

Phil Beck and Mark Ouweleen win jury verdict for Merck in fifth federal Vioxx trial

Business Wire

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Merck & Co., Inc. today said it is pleased that a federal court jury in New Orleans found in favor of Merck, rejecting a claim that VIOXX caused the 2003 heart attack of a then 47-year-old Tennessee man.

In the case, Anthony Wayne Dedrick claimed he took VIOXX for approximately six months before his heart attack.

“The jury determined that Merck acted appropriately in the development and marketing of VIOXX and that VIOXX did not substantially contribute to Mr. Dedrick’s heart attack,” said Phil Beck, of the law firm of Bartlit Beck, Merck’s lead trial lawyer in the case, *Dedrick v. Merck*.

“He had multiple risk factors for a heart attack including a family history of cardiac problems, heavy smoking for many years and he had high blood pressure, high cholesterol and diabetes,” Mr. Beck said. “In addition, he had significant atherosclerosis before he began taking VIOXX. Unfortunately, Mr. Dedrick would have suffered a heart attack whether he was taking VIOXX or not.”

U.S. District Court Judge Eldon E. Fallon of the Eastern District of Louisiana, who is overseeing all of the federal court litigation, presided over the trial.

The Dedrick case was the fifth of what Judge Fallon described as federal “bellwether” trials. Merck has won four of the five cases and the damages award in the lone loss has been overturned.

Merck won the first case, *Plunkett v. Merck*, in February. The damages portion of the verdict in favor of the plaintiff in the second federal case, *Barnett v. Merck*, was overturned by Judge Fallon. Merck won the third case, *Smith v. Merck*, in September and the fourth case, *Mason v. Merck*, in November.

“This is a satisfying verdict for Merck,” said Kenneth C. Frazier, executive vice president and general counsel of Merck. “Juries across the country, in both state and federal courts, have determined that the Company acted responsibly in properly disclosing data to the medical community.

“Heart attacks are, unfortunately, a leading cause of death in the United States and have multiple causes,” said Mr. Frazier. “Plaintiffs have the burden of proving their claims and that is why we are addressing these cases on an individual basis. Our strategy has now resulted in eight favorable jury verdicts, including five of the last six cases, and more than 3,000 case dismissals.”

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Merck was represented in the Dedrick case by Phil Beck and Mark Ouweleen of Bartlit Beck Herman Palenchar & Scott LLP of Chicago. Bartlit Beck also was the lead counsel in the previous federal VIOXX cases.

Of the 17 cases that have been tried or scheduled for trial and are no longer pending, only four have resulted in a plaintiff's verdict. Juries have decided in Merck's favor in eight cases and five cases have been dismissed.

Another five cases, previously scheduled for trial, have been withdrawn from the trial calendar by the plaintiffs before the claims could reach trial.

As for the four plaintiff's 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. Additionally, a state judge set aside one of the eight Merck verdicts.

Finally, the claims of more than 3,000 plaintiff groups, not yet scheduled for trial, have been dismissed. That includes more than 1,100 plaintiff groups whose claims were dismissed with prejudice, meaning they cannot be filed again. More than 2,000 additional plaintiff groups have had their claims dismissed without prejudice.

The lawsuit was filed in the Multi-District Litigation as case number 05-2524 in 2005.

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, 2005, and in its periodic reports on Form 10-Q and Form 8-K, which the Company incorporates by reference.

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