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Special Counsel Mary Bartkus Gives Lecture and Publishes Paper on 'The Cost to Society of Pharmaceutical Mass Tort Litigation'

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June 27, 2019 — On June 11, special counsel Mary Bartkus gave a lecture for the Foundation for Law, Justice and Society, an affiliate of Wolfson College and the Centre for Socio-Legal Studies at the University of Oxford, on "[The Cost to Society of Pharmaceutical Mass Tort Litigation](#)."

In the lecture held at Wolfson College, Bartkus, previously head of international litigation at Merck & Co., Inc., focused on the history and consequences of the voluntary withdrawal by Merck & Co. of its innovative anti-inflammatory drug Vioxx. In 2007, HHR led the drafting of Merck's historic \$4.85 billion U.S. personal injury litigation settlement agreement, which resolved nearly all eligible U.S. claims against the company that alleged heart attacks, ischemic strokes and sudden cardiac death.

Bartkus addressed the impact of the withdrawal of Vioxx and the U.S. litigation on cross-border litigation in common law and civil law jurisdictions across six continents. She observed that, when Merck withdrew Vioxx based on an increased relative risk of thrombotic events seen in a study, no one knew whether a similar increased risk would be seen with other pain relievers in its class. It now appears, based on studies conducted by scientists in the wake of Vioxx, that all of the non-aspirin drugs in the class, such as ibuprofen and diclofenac, with the possible exception of naproxen, have a cardiovascular safety profile similar to Vioxx.

Bartkus invited the audience to consider that the \$10 billion Merck spent through 2016 in withdrawing Vioxx and defending and resolving litigation was not available to fund research and development of up to four or more new medications. Lively discussion followed. She also published a paper supporting her lecture at fljs.org. [The paper](#) has been widely circulated on LinkedIn and is available on the Social Science Research Network at Bartkus, Mary

E., The Cost to Society of Pharmaceutical Mass Tort Litigation (June 11, 2019). Available at SSRN:
<https://ssrn.com/abstract=3402725>

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