

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

June 18, 2013

Lyle W. Cayce
Clerk

No. 12-30935
Summary Calendar

IN RE: VIOXX PRODUCTS LIABILITY LITIGATION

WALTER J. ROACH, JR., Administrator of the Estate of Joanne I. Roach,
Deceased,

Plaintiff - Appellant

v.

MERCK AND COMPANY, INCORPORATED,

Defendant - Appellee

Appeal from the United States District Court
for the Eastern District of Louisiana
USDC No. 2:05-MD-1657

Before HIGGINBOTHAM, OWEN, and SOUTHWICK, Circuit Judges.

PER CURIAM:*

This appeal concerns one of the remaining personal injury claims in the Vioxx litigation. The district court granted Merck's motion for summary judgment, concluding that the Plaintiff's action was barred by the applicable

* Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

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statute of limitations. We AFFIRM the district court's order granting summary judgment in favor of Merck for essentially the same reasons set forth in its Order & Reasons.¹

¹ Plaintiff-Appellant argues, for the first time on appeal, that Merck waived its statute of limitations defense. We can find no indication in the record that Plaintiff-Appellant made this argument in the district court. Keeping with our well-settled rule that "arguments not raised before the district court are waived and cannot be raised for the first time on appeal," we do not address the argument. *LeMaire v. Louisiana Dept. of Transp. & Dev.*, 480 F.3d 383, 387 (5th Cir. 2007).