*Rápido**

An Investigative Report on Vioxx's Early Cardiovascular Risks
on Vioxx Users in Puerto Rico.

K.B. Forbes

Consejo de Latinos Unidos
San Juan, Puerto Rico
August 1, 2006

*Spanish for Quick.

Executive Summary

Key Findings

- One in three Vioxx patients in Puerto Rico who contacted us and who suffered health damages used Vioxx for less than 18 months.

- Since November 2004, 987 Puerto Ricans who used Vioxx have contacted us. Of those, 336 appear to have used the product for less than 18 months before suffering a cardiovascular event or change of health. That means 34 percent of alleged Vioxx victims in Puerto Rico used the product for less than 18 months.

- Of the 179 Vioxx patients we have identified as severe—those who suffered a major cardiovascular event that includes cardiac arrest, stroke or even death—56 cases appear to have used the product for less than 18 months. That means 31 percent of severe Vioxx victims in Puerto Rico used the product for less than 18 months.

- According to international researchers and Merck's own data released this year, Vioxx could possibly have caused severe cardiovascular damage with short-term use and health damages could have occurred almost immediately after use. Interviewing hundreds of patients in Puerto Rico who used Vioxx, severe cardiovascular damage and dangerous side-effects occurred in a period of use that was less than 18 months, confirming the allegations that short-term use of Vioxx was hazardous.

Recommendations

- Merck should stop peddling the lie that there is no scientific evidence, no clinical proof that health damages occurred in cases with less than 18 months of Vioxx use. To quote one victim who we interviewed, Merck "should stand up and speak the truth."

- Merck should stop defending flawed clinical trials and start looking at the human toll and correct what appears to be irresponsible corporate behavior.

- Instead of playing legal hardball with patients, Merck should resolve these legal challenges by injured Vioxx patients, including those who ingested the product for less than 18 months, quickly, fairly and equitably.

Introduction and Background

On September 30, 2004, Merck withdrew its painkiller Vioxx from the market. Vioxx had been introduced in 1999 as a pain reliever that would not upset the stomach or cause bleeding ulcers.

Merck had made $2.5 billion from the sales of Vioxx alone in 2003.

At the time, Merck appeared to say the decision was based on "new" data that showed a link between Vioxx and heart attacks and strokes, but shortly after Merck's announcement, international scientists and researchers released studies showing that the cardiovascular problems with Vioxx were known much earlier than 2004:

> "U.S. drugs giant Merck & Co Inc. should have pulled its Vioxx painkiller from the market four years ago because data showing it raised the risk of heart attacks has existed since 2000, Swiss scientists said on Friday. In a report for British medical journal *The Lancet*, researchers at the University of Berne said there was substantial evidence of the dangerous side effects of the drug by the end of 2000….."[1]

Prior to Vioxx's withdrawal, controversy had caused Merck to make some changes to Vioxx warning labels. In April 2002, after Merck received a scathing letter from the U.S. Food and Drug Administration (FDA) in September of 2001 for downplaying the cardiovascular problems associated with Vioxx, Merck changed Vioxx's warning label (patient package insert) and prescribing information for physicians.

That April, Merck sent out a "Dear Doctor" cover letter along with the revised Patient Information and Prescribing Information documents. The new warning label titled "Patient Information" simply declared as the second of Vioxx's "serious but rare side effects" the following: "Heart attacks and similar serious events have been reported in patients taking Vioxx." This was new information added in April of 2002.

However, a bigger and bolder change came in the Prescribing Information in a section titled "Information for Patients," which stated the following new information:

> "Physicians should instruct their patients to read the patient package insert before starting therapy with Vioxx and to reread it each time the prescription is renewed in case any information has changed."

Yet that unique and specific instruction was not even mentioned in the "Dear Doctor" cover letter sent by Merck's Vice President of Medical and Scientific Affairs.

In November 2004, the FDA released an internal memorandum that showed that almost 28,000 heart attacks and deaths could possibly be linked to Vioxx:

> "Providing details from a report it had described broadly in August [2004], the Food and Drug Administration published a memorandum…that indicated Merck's Vioxx painkiller

[1] Armitage, Tom, *Reuters News Service*, November 4, 2004.

> might have contributed to 27,785 heart attacks and deaths from 1999 through 2003. The memo, based on a sample of patient records, concluded that people taking Vioxx were more likely to have heart attacks or die from sudden cardiac arrest than people taking a competing painkiller, Celebrex from Pfizer."[2]

Investigative Report in 2005

In 2005, after a five-month investigation, we issued an investigative report called *La Muerte* that focused on Vioxx and the effects on Puerto Rican patients who were impacted by Merck's corporate behavior.

