents
- Products Liability
- Insurance Disputes
- Drugs & Medical Devices

(800) 840-0977

IN BRIEF

*In
This
Edition*

Fosamax

Heart Devices

Bextra

ReNu

Prempro

Elidel

Protopic

Vioxx Update

Settlements
& Verdicts

*Tobacco
litigation
plaintiffs
have less
than a year
to file their
lawsuits.*

HOT TOPICS

TOBACCO LITIGATION

Alley, Clark, Greiwe & Fulmer has expanded its practice to include tobacco claims. Although Big Tobacco has claimed victory with the Florida Supreme Court's recent decertification of the Engle v. Liggett Group, Inc. class action, the opinion actually should make it easier for Florida plaintiffs to prevail in individual lawsuits for smoking-related injuries.

The Supreme Court made findings of fact that cigarette smoking causes disease, that the nicotine in cigarettes is addictive, that the cigarettes were defective and unreasonably dangerous when placed on the market, and that the manufacturers failed to disclose material facts concerning the health effects and addictiveness of smoking. Individual plaintiffs will still need to prove that their disease was caused by smoking, that they were induced to smoke by the

fraudulent marketing and other efforts of the tobacco companies, and will need to prove damages stemming from a smoking-related condition.

Alley, Clark, Greiwe & Fulmer is accepting referrals of clients who were diagnosed or manifested symptoms of any of the following conditions prior to **November 21, 1996**: aortic aneurysm, bladder cancer, cerebrovascular disease and strokes, cervical cancer, chronic obstructive pulmonary disease (COPD), esophageal cancer, kidney cancer, laryngeal cancer, lung cancer (specifically adenocarcinoma, large cell carcinoma, small cell carcinoma, and squamous cell carcinoma), complications of pregnancy, oral cavity/tongue cancer, pancreatic cancer, peripheral vascular disease, pharyngeal cancer, and stomach cancer.

Peripheral Vascular Disease
Aortic Aneurysm
Bladder Cancer
Strokes
Cervical Cancer
Emphysema
Esophageal Cancer

SMOKING-RELATED INJURIES

Pregnancy Complications
Laryngeal Cancer
Lung Cancer
Stomach Cancer
Oral Cancer
Kidney Cancer
Pancreatic Cancer

HOT TOPICS

BISPHOSPHONATES



Fosamax
Actonel
Boniva
Bonefos
Didronel
Aredia
Skelid

This class of drugs (which includes Fosamax, Actonel, Boniva, Bonefos, Didronel, Aredia, and Skelid) is used for the treatment of osteoporosis and in patients with bone metastases. A number of patients have developed osteonecrosis of the jaw as a result of these medications. Symptoms of this condition include exposed bone, pain and swelling in the jaw, infection, altered sensation and numbness. Users of these drugs are at particular risk when undergoing any dental procedures or if they also use corticosteroids. *Alley, Clark, Greiwe & Fulmer* is accepting referrals of significant injury claims involving the use of bisphosphonates.



HEART DEVICES

Alley, Clark, Greiwe & Fulmer is currently litigating a number of claims in Minnesota federal court involving defective pacemakers and defibrillators. The recalls stem from electrical malfunctions and problems with batteries and insulation materials. We are accepting referrals of patients who have been implanted with the recalled devices and have sustained an injury or require additional surgery to replace the devices.

GUIDANT MODELS RECALLED

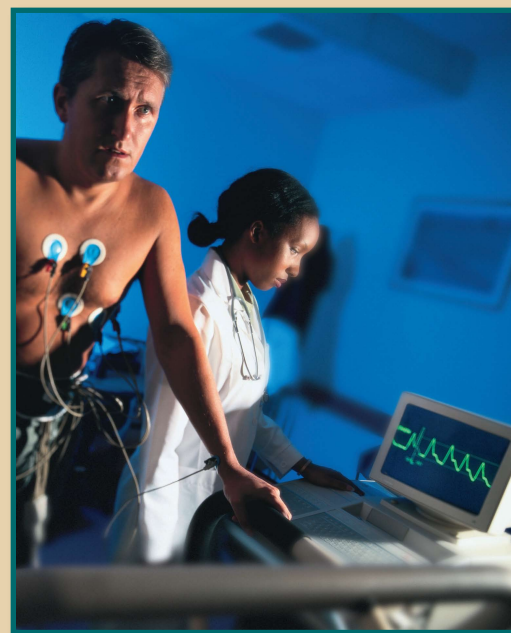
Pacemakers	Pulsar MAX, Pulsar, Discovery, Meridian, Pulsar MAX II, Discovery II, Contak TR, Virtus Plus II, Intelis II
Defibrillators	Contak Renewal, Contak Renewal CRT-D, Contak Renewal AVT, Contak Renewal 3, Contak Renewal 4, Ventak Prizm 2 DR, Ventak Prizm AVT, Vitality AVT, Renewal 3 AVT, Renewal 4 AVT, Renewal RF

