

[North Carolina Aredia / Zometa Product Liability Federal Court Trial Jury Verdict Coming Soon](#)

Plaintiff Alleges Novartis Hid Risks Of Osteonecrosis Jaw-Injury From Rita Fussman And Her Doctors

(Posted by Tom Lamb at www.DrugInjuryWatch.com on November 19, 2010; see <http://bit.ly/hZ1vEv>)

UPDATE: A federal court jury in Winston-Salem, NC has decided that Novartis should pay \$12.8 million to the Estate of Rita Fussman because the drug company failed to disclose to Fussman and her doctor possible serious side effects associated with Aredia and Zometa. In particular, Fussman developed osteonecrosis of the jaw (ONJ) after using these two bisphosphonate cancer drugs made by Novartis.

Under North Carolina law, however, the jury's large verdict will be reduced dramatically. The punitive damages awarded by the jury, an astounding \$12.6 million, will be capped at three times the compensatory damages award, which was \$287,000 -- meaning that Novartis would have to pay around \$1.1 million, only, of the total jury award.

It is anticipated that Novartis will appeal this November 2010 Aredia-Zometa plaintiff verdict in North Carolina.

(11/23/10)

For additional details, see:

[Jury awards \\$12.8M in bone-drug lawsuit](#) (11/25/10, *Winston-Salem Journal*)

[\\$12.8M Verdict For Jaw Injury In Aredia/Zometa Case To Be Reduced To \\$1.14M](#) (11/23/10, *Mealey's*)

A federal court jury which heard the evidence in the three-week trial of the product liability lawsuit *Estate of Rita Fussman v. Novartis Pharmaceuticals Corp.*, 06-CV-000149, U.S. District Court, Middle District of North Carolina (Winston-Salem), began its deliberations late in the day on November 18, 2009, and a verdict is expected soon.

As background, Rita Fussman developed osteonecrosis of the jaw (ONJ) after using Zometa and Aredia, two bisphosphonate cancer drugs made by Novartis. Mrs. Fussman died in 2009 due to complications from her breast cancer, but this products liability drug injury case continued.

From a November 18 *Bloomberg* article, "[Novartis Hid Risks to Protect Sales, Lawyer Says](#)", we get some insight about the final arguments made in this *Fussman* ONJ jaw-injury case.

- The lawyer for the plaintiff asserted that "Novartis ignored studies showing that some cancer patients taking Aredia and Zometa may suffer irreplaceable jawbone damage."
- In opposition, the Novartis defense attorney "countered in his closing argument that the company provided adequate warnings about the risks the drugs posed to users."

In more detail, from that same *Bloomberg* article:

The lawyers [for the plaintiff] showed jurors an e-mail from a Novartis marketing executive suggesting that company officials should seek to persuade a researcher to withhold a

case report showing he had uncovered multiple Zometa users suffering from jaw deterioration.

In his closing argument, [the Novartis attorney] acknowledged that some of Novartis's internal memos could be interpreted to show "some thinking that was not proper." Still, the lawyer argued those documents weren't enough to provide "a basis for liability."

Going back to the start of this *Fussman v. Novartis* North Carolina court trial, in a November 1, 2010 *Bloomberg* article, "[Novartis Officials Hid Bone Drugs' Risks, Lawyer Tells Jurors](#)", here are the general themes from the respective opening statements.

On that first day of this *Fussman* trial, the plaintiff's lawyer made this presentation to the jury:

Officials of the Basel, Switzerland-based drug company got reports from doctors as early as 2002 that Rita Fussman and other cancer patients taking Aredia and Zometa to prevent bone loss during treatment suffered irreplaceable jawbone damage....

Fussman's family contends Novartis didn't adequately warn that Aredia and Zometa could cause disfiguring jaw damage that forced cancer patients such as Fussman to subsist on baby food....

In turn, the Novartis defense attorney offered quite a different depiction:

... Aredia and Zometa helped make it easier for patients like the 76-year-old Fussman to deal with cancer and that her history of repeated dental surgeries may have caused her jaw problems.

"She never had excruciating bone pain while she was on Zometa,".... The drugs allowed her "to live without the pain of cancer," he added.

We will update this article with the jury verdict for this latest Zometa / Aredia - ONJ trial as soon as it becomes available.

Attorney [Tom Lamb](#) represents people in personal injury and wrongful death cases involving unsafe prescription drugs or medication errors. The above article was posted originally on his blog, **Drug Injury Watch** – with live links and readers' Comments.
<http://www.DrugInjuryWatch.com>