In *La Muerte*, we concluded that as aggressive as Merck was in marketing Vioxx, Merck appeared not to have adequately informed the public or medical community in Puerto Rico about the cardiovascular dangers of Vioxx, even after the FDA called on them to do so in late 2001.

In addition, we concluded that Merck appeared to have failed to circulate information of the cardiovascular dangers in Spanish to the public or medical community in Puerto Rico between 2002 and 2004, the time period after Merck had modified Vioxx warning labels (known as patient package inserts) and before the drug was pulled.

In 2005, Puerto Rico residents who used Vioxx and suffered cardiovascular problems felt they were used as "guinea pigs" and that the company should have informed them and their doctors of the associated risks in Spanish.

In *La Muerte*, we recommended that Merck and other leading pharmaceutical companies publish all warning labels (patient package inserts) in Spanish and heavily distribute them with their representatives in Hispanic areas of the United States and in Puerto Rico.

[2] Bloomberg News, "FDA Releases Memo on Vioxx," November 3, 2004.

New Research Creates New Debate

"Eighteen months. Ever since Merck pulled its arthritis painkiller Vioxx off the market in September 2004 on evidence that it could cause strokes or heart attacks, the company and its lawyers have stood by the premise that it was dangerous only to patients who took it for at least 18 months."[3]

On May 2nd of this year, Merck was hit with a bombshell from medical researchers in Canada:

> "A quarter of patients who suffered a heart attack while taking Vioxx did so within the first two weeks of taking the drug, a new study published by MUHC [McGill University Health Centre] investigators reveals. The research, scheduled for early online publication in the *Canadian Medical Association Journal (CMAJ)* tomorrow, demonstrates that cardiovascular risks from taking Vioxx may occur much earlier than previously believed.
>
> 'A quarter of individuals in our study who suffered an acute myocardial infarction did so within two weeks of their first Vioxx prescription,' says Lévesque. 'The additional cardiovascular risk from Vioxx actually decreased with longer duration of use, suggesting that the period of highest susceptibility for most people taking Vioxx may occur earlier than previously believed,' noted Lévesque. The study also documents that cardiovascular risk returns to normal within one month of stopping the drug. Vioxx was voluntarily withdrawn from the market on September 30, 2004, after a study showed it doubled patients' risk of heart attacks and strokes after 18 months of use."[4]

Also in early May, Merck submitted additional data on its Vioxx clinical trials to the FDA. A firestorm erupted.

According to "prominent medical experts," the "new data from Merck indicated that Vioxx's risks started to emerge after only four months of use. The controversy is the latest illustration of how widely open to interpretation and potential corporate pressure the results of clinical trials can be — even when reported in a leading medical journal. Critics say it is now clear that the previous data analysis was done in a way that minimized the risks of the drug."[5]

Finally, on May 30, 2006, twenty months after withdrawing the drug, Merck capitulated.

> "In an admission that could undermine one of its core defenses in Vioxx-related lawsuits, Merck said yesterday that it had erred when it reported in early 2005 that a crucial statistical test showed that Vioxx caused heart problems only after 18 months of continuous use. That statistical analysis test does not support Merck's 18-month theory about Vioxx, the company acknowledged yesterday. But Dr. Peter S. Kim, Merck's chief scientist, said the company stood by the overall findings it reported in 2005 — including the conclusion that the drug's heart risks were not apparent if patients took it

[3] Pollack, Andrew and Abelson, Reed, "Why the Data Diverge on the Dangers of Vioxx," *The New York Times*, May 22, 2006.
[4] McGill University Health Centre, News Release, May 2, 2006
[5] Pollack, Andrew and Abelson, Reed, "Why the Data Diverge on the Dangers of Vioxx," *The New York Times*, May 22, 2006.

> less than 18 months. But outside scientists said yesterday that Merck's admission, when considered along with other clinical trials of the drug and studies tracking real-world Vioxx use, supports critics' longstanding claims that Vioxx caused heart problems quickly. 'There never was any evidence for the 18-month story,' said Dr. Alastair J. J. Wood, a drug safety expert at Vanderbilt University."[6]

Although Merck acknowledged the data analysis was wrong, they continue to argue that no health damages are evident in cases of use less than 18 months. Is this true?

.

[6] Berenson, Alex, "Merck Admits a Data Error on Vioxx," The New York Times, May 31, 2006

Less-Than-18-Months Testimonials

According to our research, one-third of the Puerto Rican patients who ingested Vioxx and had health problems appear to have used the product for less than 18 months. We have met hundreds of these victims in Puerto Rico and many patients took the product without knowing the risks of heart attack or stroke.

