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Drug giant Merck loses negligence case

URL: <http://www.breakingnewsenglish.com/0508/050821-merck.html>

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21 August, 2005

THE ARTICLE

Drug giant Merck loses negligence case

BNE: US pharmaceutical giant Merck and Co. has lost the first of over 4,000 lawsuits filed against it over its withdrawn painkiller Vioxx. A Texas jury awarded \$253 million to the widow of a man who died from taking the drug to treat pain in his hands. The payment to Carol Ernst included \$229 million in punitive damages for liability, negligence and malice. Merck withdrew its blockbuster drug from the market last September after clinical trials showed it could double the risk of strokes and cardiac arrest. Legal experts now expect a flood of fresh litigation to inundate courtrooms around the world as thousands sue for wrongful death and injury. Twenty million people worldwide took the drug at the height of its popularity.

The verdict has serious implications for Merck, whose future is now in question. It could face having to pay up to \$18 billion in damages. Losing the Ernst ruling is a bad omen for the company as it was reputedly one of the weaker cases. The link between Mr. Ernst's death and the painkiller was somewhat tenuous. A Merck lawyer, Jonathan Skidmore, said: "We believe that the plaintiff did not meet the standard set by Texas law to prove Vioxx caused Ernst's death." Another Merck attorney, Ted Mayer, was confident that the damages would be slashed because of "irrelevant and inflammatory evidence". A second trial is scheduled to start next month in New Jersey concerning a man who had a heart attack in 2001.

WARM-UPS

1. MEDICINE: Talk to your partner(s) about your history of taking medicine. Did you like taking medicine as a child? Do you often take medicine now? Try to think of all the causes and reasons why you have taken medicine.

2. ILLNESS: In pairs / groups, talk about whether or how often you have had any of the following. What remedial action or medicine did you take / receive?

- Heart problems
- Headaches and migraines
- Fever
- Broken or fractured bones
- Bee stings and insect bites
- Allergies
- Diarrhea or constipation
- Stress
- Insomnia
- Burns

3. CHAT: In pairs / groups, decide which of these topics or words are most interesting and which are most boring.

Pharmaceutical giants / drugs / lawsuits / painkillers / pain / damages / negligence / cardiac arrest / wrongful death / bad omens / lawyers

Have a chat about the topics you liked. For more conversation, change topics and partners frequently.

4. JURY: Spend one minute writing down all of the different words you associate with the word "jury". Share your words with your partner(s) and talk about them. Together, put the words into different categories.

5. OPINIONS: How far do you agree with the following opinions on drug companies?

- a. Drug companies are more interested in profits than people.
- b. Drug companies are dangerous – they hide many secrets about their drugs.
- c. Drug companies save millions of lives.
- d. The pharmaceutical industry is the most important in the world.
- e. Drug companies should do more to help the developing world.
- f. Drugs and medicines are ridiculously expensive.
- g. Many drugs do not work.
- h. Drug companies contribute to world overpopulation.
- i. Governments should give money to help drug companies find cures.
- j. Drug companies have too much political power.

6. QUICK DEBATE: Students A think the pharmaceutical industry is the most important industry in the world. Students B think not. Change partners often.

BEFORE READING / LISTENING

1. TRUE / FALSE: Look at the article's headline and guess whether these sentences are true (T) or false (F):

- a. A drug giant has lost the first of 4,000 lawsuits filed against it. T / F
- b. A man died of a heart attack after taking a drug for painful hands. T / F
- c. The company has refused to withdraw its drug from the market. T / F
- d. The drug reputedly doubles the risk of heart attack. T / F
- e. The drug giant is in danger of going out of business. T / F
- f. The company believes it is surrounded by bad omens. T / F
- g. There was a very strong link between the man's death and the drug. T / F
- h. Hundreds of new trials will start against the country next month. T / F

2. SYNONYM MATCH: Match the following synonyms from the article:

- | | |
|-----------------|----------------|
| a. lawsuits | zenith |
| b. liability | cut back |
| c. malice | supposedly |
| d. flood | court cases |
| e. height | weak |
| f. implications | ill will |
| g. reputedly | deluge |
| h. tenuous | ramifications |
| i. slashed | provocative |
| j. inflammatory | responsibility |

3. PHRASE MATCH: Match the following phrases from the article (sometimes more than one combination is possible):

- | | |
|---------------------------------------|----------------------------|
| a. pharmaceutical | implications for Merck |
| b. \$229 million in punitive | to inundate courtrooms |
| c. clinical trials showed it could | the weaker cases |
| d. expect a flood of fresh litigation | damages |
| e. at the height | set by Texas law |
| f. The verdict has serious | giant |
| g. ...whose future is now | double the risk of strokes |
| h. reputedly one of | evidence |
| i. did not meet the standard | of its popularity |
| j. irrelevant and inflammatory | in question |

WHILE READING / LISTENING

GAP FILL: Put the words in the column on the right into the gaps in the text.