MEDTRONIC MODELS RECALLED

CRT	InSync Marquis 7277, InSync II Marquis 7289, InSync III Marquis 7279, InSync III Protect 7285
Defibrillators	Marquis VR 7230, Marquis DR 7274, Maximo VR 7232, Maximo DR 278

BEXTRA LITIGATION

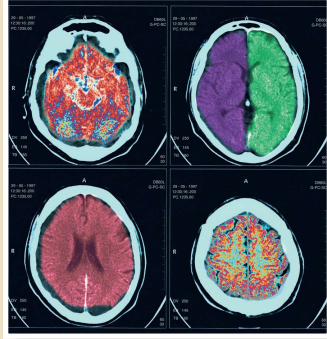
Alley, Clark, Greiwe & Fulmer has also been involved in the Bextra litigation for several years now. We are pursuing these cases in state and federal court. The recall of this drug in 2005 was not a surprise given its similarities to Vioxx. *Alley, Clark, Greiwe & Fulmer* is accepting referrals of Bextra cases involving heart attacks, strokes, Stevens Johnson Syndrome, Erythema Multiforme, and TENS.



SETTLEMENTS & VERDICTS

Confidential Pharmaceutical Settlement

Plaintiff suffered a significant stroke after ingesting a cold medication that contained an ingredient that has since been pulled from the market. The drug manufacturer had known for more than a decade that the ingredient could cause strokes in adults and children.



\$600,000 Settlement of Wrongful Death Claim

The Decedent (an undocumented construction worker) was knocked over the edge and fell four stories to his death while receiving roof trusses at an apartment building construction site. Our investigation and research proved that OSHA had previously cited the defendant on multiple separate occasions for violations of the same regulations that led to this tragic fall. The Defendant failed to have proper fall restraint systems or safety systems in place for workers performing tasks at certain heights.

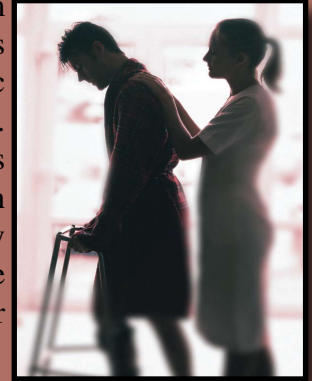
\$1,600,000 Settlement of Products Liability Claim

Plaintiff lost his dominant arm by traumatic amputation when the blades of a radiator fan “flew” off as he was performing mechanical work on a running engine. Previous incidents involving the manufacturer’s fans and expert analysis determined that manufacturing flaws, cracks and design defects in the fan blades were the cause of this preventable injury. The Plaintiff was retired from the military and was self-employed as a mechanic.



Confidential Settlement Against Nursing Home

The deceased suffered from more than 1,500 ant bites that resulted in anaphylactic reaction and suffocation. The nursing home was aware of the infestation with ants and failed to reasonably respond with appropriate controls such as paying for indoor pest control.



\$985,000 Settlement of Auto Claim for Surviving Spouse

An 83 year-old man was killed as he traveled through an intersection and was broadsided by a car traveling on a crossroad. The stop sign that should have prevented the Decedent from entering the intersection



had previously been knocked over by a garbage truck. Both the driver of the truck and his helper were aware that they had knocked down the stop sign, but the need to meet their schedule caused them to leave the scene and not report the downed sign. Additionally, the rear video camera on the garbage truck was not operating and had been reported as inoperable for months by various drivers.

\$900,055.00 Settlement Medical Malpractice

An elderly patient was inappropriately prescribed Coumadin (a blood thinner) after surgery. A hematoma formed and put pressure on the patient’s spinal cord causing paralysis.

