Merck Wins First FOSAMAX & reg; (alendronate sodium) State Court Trial

Merck

NJ Jury Rejects Plaintiff's Claims

WHITEHOUSE STATION, N.J., Feb. 14, 2011 - Merck & Co., Inc. today said a state court jury in New Jersey found in its favor in the *Rosenberg v. Merck* case, rejecting the claims of a woman who blamed her dental and jaw related problems on her FOSAMAX use.

"We believe the evidence showed the company acted properly, and that FOSAMAX did not cause the plaintiff's dental and jaw problems," said Christy Jones of Butler, Snow, O'Mara, Stevens & Cannada PLLC, outside counsel for Merck. "Unfortunately, the plaintiff had medical conditions that can cause people to develop jaw and dental problems, regardless of whether they were taking FOSAMAX. She had an extensive history of periodontal and endodontic treatments and she took a number of powerful steroid medications that are known to suppress the body's immune system and inhibit the body's ability to heal."

With today's verdict, Merck won the first state court case to go to trial in the coordinated N.J. FOSAMAX litigation. The plaintiff in this case alleged she used FOSAMAX from 1999 to 2006 and that she suffered various jaw problems and complications following a tooth extraction in Dec. 2005.

At trial, Merck presented evidence that it acted responsibly in researching and developing FOSAMAX and in monitoring the medicine since it has been on the market. The company's clinical trials, conducted both before and following approval, have involved more than 28,000 patients, including more than 17,000 treated with FOSAMAX.

"We agree with the jury's verdict. The company provided appropriate and timely information about FOSAMAX to consumers and the medical, scientific and regulatory communities," said Bruce N. Kuhlik, executive vice president and general counsel of Merck. "FOSAMAX is a safe and effective medicine when used in accordance with the label."

Judge Carol E. Higbee of the Superior Court for Atlantic County, N.J., presided over the trial. Merck is represented by Christy Jones of Butler, Snow, O'Mara, Stevens & Cannada PLLC in Ridgeland, Miss. and Eileen Muskett of Cooper Levenson April Niedelman & Wagenheim, P.A. in Atlantic City, N.J.

Status of FOSAMAX Litigation
This is the fourth FOSAMAX case to go to trial. The first three trials were conducted as part of the federal multidistrict litigation proceedings before Judge John F.

Keenan in the U.S. District Court for the Southern District of New York. The first case to be tried to a verdict, *Maley v. Merck*, resulted in a defense verdict for Merck in May 2010. The second case to be tried to a verdict, *Boles v. Merck*, initially resulted in a mistrial in September 2009 after the jury was unable to reach a unanimous verdict. A retrial of that case in June 2010 resulted in a plaintiff verdict, which has since been reduced by Judge Keenan and which Merck is appealing. The third case to be tried to a verdict, *Graves v. Merck*, resulted in a defense verdict for Merck in November 2010. As of September 30, 2010, approximately 1,180 cases, which include approximately 1,560 plaintiff groups, had been filed and were pending against Merck in either federal or state court.

About FOSAMAX
FOSAMAX is indicated for the treatment and prevention of osteoporosis in postmenopausal women. FOSAMAX should not be used in patients with certain disorders of the esophagus that delay emptying, who are unable to stand or sit upright for at least 30 minutes, who have low levels of calcium in their blood, or in patients who are allergic to FOSAMAX. Some patients may develop severe digestive reactions including irritation, inflammation or ulceration of the esophagus. Patients who experience new or worsening heartburn, difficulty or pain when swallowing or chest pain should stop taking the drug and call their doctor right away. Patients who develop severe bone, joint and/or muscle pain at any time should contact their doctor. Osteonecrosis of the jaw, generally associated with tooth extraction and/or local infection, with delayed healing, has been reported in patients taking bisphosphonates.

About Merck
Today's Merck is a global healthcare leader working to help the world be well. Merck is known as MSD outside the United States and Canada. Through our prescription medicines, vaccines, biologic therapies, and consumer care and animal health products, we work with customers and operate in more than 140 countries to deliver innovative health solutions. We also demonstrate our commitment to increasing access to healthcare through far-reaching policies, programs and partnerships. For more information, visit www.merck.com [1].

Forward-Looking Statement
This news release includes "forward-looking statements" within the meaning of the safe harbor provisions of the United States Private Securities Litigation Reform Act of 1995. Such statements may include, but are not limited to, statements about the benefits of the merger between Merck and Schering-Plough, including future financial and operating results, the combined company's plans, objectives, expectations and intentions and other statements that are not historical facts. Such statements are based upon the current beliefs and expectations of Merck's management and are subject to significant risks and uncertainties. Actual results may differ from those set forth in the forward-looking statements.

The following factors, among others, could cause actual results to differ from those set forth in the forward-looking statements: the possibility that the expected synergies from the merger of Merck and Schering-Plough will not be realized, or will not be realized within the expected time period; the impact of pharmaceutical

industry regulation and health care legislation; the risk that the businesses will not be integrated successfully; disruption from the merger making it more difficult to maintain business and operational relationships; Merck's ability to accurately predict future market conditions; dependence on the effectiveness of Merck's patents and other protections for innovative products; the risk of new and changing regulation and health policies in the U.S. and internationally and the exposure to litigation and/or regulatory actions.

Merck undertakes no obligation to publicly update any forward-looking statement, whether as a result of new information, future events or otherwise. Additional factors that could cause results to differ materially from those described in the forward-looking statements can be found in Merck's 2009 Annual Report on Form 10-K and the company's other filings with the Securities and Exchange Commission (SEC) available at the SEC's Internet site (www.sec.gov [2]).

SOURCE [3]

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