Drug giant Merck loses negligence case

BNE: US pharmaceutical _____ Merck and Co. has lost the first of over 4,000 lawsuits filed against it over its _____ painkiller Vioxx. A Texas jury awarded \$253 million to the widow of a man who died from taking the drug to _____ pain in his hands. The payment to Carol Ernst included \$229 million in _____ damages for liability, negligence and malice. Merck withdrew its blockbuster drug from the market last September after _____ trials showed it could double the risk of strokes and cardiac arrest. Legal experts now expect a flood of _____ litigation to inundate courtrooms around the world as thousands _____ for wrongful death and injury. Twenty million people worldwide took the drug at the _____ of its popularity.

clinical

sue

withdrawn

height

treat

fresh

giant

punitive

The _____ has serious implications for Merck, whose future is now in question. It could _____ having to pay up to \$18 billion in damages. Losing the Ernst ruling is a bad _____ for the company as it was _____ one of the weaker cases. The link between Mr. Ernst's death and the painkiller was somewhat _____. A Merck lawyer, Jonathan Skidmore, said: "We believe that the plaintiff did not meet the standard _____ by Texas law to prove Vioxx caused Ernst's death." Another Merck attorney, Ted Mayer, was confident that the damages would be _____ because of "irrelevant and inflammatory evidence". A second trial is scheduled to start next month in New Jersey _____ a man who had a heart attack in 2001.

set

face

reputedly

concerning

slashed

omen

tenuous

verdict

AFTER READING / LISTENING

1. WORD SEARCH: Look in your dictionaries / computer to find collocates, other meanings, information, synonyms ... for the words **'pain'** and **'killer'**.

- Share your findings with your partners.
- Make questions using the words you found.
- Ask your partner / group your questions.

2. ARTICLE QUESTIONS: Look back at the article and write down some questions you would like to ask the class about the text.

- Share your questions with other classmates / groups.
- Ask your partner / group your questions.

3. GAP FILL: In pairs / groups, compare your answers to this exercise. Check your answers. Talk about the words from the gap fill. Were they new, interesting, worth learning...?

4. VOCABULARY: Circle any words you do not understand. In groups, pool unknown words and use dictionaries to find their meanings.

5. STUDENT "PHARMACEUTICAL COMPANY" SURVEY: In pairs / groups, write down questions about pharmaceutical companies and drugs.

- Ask other classmates your questions and note down their answers.
- Go back to your original partner / group and compare your findings.
- Make mini-presentations to other groups on your findings.

6. TEST EACH OTHER: Look at the words below. With your partner, try to recall exactly how these were used in the text:

- lost
- widow
- punitive
- blockbuster
- double
- height
- implications
- omen
- tenuous
- plaintiff
- slashed
- scheduled

DISCUSSION

STUDENT A's QUESTIONS (Do not show these to student B)

- a. What were your initial thoughts on this headline?
- b. Did the headline make you want to read the article?
- c. What do you think of Merck losing this trial?
- d. Do you feel pharmaceutical companies are often above the law?
- e. Is \$253 million the right amount of damages?
- f. Has Merck accepted its drug is dangerous by withdrawing it from the market last year?
- g. Should there be stricter safety controls imposed on drug companies?
- h. Do you think drug companies care more about profits than people?
- i. Do you think Mrs. Ernst is satisfied with the jury's decision?
- j. Have you suffered any side effects from taking drugs?

STUDENT B's QUESTIONS (Do not show these to student A)

- a. Did you like reading this article?
- b. What do you think about what you read?
- c. The payment included damages for malice. What do you think this means?
- d. Do you think Merck will survive the lawsuits around the world?
- e. Is there a message for other drug companies?
- f. Do you think drug companies will now start more rigorous testing of their products?
- g. Do you think drug companies should do more to help the developing world?
- h. Would you take drugs manufactured by Merck?
- i. Do you worry about the safety of medicines you take?
- j. Did you like this discussion?

AFTER DISCUSSION: Join another partner / group and tell them what you talked about.

- a. What question would you like to ask about this topic?
- b. What was the most interesting thing you heard?
- c. Was there a question you didn't like?
- d. Was there something you totally disagreed with?
- e. What did you like talking about?
- f. Do you want to know how anyone else answered the questions?
- g. Which was the most difficult question?

SPEAKING

ROLE PLAY: This role play is to discuss whether or not Merck should come clean and pay compensation everyone filing a lawsuit against it. Team up with classmates who have been assigned the same role as you. Develop your roles and discuss ideas and “strategies” before the role play begins.

Introduce yourself to the other role players.

Role A – Merck Boss

You do not accept the links between your painkiller and heart attacks. Your researchers found no link. Other studies have many faults. The Ernst court case was unfair and relied on emotion, not fact. Vioxx is a wonderful and safe drug.

THINK OF MORE REASONS WHY MERCK SHOULD NOT PAY.

Role B – Heart attack victim

You have never been ill in your life. You regularly run marathons. You took Vioxx to relieve pain in your hands. A month later you had a heart attack. You are sure it is because of Vioxx. You want compensation. You can no longer run and now have many heart problems.

THINK OF MORE REASONS WHY MERCK SHOULD COMPENSATE YOU.

