Where patients come first MERCK

Corporate News

Merck & Co., Inc. to Appeal Humeston VIOXX® Verdict

WHITEHOUSE STATION, N.J., March 12, 2007 - Merck & Co., Inc. will appeal the decision returned by a N.J. state court jury assessing compensatory and punitive damages in a trial of a product liability case brought by Frederick Humeston, an Idaho man who blamed his heart attack on VIOXX.

Today's verdict was part of a two-plaintiff, multi-phased trial that the Court itself described as "something new." In its verdict last week, the jury rejected the failure to warn claim brought by a second plaintiff involving a 2002 heart event.

"We disagree with today's jury's verdict," said Hope Freiwald of Dechert LLP, a member of Merck's defense team. "The last time a jury considering the Humeston case had a chance to hear all the evidence at one time it found that Merck acted responsibly." Merck has objected to the structure of the trial because of the potential for jury confusion and bias.

Mr. Humeston, a postal worker from Boise, Idaho, alleged he suffered a heart attack on Sep. 18, 2001, at 56, as a result of his use of VIOXX.

"We believe Mr. Humeston would have suffered a heart attack whether he was taking VIOXX or not," added Ms. Freiwald. "In addition to his many individual risk factors for developing coronary disease, Mr. Humeston actually had significant coronary disease. This takes decades to develop and had nothing to do with his use of VIOXX."

"We believe that the punitive damages assessed today by the jury are uncalled for because Merck acted appropriately in providing information to the medical, scientific and regulatory communities in a responsible and appropriate manner," said Kenneth C. Frazier, executive vice president and general counsel of Merck.

"While this is not the outcome we had hoped for, these are all individual claims involving very different circumstances and we need to consider the facts of each case on an individual basis," added Mr. Frazier.

Numerous juries considering all of the facts of individual cases in more typical, single-phase trials have already held that Merck acted appropriately with regard to the warnings given to doctors around the country.

Merck is exploring several grounds for appeal, including insufficient evidence and the application of incorrect legal standards.

Merck believes the verdict is contrary to the evidence presented at trial and that the punitive damages are without merit, excessive, and not in accordance with constitutional guidance by the U.S. Supreme Court limiting punitive damages. In addition to the Company's strong basis for appeal, Merck also will pursue available legal procedures to ensure those constitutional limits are applied.

In addition to presenting evidence of Mr. Humeston's pre-existing risk factors, Merck presented evidence that it carefully studied VIOXX before and after receiving approval from the U.S. Food and Drug Administration (FDA), and consistently made the results of studies available to the FDA and the medical community.

Following the first phase, the jury in Atlantic City found that plaintiffs failed to prove that Merck failed to provide an adequate warning to prescribing physicians about an increased risk of heart attacks from VIOXX prior to September 2002, but did fail to do so prior to September 2001.

As a result of the Merck verdict, only one of the two plaintiffs, Mr. Humeston, was able to seek compensatory or punitive damages in the second phase of the trial.

The time periods involved in the jury's first-phase verdict reflect the dates of the heart events allegedly suffered by the two VIOXX users who were the focus of the trial. Mr. Humeston suffered a heart attack on Sept. 18, 2001. Meanwhile, the second plaintiff, Brian Hermans, allegedly suffered his heart event on Sept. 15, 2002, five months after a U.S. Food & Drug Administration-approved label change.

Merck was represented by Diane Sullivan of Dechert LLP, in Princeton, N.J., and Paul Strain of Venable LLP, in Baltimore, Md.

Judge Carol Higbee of the Superior Court of New Jersey, Atlantic County, presided over the trial.

Status of Litigation
As of Dec. 31, 2006, the claims related to more than 4,025 alleged VIOXX users have been dismissed before

being scheduled for trial. Of those, more than 1,225 were dismissed with prejudice either by plaintiffs themselves or by judges, meaning they cannot be filed again. More than 2,800 plaintiffs have had their claims dismissed without prejudice.

Apart from this consolidated proceeding, juries have found in favor of Merck nine times and in favor of plaintiffs four times. Three mistrials have been declared as a result of hung juries after plaintiffs failed to prove their claims. One of the mistrials was retried resulting in one of the nine Merck victories. Last August, Judge Higbee set aside an earlier Humeston verdict, which was one of Merck's nine victories. The case was retried as part of this trial. In addition to the cases that went to trial, another 14 cases scheduled for trial were either dismissed or withdrawn from the trial calendar by plaintiffs before a jury was even selected.

As for the four plaintiffs' verdicts, Merck already has filed an appeal or sought judicial review in each of those cases, and in one of those four, a federal judge overturned the damage award shortly after trial.

For information regarding additional cases scheduled for trial in 2007 visit www.merck.com/newsroom/vioxx/.

About Merck
Merck & Co., Inc. is a global research-driven pharmaceutical company dedicated to putting patients first. Established in 1891, Merck currently discovers, develops, manufactures and markets vaccines and medicines to address unmet medical needs. The Company devotes extensive efforts to increase access to medicines through far-reaching programs that not only donate Merck medicines but help deliver them to the people who need them. Merck also publishes unbiased health information as a not-for-profit service. For more information, visit www.merck.com.

Forward-Looking Statement
This press release contains "forward-looking statements" as that term is defined in the Private Securities Litigation Reform Act of 1995. These statements are based on management's current expectations and involve risks and uncertainties, which may cause results to differ materially from those set forth in the statements. The forward-looking statements may include statements regarding product development, product potential or financial performance. No forward-looking statement can be guaranteed, and actual results may differ materially from those projected. Merck undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events, or otherwise. Forward-looking statements in this press release should be evaluated together with the many uncertainties that affect Merck's business, particularly those mentioned in the cautionary statements in Item 1 of Merck's Form 10-K for the year ended Dec. 31, 2006, and in its periodic reports on Form 10-Q and Form 8-K, which the Company incorporates by reference.

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