

Pfizer Jury Said to Award \$75 Million Prempro Verdict to Woman

By Jef Feeley - November 5, 2009 00:01 EST

Nov. 5 (Bloomberg) -- [Pfizer Inc.](#) must pay about \$75 million in punitive damages to an Illinois woman who developed cancer after taking one of the drugmaker's menopause treatments, people familiar with a sealed verdict in the case said.

A Philadelphia jury ordered Pfizer's Wyeth unit on Oct. 26 to pay the bad-conduct award, which is about 20 times larger than the \$3.7 million in actual damages the panel awarded to Connie Barton over her use of Wyeth's Prempro menopause drug, according to people with direct knowledge of the verdict.

A judge ordered Barton's punitive-damage award sealed at Wyeth's request until the trial of another Prempro lawsuit in the same courthouse is completed. Lawyers in that case say jurors won't start deliberating on that suit's claims for another three weeks.

"The company believes there is no basis in fact or in law for the jury verdict in the Barton case," Pfizer spokesman [Christopher Loder](#) said. "We plan to ask the judge to reject both the compensatory and punitive awards. We anticipate that if the judge doesn't grant the company a judgment notwithstanding the verdict, we will appeal."

Loder said he couldn't comment on the amount of the punitive damages verdict because of a court order banning disclosure of it while a related trial is in progress.

More than 6 million women have taken hormone-replacement medicines to treat menopause symptoms including hot flashes, night sweats and mood swings. Until 1995, many patients combined Premarin, Wyeth's estrogen-based drug, with progestin-laden Provera, made by Upjohn, another Pfizer unit.

No Reserves

Wyeth, which hasn't reserved funds to cover losses in the litigation, later combined the two hormones in Prempro. The drugs are still on the market. New York-based Pfizer completed its \$68 billion purchase of Wyeth Oct. 15.

Annual [sales](#) of Wyeth's hormone-replacement drugs topped \$2 billion before the 2002 Women's Health Initiative study, sponsored by the U.S. National Institutes of Health, suggested women using the medicines had a higher breast-cancer risk.

[Pfizer](#) rose 20 cents, or 1.2 percent, to \$16.93 in New York Stock Exchange composite trading yesterday.

The jury found Wyeth's conduct in marketing and selling the drug was "willful and wanton," opening the company up to punitive damages under Pennsylvania law.

Barton's lawyers presented evidence during the trial about Wyeth officials' efforts to "deflect" criticism of the company's handling of the drug and its use of ghostwritten articles in medical journals to market the medicine. They also alleged executives hid Prempro's cancer risks to pump up the drug's [sales](#).

Third Award

Barton's punitive award of about \$75 million is the third surviving verdict in Prempro [cases](#) since juries began deciding them in 2006. The largest award was handed down to three women who blamed the drugs for their breast cancers in 2007.

Jurors in state court in Reno, Nevada awarded the trio a total of \$99 million in punitive damages. That figure was later reduced to \$35 million and is being appealed.

A federal appeals court earlier this week ordered a new trial on punitive damages for an Arkansas woman's claims that Wyeth's mishandling of Prempro caused her breast cancer.

Barton, a retired records clerk from Peoria, Illinois, took Prempro for five years before developing breast cancer in 2002. Jurors in Philadelphia concluded Prempro helped cause the illness and the manufacturer failed to warn Barton and her doctors adequately about the drug's risks.

Target for Appeal

The panel's decision to punish Wyeth with a punitive verdict 20 times greater than the compensatory damages it awarded Barton, 64, makes the verdict a target for an appeal, said Michael Allen, a [Stetson University](#) law professor who has written articles on punitive damages.

"This is an award that is clearly marked for trouble," Allen said in an interview. "The U.S. Supreme Court has said a punitive award that exceeds the single digits in comparison to the actual damages could be excessive."

Philadelphia Common Pleas Court Judge Sandra Moss, who oversees all the court's product-liability cases, said last week that she agreed to seal Barton's punitive award to protect the rights of other litigants involved in an ongoing trial in the same courthouse over the drug.

Moss said in a court hearing that when the next Prempro trial is completed, she'll unseal the Barton verdict and another punitive award handed down in a 2007 Prempro case.

In Barton's case, Judge [Norman Ackerman](#) instructed jurors not to reveal their verdict until being advised by the court that the award had been unsealed. Barton, her lawyers and Wyeth's lawyers were able to review the award.

Trial Scorecard

Pfizer's Wyeth unit has now lost five of eight trials, including the last three in a row, over the drugs since cases began reaching juries in 2006. Thirty-three Prempro cases have been set for trial so far, and 19 have been thrown out by judges or withdrawn by plaintiffs, according to Pfizer officials.

The company has won three defense verdicts and two losses were thrown out at the post-trial stage. The remaining verdicts are being appealed. Wyeth also has settled at least five cases over the drugs.

The case is Barton v. Wyeth Pharmaceuticals Inc., 040406301, Court of Common Pleas, Philadelphia County, Pennsylvania.

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