

Jury Awards Widow \$253.4M in Vioxx Trial

By KRISTEN HAYS and THERESA AGOVINO, AP Business Writers August 18, 2005

A Texas jury found pharmaceutical giant Merck & Co. liable Friday for the death of a man who took the once-popular painkiller Vioxx, awarding his widow \$253.4 million in damages in the first of thousands of lawsuits pending across the country

A seven-man, five-woman jury deliberated for 10 1/2 hours over two days before returning the verdict. Merck said it plans to appeal.

Plaintiff Carol Ernst began to cry when the verdict was read while her attorneys jumped up and shouted, "Amen!"

"Anyone who said they are too small town or won't understand, they are crazy," said Mrs. Ernst's lawyer, Mark Lanier. "They know truth and they know justice."

Jurors in the semi-rural county rejected Merck's argument that Ernst died of clogged arteries rather than a Vioxx-induced heart attack that led to his fatal arrhythmia.

The case drew national attention from pharmaceutical companies, lawyers, consumers, stock analysts and arbitrageurs as a signal of what lies ahead for Merck, which has vowed to fight the more than 4,200 state and federal Vioxx-related lawsuits pending across the country.

"Merck should come to the table and accept responsibility," Lanier said.

The damages award combines Robert Ernst's lost pay as a Wal-Mart produce manager, mental anguish, loss of companionship and punitive damages. He was 59 when he died.

Merck said it was disappointed at the verdict and that it is looking at various bases for appeal.

"We believe that we have strong points to raise on appeal and are hopeful that the appeals process will correct the verdict," said Kenneth C. Frazier, senior vice president and general counsel of Merck, in a statement. "Our appeal is about fundamental rights to a fair trial."

If the first wave of verdicts go against Merck, experts predict it will open the floodgates for more lawsuits and could force the drug company to settle cases. Analysts have speculated Merck's liability could reach \$18 billion.

If Merck prevails in future cases, however, lawsuits could fade away, easing some of the pressure on its stock.

Another trial is set to begin in New Jersey, where Merck is based, next month, and the first federal trial in New Orleans is slated for late November.

Merck pulled Vioxx, a \$2.5 billion seller, from the market in September 2004 when a long-term study showed it could double risk of heart attack or stroke if taken for 18 months or longer.

Merck stock performance August 18, 2004 to August 18, 2005

Note immediate impact of Vioxx withdrawal on Sept 30, 2004

