

Judge seals damage award against Wyeth

By Miriam Hill

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A Philadelphia jury yesterday awarded punitive damages to an Illinois woman who said Wyeth's Prempro hormone replacement therapy caused her breast cancer, but the world will have to wait at least another month before anyone knows how much.

As the jury in Common Pleas Court was nearing a verdict on how much to award to punish Wyeth, which last week completed a merger with Pfizer Inc., company lawyers asked Judge Sandra Mazer Moss to seal the amount until a verdict is reached in a similar case also being tried in Philadelphia. The judge agreed.

In late September, the eight-person jury decided that Prempro caused Peoria, Ill., resident Connie Barton's invasive breast cancer and awarded her \$3.7 million in compensatory damages. But the jurors also found that Wyeth intentionally ignored evidence that the drug could cause cancer and so awarded Barton, 64, punitive damages.

Wyeth's attorneys George McDavid and Michael Scott argued that a public announcement of punitive damages in the Barton case could bias jurors in the other case, referred to as *Kendall v. Wyeth*.

Barton's attorney, Zoe Littlepage, argued that the public's right to know outweighed those concerns and that Wyeth had failed to prove damage, not just speculate that it could occur. Littlepage also said she feared that Wyeth would use the tactic to delay repeatedly as 9,000 cases involving Pfizer/Wyeth menopause drugs make their way through the courts.

Mazer Moss, who oversees the Common Pleas Court's Complex Litigation arm, said that while she respected the public's right to know, she had to balance that against the "interest in a fair trial" in the Kendall case.

After deliberations yesterday, two jurors said they would not discuss the amount but they did say they thought the decision should have been made public immediately.

Jurors Joanne Gwardyak and Jennifer Young said they saw the decision to seal the verdict as an attempt to hide negative news about Wyeth. They said they thought the Kendall jury would be able to be fair even if the verdict was made public.

"Every case is different," Gwardyak said.

A Pfizer spokesman said the company did not agree with the outcome of the case.

"We are disappointed with the jury's verdict and will weigh all of our legal options regarding our next steps in this case," Pfizer said in a statement.

Barton was diagnosed with cancer in 2002, five years after she began taking Prempro to treat menopausal symptoms. McDavid had argued that Barton had breast cancer before she began taking Prempro.

More than six million women have taken hormone-replacement medicines to treat menopause symptoms such as hot flashes, night sweats, and mood swings.

Prempro sales fell significantly after a U.S. study in 2002 linked the therapy to breast cancer and cardiovascular risks.

The company has now lost five of eight trials over its hormone-replacement drugs since cases began reaching juries in 2006.

Some of the verdicts were set aside, and others are on appeal, according to Bloomberg News.

Pfizer is based in New York, but it employs about 4,500 people in Collegeville and Great Valley. The Great Valley facility is expected to close next year as the result of the merger. It is not clear how many jobs will remain in Collegeville. The combined company expects to cut about 20,000 out of 130,000 jobs companywide.

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