Since November 2004, 987 Puerto Ricans who used Vioxx have contacted the Consejo de Latinos Unidos. Of those, 336 appear to have used the product for less than 18 months before suffering a cardiovascular event or change of health. That means 34 percent of alleged Vioxx victims in Puerto Rico used the product for less than 18 months.

Of the 179 Vioxx patients we have identified as severe—those who suffered a major cardiovascular event that includes cardiac arrest, stroke or even death—56 cases appear to have used the product for less than 18 months. That means 31 percent of severe Vioxx victims in Puerto Rico used the product for less than 18 months.

Here are a few of the powerful testimonies of victims in Puerto Rico who took Vioxx for less than 18 months.

Merck Needs to Feel and See All the Pain They Have Caused

Felix L. states, "I took Vioxx for less than one year. After taking Vioxx, I had a massive heart attack… Three months ago, I had to have open heart surgery. I am very upset because my life has really been affected. In the past, I was a very active athlete and always concerned about my health. Today I cannot do many things on my own. It is very frustrating that I now depend on my daughters and family to do the simple things that I was able to do in the past. It saddens me that I am no longer the social person I used to be. After having my surgery, I do not feel the same confidence that I felt in the past. Today, I feel obligated to stay home because I fear being out of my home and not knowing what else can happen to me. I want Consejo to make sure that Merck is held responsible for all the damages they have caused. I want Merck to feel and see all the pain they have caused me." [7]

Widow Chastises Merck for Playing with Human Life

Brenda S. gives this gripping story: "My husband passed away after taking Vioxx. He was 59-years-old. He took Vioxx for about one year. He has a massive heart attack and died instantly. I cannot believe this happened to my husband because he was very healthy. About five months before he passed away he visited with his doctor and he was told he had high blood pressure. Today I am a widow, and I am only 29-years-old. I am left to care for our three children, ages 3, 6, and 8. I am very confused, angry, [and] depressed . I cannot believe that my husband is gone. It is very difficult for me to go out and work because I have to care for my children. If I had the opportunity to speak to a Merck representative I would say 'you should never play with

[7] Case V2006-121.

human life, and you should have informed the consumer of any negative side affects.' My husband would have never taken this medication if he had been informed."[8]

I Could Have Died

"I had a heart attack in May 2004," says Isabel V. a 46-year-old. "Merck is very irresponsible. They knew that Vioxx was very damaging and they did not appropriately inform the public. It upsets me to know that I could have died when I was only 44-years-old. I sit back and think that I only took this medication for five months and I had a heart attack. I hope that Merck is held responsible. It is not fair that I had a heart attack due to a medication that was supposed to benefit me and instead I live with constant fear that I may have another heart attack or other health problems. They should have said the truth. If I would have known that I was going to be affected, I would have never taken this medication. After having my heart attack I was unable to work and this really affected my financially." [9]

Merck: Stand Up and Speak the Truth

"My family and I always ate very healthy and exercised. We tried our very best to take care of our health. In 2003, I had two heart attacks. It is not fair that after taking Vioxx for only one year our whole life has been transformed. I hope that the company that was making this medication is held responsible for all their negative impact. I wish someone would have told me that this medication could harm me in other ways. I think that Merck has lied to the consumers and they were only looking out for their financial gain. I believe that if I had not taken this medication I could have continued my same active life and would not have to live with the many restrictions that I have to live with today. This is not fair and they should stand up and speak the truth."[10]

Why Did They Do This to Us?

"I am speaking on behalf of my wife, Aida. My wife took Vioxx for over a year. All her life she was very active and involved in her community. She lived a very normal life and was a very independent woman. She made sure that everything was taken care of at home. As you are witnessing I am speaking for my wife today because her speech has been impaired. My wife had a stroke and she has been bed-ridden since then. Our life has really changed. I do not like to see my wife in the condition she is in. This is not fair. Why did they do this to us?" [11]

Perfect Example of Merck's Injustice

"I am speaking for my husband because he has a difficult time speaking and remembering past events. I believe that Merck is responsible for my husband's current situation. My husband took Vioxx for a little over a year and he has had several strokes. I am very angry to see how my husband has been affected. He is no longer the man I married. I remember that he was very

[8] Case V2006-165.
[9] Case V2006-134.