SETTLEMENTS & VERDICTS

\$175,000,000 in Confidential Product Liability Settlements

After years of litigation in state and federal courts, the firm secured over \$175,000,000 in settlements on behalf of hundreds of diet drug users who suffered varying degrees of heart damage as a result of their ingestion of diet drugs. The firm was a leader in the Southeast with regard to the litigation and resolved these cases just prior to a number of trial settings.

\$930,000 in Confidential Settlements Against Physicians, Pharmacy, and Drug Manufacturers

The firm litigated a complicated case on behalf of the estate of 48 year-old single mother, who died suddenly, leaving behind three children. The plaintiff was prescribed two medications by separate physicians that, when combined, caused her to suffer a cardiac arrest. The primary care physician and pharmacy were both aware that the patient was taking the two drugs in combination but failed to take any action that would have saved her life. The drug manufacturers were also aware that their medications were causing drug reactions at an alarming rate and failed to properly advise physicians and pharmacies of this special risk. One of the drugs has since been removed from the market due to an unacceptable incidence of drug reactions.



\$500,000.00 Settlement Medical Malpractice/ Wrongful Death Against Hospital ER

The decedent died because of a hypoxic/anoxic brain insult due to inadequate oxygenation. Decedent presented to the ER suffering from an allergic reaction, and there was a failure to adequately preserve an airway resulting in Decedent's death by suffocation. A defendant physician remains in this case, which is currently set for trial.

\$196,000.00 Settlement for Bicycle Accident

A bicycle operator was forced to push off from a passing motor vehicle when it drifted toward him as he traveled along the right-hand side of the road. The resulting fall caused him to suffer a significant break to his upper arm requiring surgeries.

\$337,500.00 Confidential Settlement of Medical Malpractice/ Wrongful Death

Patient died as a result of choking on vomit while being restrained in bed. The patient was a known long-term alcoholic going through withdrawal while hospitalized for unrelated medical condition.

\$1,500,000 in Confidential Settlement Against Nursing Home Chains

The firm represented the estate of an elderly Tampa man who was placed in a nursing home due to dementia and wandering. Shortly after his admission, he was the victim of a racially-motivated assault by another resident and suffered a significant brain injury requiring surgery and was no longer able to communicate or walk as a result of the assault. Subsequently, the resident returned to the same nursing home where he received substandard care and developed significant bed sores and malnutrition. He was then readmitted to the hospital and required extensive debridement of his bedsores. Once he was stabilized, the patient was transferred to a different nursing home in hopes that he might receive better care. Unfortunately, he remained at this facility for only a few weeks before he was readmitted to the hospital with the development of additional bedsores and was noted to be covered in feces at the time of his admission to the hospital. The patient passed away shortly thereafter as a result of complications from the brain injury, malnutrition, bed sores, and neglect.



HOT TOPICS

RENU CONTACT LENS SOLUTION

In May of 2006, Bausch & Lomb initiated a global recall of its ReNu with MoistureLoc contact lens solution due to a number of reports of serious eye infections associated with the product. The manufacturer was aware of problems with the product as early as the Fall of 2005, but they did not notify physicians and consumers. A number of patients have developed fusarium keratitis, a serious bacterial infection that is incredibly rare and often misdiagnosed. Symptoms of fusarium keratitis include eye pain or discomfort, excessive tearing or discharge from the eyes, persistent redness, impaired vision and extreme photosensitivity. Patients have required long-term anti-fungal treatment and have suffered corneal abrasions, visual disturbances, blindness, and required corneal transplants.



PREMPRO

Our firm represents nearly 100 women who developed breast cancer after ingesting various combination hormone therapy products. These drugs were marketed as the "Fountain of Youth" with unsubstantiated and false claims that they prevented heart attacks, strokes, Alzheimer's disease, and a number of other serious health problems. Today, we know that the drugs have very few benefits and have significant risks of cancer, heart attacks, and strokes. We are litigating these claims in state and federal court and are involved in the national discovery efforts. The first trials in the country will start shortly in Little Rock and Philadelphia, and *Alley, Clark, Greiwe & Fulmer* will likely be trying an HRT case in Pinellas County in 2007.

If you would like additional information about any of these mass tort projects or our firm's medical malpractice, products liability, and personal injury practice, please give us a call.

