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Fen-Phen Settlement Reached

Both sides in the case say they are satisfied with the undisclosed agreement

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COUNCIL BLUFFS BUREAU

A closely watched diet-drug trial in Pottawattamie County, slated to take up to five weeks, ended up lasting only one day.

After opening statements and the testimony of a few witnesses, lawyers for both sides reached a settlement Wednesday.

The agreement means that Dorothy Rollins of Treynor, Iowa, will drop her lawsuit against the manufacturer of the weight-loss drug known as fen-phen.

Rollins' suit sought millions of dollars in compensation and punitive damages against American Home Products, the pharmaceutical company that manufactured Redux and Pondimin, pills used in the fen-phen combination.

Her lawsuit was one of thousands filed against American Home Products after the pills were taken off store shelves amid reports of severe heart and lung problems in some users.

Both sides professed happiness with the agreement, the terms of which were not disclosed. Previous fen-phen cases taken to trial have settled midway for estimated amounts ranging from \$500,000 to \$4.5 million.

Rollins said she felt "joy" knowing that the matter would be put to rest. She is paralyzed on one side of her body and suffers continuing health problems that she blamed on fen-phen.

American Home Product's attorneys, in a succinct statement after the settlement announcement, also said they were happy.

"We feel it's a positive resolution that enables everybody involved to put the case behind us and move on," said lawyer Brian Leitch.

Although some may wonder why the two sides that were unable to reach agreement for months before a trial would work something out on the second day, the settlement was hardly unexpected.

American Home Products is facing thousands of similar lawsuits, and it has settled most of the few that made it to court.

In fact, the settlement may have come at an opportune time for American Home Products, said Creighton law professor Michael Fenner.

The company is negotiating a \$3.75 billion settlement in federal court for thousands of plaintiffs, and a large award in this case could have put that larger settlement in jeopardy.

"I don't know that this is what happened here," Fenner said. "There are a lot of reasons to settle a case early in the trial. It is likely that they want to avoid a large verdict in this case that could undercut the larger negotiations."

Fenner has worked on other, unrelated fen-phen lawsuits. He said this case was a good candidate to settle. A large firm such as American Home Products can afford to spend the money on legal fees to delay the trial as long as possible.

"It doesn't cost them a thing to take it up to trial," he said.

Both Leitch and Rollins' attorney, Zoe Littlepage, said Wednesday's settlement was the product of negotiations that began long before the trial. It was not a last-minute deal, they said.

"It is not uncommon to reassess your position after trial begins," said Littlepage.

She did admit a little frustration at not being able to proceed with her case against American Home Products. In her opening arguments, she told the jury that the company put profits ahead of safety.

However, she said the deal was best for her client. Rollins, her voice barely louder than a whisper, said the strain of sitting through 10-hour days in court was difficult in her current condition.

"I don't know how I would have gone three or four weeks," she said. "I'm glad it's over. We're going to go home."

Jurors who prepared to spend more than a month in Pottawattamie County District Judge Timothy O'Grady's courtroom were instead discharged about 10 a.m. Wednesday. One, Rhonda Stephens of Council Bluffs, said jurors really didn't have enough time to hear any evidence to get a fix on the case.

"Both sides were good," she said. "It was just too early to really start thinking anything."