Role C – Watchdog

You have information that many drug companies lie and cover up the truth to protect their image. They are more interested in profits. They pay political parties lots of money to protect their industry. You suspect Merck knew of the risks of Vioxx but never expected to be sued. You think Merck should go bankrupt as an example to other companies.

THINK OF MORE REASONS WHY MERCK IS BAD.

Role D – Patient

Merck has greatly improved your life. The product Vioxx has totally made the pain you suffered for many years completely disappear. You have never suffered any heart problems. You think many people have decided to jump on the bandwagon and try to get money from Merck unfairly.

THINK OF MORE REASONS WHY MERCK IS A GOOD COMPANY.

Change roles and repeat the role play. Comment in groups about the differences between the two role plays.

In pairs / groups, discuss whether you really believe in what you said while you were in your roles.

LISTENING

Listen and fill in the spaces.

Drug giant Merck loses negligence case

BNE: US pharmaceutical giant Merck and Co. has lost the first of over 4,000 lawsuits _____ against it over its withdrawn painkiller Vioxx. A Texas _____ awarded \$253 million to the widow of a man who died from taking the drug to _____ pain in his hands. The payment to Carol Ernst included \$229 million in punitive damages for liability, negligence and _____. Merck withdrew its blockbuster drug from the market last September after _____ trials showed it could double the risk of strokes and cardiac arrest. Legal experts now expect a flood of fresh _____ to inundate courtrooms around the world as thousands sue for _____ death and injury. Twenty million people worldwide took the drug at the _____ of its popularity.

The verdict has serious _____ for Merck, whose future is now in question. It could face having to _____ \$18 billion in damages. Losing the Ernst ruling is a bad omen for the company as it was _____ one of the weaker cases. The link between Mr. Ernst's death and the painkiller was somewhat _____. A Merck lawyer, Jonathan Skidmore, said: "We believe that the _____ did not meet the standard set by Texas law to prove Vioxx caused Ernst's death." Another Merck _____, Ted Mayer, was confident that the damages would be _____ because of "irrelevant and inflammatory _____". A second trial is scheduled to start next month in New Jersey _____ a man who had a heart attack in 2001.

HOMEWORK

1. VOCABULARY EXTENSION: Choose several of the words from the text. Use a dictionary or Google's search field (or another search engine) to build up more associations / collocations of each word.

2. INTERNET: Search the Internet and find more information on the pharmaceutical giant Merck. Share your findings with your class in the next lesson.

3. LETTER: Write a letter to the boss of Merck. Tell him / her what you think of the court decision and the future obligations of the company. Read your letters to your classmates in your next lesson. Did you all write about similar things?

4. MEDICINE: Create a poster comparing pharmaceutical medicines with other kinds of medicines and treatments, such as traditional Chinese medicine, herbal medicine, acupuncture, etc. Did you all write about similar things?

ANSWERS

TRUE / FALSE:

a. T b. T c. F d. T e. T f. F g. F h. F

SYNONYM MATCH:

a. lawsuits	court cases
b. liability	responsibility
c. malice	ill will
d. flood	deluge
e. height	zenith
f. implications	ramifications
g. reputedly	supposedly
h. tenuous	weak
i. slashed	cut back
j. inflammatory	provocative

PHRASE MATCH:

a. pharmaceutical	giant
b. \$229 million in punitive	damages
c. clinical trials showed it could	double the risk of strokes
d. expect a flood of fresh litigation	to inundate courtrooms
e. at the height	of its popularity
f. The verdict has serious	implications for Merck
g. ...whose future is now	in question
h. reputedly one of	the weaker cases
i. did not meet the standard	set by Texas law
j. irrelevant and inflammatory	evidence

GAP FILL:

Drug giant Merck loses negligence case

BNE: US pharmaceutical **giant** Merck and Co. has lost the first of over 4,000 lawsuits filed against it over its **withdrawn** painkiller Vioxx. A Texas jury awarded \$253 million to the widow of a man who died from taking the drug to **treat** pain in his hands. The payment to Carol Ernst included \$229 million in **punitive** damages for liability, negligence and malice. Merck withdrew its blockbuster drug from the market last September after **clinical** trials showed it could double the risk of strokes and cardiac arrest. Legal experts now expect a flood of **fresh** litigation to inundate courtrooms around the world as thousands **sue** for wrongful death and injury. Twenty million people worldwide took the drug at the **height** of its popularity.

The **verdict** has serious implications for Merck, whose future is now in question. It could **face** having to pay up to \$18 billion in damages. Losing the Ernst ruling is a bad **omen** for the company as it was **reputedly** one of the weaker cases. The link between Mr. Ernst's death and the painkiller was somewhat **tenuous**. A Merck lawyer, Jonathan Skidmore, said: "We believe that the plaintiff did not meet the standard **set** by Texas law to prove Vioxx caused Ernst's death." Another Merck attorney, Ted Mayer, was confident that the damages would be **slashed** because of "irrelevant and inflammatory evidence". A second trial is scheduled to start next month in New Jersey **concerning** a man who had a heart attack in 2001.