

## MINUTES OF MPA SPECIAL INTEREST GROUP MEETING

Held on 10<sup>th</sup> April 2008

At Hilton Metropole Brighton

The Group heard from Jonathan Clement of Thomson Snell & Passmore, regarding the recent settlement of the Porton Down Test Veterans Claims. Alan Care was unable to present the talk as he had a family funeral.

Gratitude was expressed to the LSC for providing the exceptional funding for INQUEST which made these claims possible. (MPA was CFA funded). The claims had gone to mediation in December 2007 which had resulted in a £3m split amongst the cohort. Since that date more claimants have come forward and the scheme will remain open until 30 June 2008. There was then a short film that had been compiled by Alan Care showing the comments and views of the veterans, relatives and officials that had been involved with the claims.

Our 2<sup>nd</sup> Speaker was Mark Harvey (MAH) of Hugh James Solicitors who described the present position in relation to the Vioxx cases. The drug, used worldwide for arthritis, had an increased risk of cardiac problems compared to alternatives. It had been a similar battle against Merck to the one described above for the veterans. The company had compensated their US claimants and excluded UK victims.

The USA claimants had been quick to get to Court. In the UK there were 5 firms dealing with claimants. Application by those firms to the LSC for funding failed. Hugh James claimants went straight to the States and with the help of a US attorney had attempted to join the US claimants. The UK claimants were thrown out of the US courts in August 2007. In USA 5 cases had won and 12 had lost.

Finally Merck announced a settlement of \$4.85 billion for US citizens – excluding all non US citizens.

The present position is that we can see the US settlement and want the same justice for UK claimants. This is very similar to the cases of Lipobay where Bayer settled

US cases only. One UK claimant took his case to the US courts. MAH had given evidence in that case arguing that the settlement should apply to UK cases as well. The case was dismissed on the same basis as the exclusion of the Vioxx cases.

There has been very little help from the Government. MAH has invited Merck to come and explain themselves in the hope that it is embarrass them enough to settle.

The 3<sup>rd</sup> Speaker was Paul Balen of Freeth Cartwright who gave an account of a recent judgement involving 27 cases of faulty breast implants- Poly Implants, which were banned by the MDA in 2000. They had been manufactured by a French company. Proceedings were issued and at the 1<sup>st</sup> CMC 2 firms of solicitors turned up to represent the Defendant company. Directions were given to appoint one firm for the company and the case continued to the next court hearing when liability was admitted in 3 of the cases and an indication given by the Defendant to settle the remainder. Nothing was heard from the Defendants so directions were given for settlement by 2006 or a trial would take place in 2007. A new firm of solicitors instructed by the company applied and were successful in vacating the trial, obtaining directions and a new trial date. Several different firms of solicitors were instructed by the company as the case progressed. Eventually Judgement was obtained. The Defendants refused to pay. The judgement has been registered in France. Although the claimants have won payment of damages and costs are still awaited.