[10] Case V2006-162.
[11] Case V2006-183.

active, positive, and happy. In 2002, he had his first stroke and he has had several others after this first one. One-month ago he was hospitalized because his blood pressure was very, very high. He was kept in the hospital because he had brain hemorrhaging. I am very saddened that my husband has been suffering for more than four years. I am constantly worried and thinking what is going to happen next. Merck has to pay. They must be held responsible. My husband is a perfect example of their injustice."[12]

Fifteen-Year-Old Takes Vioxx for Two Weeks and Suffers Chest Pain

A mother gives an account of what happened to her 15-year-old son German who took Vioxx for two weeks. "My son had his wisdom teeth pulled and he was told to take Vioxx for two weeks. Before taking Vioxx [my son] was a very good student, very quiet, and not very active. His teachers used to tell me that he needed to become more active and involved with his classmates and class activities. After taking Vioxx my son started complaining that he felt a lot of chest-pain, head pressure, and nose bleeding. He is also now hyperactive and he does not understand what has happened to him." [13]

Three Week Usage Leads to Numbness

Ernesto M. took Vioxx for three weeks. "I did not have a heart attack or a stroke but I think I have been greatly affected in other ways. After taking Vioxx my right side of my body has become numb, and I have constant headaches. My doctor strongly believes that Vioxx has caused all these negative reactions. I am very angry because I am only 43-years-old and my health is already suffering."[14]

Given Two More Health Problems

"I am only 58-years-old and I cannot believe how I have been tremendously affected by this medication," says Miriam G. "I have had a heart attack and a stroke. While taking Vioxx, I never thought that this medication would bring future complications. I took this medication for only six months and I believe that it is very unfair that not only have I had to suffer a heart attack but also a stroke. I am not the person I used to be. I took Vioxx because I was told that it would diminish the pain I felt. I am very confused because I was trying to solve my problem and instead I gained two more health problems. This is an injustice and someone has to be held responsible. If this happened to me, I am sure that there are many other people that have also been affected."[15]

Vioxx Use Leads to a Stroke

Angel C. told us, "I took Vioxx for about one year and I am very disappointed that I was never told that I could have secondary complications. I had a stroke. I still feel terribly and worried what the outcome of my health and life will be. As I am speaking to you, I feel very sick. I

[12] Case V2006-140
[13] Case V2006-116.
[14] Case V2006-124.
[15] Case V2006-139.

have been affected physically and emotionally. I was only 52-years-old when I had the stroke. After the stroke, my life changed and I have not been able to do all the things I used to do."[16]

Three Days Later, Vioxx Appears to Raise Blood Pressure

"I took Vioxx for about 14 months," says Lucila T. "I took this medication because I had terrible arthritis. My doctor recommended that I take this medication for my terrible pain. I took this medication two times per day. After three days of taking this medication my blood pressure began to rise; it rose so high that I went to the hospital. I was then given high blood pressure medication. My health condition is very bad. I often feel fatigue, I am very depressed and I do not like leaving my home. About two years ago, I had a heart catheterization done and this makes me very sad and upset."[17]

Vioxx Relieved Pain But Now She is Legally Blind

After taking Vioxx for a year, Ana G says, "I had a heart attack. I have had many health complications due to this heart attack. For example, I am now legally blind—I have a letter that declares me legally blind—and this occurred after having this heart attack. This is terrible because I cannot drive, I can easily fall, [and] I can injure my body. I am very depressed. In the past I was a normal person…I strongly believe that my high blood pressure, loss of vision, and the stroke that I had on February 21, 2006 is all due to having taken Vioxx. I regret taking this medication. I agree that they helped with my pain but Merck should have made the public aware."[18]

[16] Case V2006-125.
[17] Case V2006-129.
[18] Case V2006-156.

Conclusion

One- in-three patients who contacted us in Puerto Rico suffered health damages from Vioxx after using the pain reliever for less than 18 months. Yet, Merck and its corporate officials appear to still be peddling the lie that there is no evidence, no proof that health damages occurred in cases with less than 18 months of Vioxx use.

Why is Merck in a constant state of denial? Why is Merck so adamant about its bogus 18 month rule?

Vioxx was a very profitable medication, a billion-dollar gold mine. Vioxx is no longer making them money but Merck beat earnings expectations for the second quarter of this year, making a whopping profit of $1.5 billion for the quarter alone on $5.8 billion in sales. According to *The New York Times*, Merck's asthma and allergy medication supposedly reaped them a windfall.

Now as Merck waddles with 14,000 Vioxx lawsuits surrounding them, the same corporation that grudgingly admitted their own data analysis was wrong, is spending millions in attorney fees, to what end? Three judgments against Merck totaling hundreds of millions of dollars.

Defiant, Merck's Chief Executive boasts to Wall Street analyst that he sleeps well at night and the judgments would be reversed on appeal.