ELIDEL & PROTOPIC

A public health warning was issued earlier this year by the FDA with regard to these popular drugs used for the treatment of eczema or atopic dermatitis. Both Elidel and Protopic have been associated with various cancers including skin cancer and lymphoma. Physicians have been cautioned to utilize the drugs for only second-line treatment for a short period of time and not to use them in young children or others who have immature or weakened immune systems.

"It may take human studies of ten years or longer to determine if use of Elidel is linked to cancer."

FDA Alert March 2005



VIOXX DEVELOPMENTS

Litigation Update

Our firm became active in the Vioxx litigation in 2001, years before the drug was pulled from the market. *Alley, Clark, Greiwe & Fulmer* is currently litigating in nearly 200 Cox-2 inhibitor cases in state and federal courts. We have been at the forefront of the Florida litigation as we prepare for the Kozic trial, which was recently postponed to early 2007. We are still accepting referrals of Vioxx claims involving heart attacks, strokes, cardiac arrest, and retinal hemorrhages.

Merck announced in its recent filings with the SEC that it has now been served with 14,200 lawsuits filed on behalf of more than 27,000 Vioxx users who have been injured. Since the two-year anniversary of the drug's recall is fast approaching, we anticipate that the number of filed cases will increase significantly. In addition, there are more than 6,000 claimants who have signed tolling agreements. Merck also faces 190 class action lawsuits, shareholder derivative actions, and a lawsuit filed by thirty-one Attorneys General alleging violation of state consumer protection statutes. Most significantly, a national class action on behalf of non-governmental health insurers has been certified and upheld on appeal in New Jersey.

We anticipate that Judge Fallon, who presides over the MDL, will force the parties to mediation in early 2007 once the bellwether trial process is completed. If a global settlement is not possible (and things are currently looking very bleak), then it is our hope that Judge Fallon will begin the process of remanding cases to state and federal courts across the nation. The threat of massive remands may be the only avenue available to force Merck to rethink its current litigation strategy. It is interesting to note that Merck spent the staggering sum of \$285 million defending Vioxx lawsuits in 2005, at a time when most of the cases in the country were relatively dormant. A recent report estimated Merck's potential exposure for the Vioxx litigation to be \$11 to \$50 billion.

PAST TRIALS

8/31/05
Ernst, TX
\$253.4M

11/30/05
Humeston, NJ
Defense Verdict

12/31/05
Irvin, MDL
Hung Jury

1/24/06
Garza, TX
\$32M

2/17/06
Irvin, MDL
Defense Verdict

4/05/06
NJ
\$13M – McDarby
Split Verdict – Cona

7/13/06
Doherty, NJ
Defense Verdict

8/02/06
Grossberg, LA
Defense Verdict

FUTURE TRIALS

9/11/06
Smith
Federal – MDL

10/17/06
Undetermined
State – Los Angeles

10/23/06
Crook
State – Birmingham

10/30/06
Mason
Federal – MDL

11/08/06
Rigby
State – Houston

11/27/06
Dedrick
Federal – MDL

12/11/06
Albright
State – Birmingham

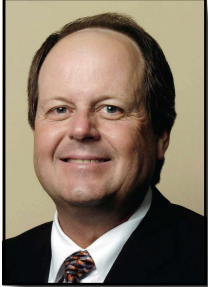
12/11/06
Schwaller
State – Illinois

1/16/07
Undetermined
State – Atlantic City

1/29/07
Clark or Achord
State – Houston

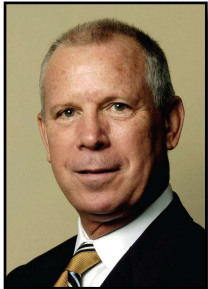
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TODD ALLEY

25 Years of Experience
in Personal Injury
and Pharmaceutical
Litigation



JIM CLARK

Board Certified
Trial Attorney
31 Years of Experience
in Personal Injury



Our partners have more than one hundred combined years of experience in litigating complex personal injury, products liability, and medical malpractice claims. We have also successfully represented nearly 8,000 plaintiffs in pharmaceutical and medical device claims involving Vioxx, Bextra, hormone therapy drugs, Guidant and Medtronic heart devices, breast implants, diet drugs, Baycol, Sulzer hip and knee implants, PPA, ProteGen bladder slings, and a number of other drug and medical device claims. In recent years, our firm has paid out in excess of \$10,000,000 in referral fees to Florida lawyers who sought our expertise in complex personal injury and mass tort claims.



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BRENDA FULMER

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