We recommend the following:

- Merck should stop peddling the lie that there is no scientific evidence, no clinical proof that health damages occurred in cases with less than 18 months of Vioxx use. To quote one victim who we interviewed, Merck "should stand up and speak the truth."

- Merck should stop defending flawed clinical trials and start looking at the human toll and correct what appears to be irresponsible corporate behavior.

- Instead of playing legal hardball with patients, Merck should resolve these legal challenges by injured Vioxx patients, including those who ingested the product for less than 18 months, quickly, fairly and equitably.

We would also like to reiterate our recommendations from our report *La Muerte*. Published last year, the recommendations were ignored by Merck and the pharmaceutical industry:

- Merck and other leading pharmaceutical companies should institute a campaign in Spanish to educate the Puerto Rican community about the risks associated with their pharmaceutical products that is equal to the campaigns to promote their product.

- Merck and other leading pharmaceutical companies should publish all warning labels (patient package inserts) in Spanish and heavily distribute them with their representatives in Hispanic areas of the United States and in Puerto Rico.

Appendix A
Legal Aid Statistics

The Consejo de Latinos Unidos has held over a dozen workshops and seminars to provide legal aid and education to hundreds of Puerto Rican patients.

Working with the Quetglas Law Firm in San Juan, Puerto Rico and the renowned health care attorney Archie Lamb of Birmingham, Alabama, the Consejo has been able to help hundreds of Puerto Rican residents secure quality legal representation.

Statistics for Puerto Rico Vioxx Lawsuit Filed on September 29, 2005:

Number of plaintiffs in original complaints: 664
Number of actual plaintiffs to date: 560 (includes relatives of Vioxx victims)
Number of Plaintiff Profile Forms (PPF) [19]completed and filed with Court: 325
Number of death cases: 28
Number of serious (heart attack and stroke) cases: 113
Number of plaintiffs included in the June 26, 2006 Motion to Dismiss: 235

Statistics for Puerto Rico Vioxx Lawsuit Anticipated to be Filed by September 29, 2006:

Number of plaintiffs anticipated to be included in complaint so far: 124
Number of Plaintiff Profile Forms (PPF) completed to date: 51
Number of death cases: 9
Number of serious (heart attack & stroke) cases: 29

[19] PPF is the questionnaire provided by the U.S. District Court in New Orleans that is managing the Multi-District Litigation (MDL). There are so many cases filed against Merck that the MDL is used to simplify the process and save on costs for such things as discovery and depositions.

Acknowledgements

The author wishes to thank the individuals from Puerto Rico who agreed to share their Vioxx stories with the Consejo. A special thanks to Lourdes Gálvez-Galván, Deputy Director of the Consejo, who helped make this report possible. Many thanks to Kirk Wood, Ann Riley and Marcela Jenkins and the many nameless people who helped us along the way with their assistance, advice and insight.

About the Consejo

The Consejo de Latinos Unidos, a national nonprofit organization which educates and assists Latinos and others in the areas of health care, immigration, education, and police protection, is supported almost exclusively by non-profit organizations. Consejo's national headquarters is located in East Los Angeles, California. Consejo receives no funding from insurance companies, political parties, or labor unions. In 2003, Consejo was credited by *The Wall Street Journal* with "a big win" after forcing the nation's second largest hospital chain, Tenet Healthcare, to change its aggressive billing practices against the uninsured by charging the uninsured the same prices insurance companies pay for the exact same care. In March of 2005, CBS' *60 Minutes* profiled the Consejo's work on behalf of uninsured patients.

About the Author

K.B. Forbes is the Executive Director of the Consejo de Latinos Unidos. Forbes has been interviewed by numerous leading media outlets including the *Washington Post*, *The New York Times*, *The Denver Post*, CBS' *60 Minutes*, CNN, ABC, NBC, Univision, Telemundo, and the FOX News Channel. A former journalist, communications strategist, and English as a Second Language teacher near Watts, Los Angeles, he is the son of a Latino immigrant.

Forbes is the author of seven other Consejo investigative reports: *Cinco*, a report on hospital price gouging in Southern California (2001); *Ahora*, a report on allegations of police brutality in Southern California (2002); *Infierno*, a report on hospital price gouging in Chicago, Denver, Oklahoma City, and Orlando (2003); *Unconscionable*, a report on hospital price gouging and unfair trade practices in Fort Myers, Florida (2003); *Esperanza*, a report on aggressive court activity and hospital price gouging in Miami, Florida (2004); *Engañar*, a report on HCA's Discount for the Uninsured program and deceptive corporate conduct (2004); and *La Muerte*, an investigative report on Vioxx and corporate marketing in Puerto Rico (2005).