1,165 Fosamax - Femur Fracture Lawsuits Pending As Of December 2011 According To Merck Report

825 Lawsuits Are Part Of New Jersey State Court Mass Tort Consolidation; Majority Of Other Cases Are Filed In "Second" Fosamax Federal Court MDL

(Posted by Tom Lamb at www.DrugInjuryWatch.com on May 4, 2012; see http://bit.ly/KR7SZE)

The following information about the number of Fosamax - femur fracture lawsuits that had been filed before January 2012 comes from pages 117-118 of the Merck & Co., Inc. Form 10-K Annual Report For the Fiscal Year Ended December 31, 2011, which was filed with the Securities and Exchange Commission on February 28, 2012:

> As previously disclosed, Merck is a defendant in product liability lawsuits in the United States involving Fosamax (the "Fosamax Litigation"). As of December 31, 2011, approximately 2,345 cases, which include approximately 2,800 plaintiff groups, had been filed.... In approximately 1,180 of these actions, plaintiffs allege, among other things, that they have suffered osteonecrosis of the jaw ("ONJ").... In addition, plaintiffs in approximately 1,165 of these actions generally allege that they sustained femur fractures and/or other bone injuries in association with the use of Fosamax....
>
> As of December 31, 2011, approximately 825 cases alleging femur fractures and/or other bone injuries have been filed in New Jersey state court and are pending before Judge Higbee in Atlantic County Superior Court. The parties have selected an initial group of 30 cases to be reviewed through fact discovery. Plaintiffs subsequently dismissed or advised that they will dismiss seven of the cases that were selected and discovery in the remaining cases is continuing. No trial dates for any of the New Jersey state femur fracture cases have been set.

In October 2008 the New Jersey Supreme Court designated all pending and future Fosamax cases as a "Mass Tort" and assigned them for centralized management in Atlantic County by Judge Carol Higbee. The NJ Fosamax consolidation includes both femur fracture lawsuits and ONJ cases.

As regards the federal courts, in May 2011 the Judicial Panel on Multidistrict Litigation (JPMDL) granted a petition filed by Merck seeking creation of a Fosamax - femur fractur multidistrict litigation (MDL).

By means of this May 2011 JPMDL order, all pending Fosamax - femur fracture lawsuits filed in the federal court system were transferred to the District of New Jersey and assigned to the Honorable Garrett E. Brown, Jr., for coordinated or consolidated pretrial proceedings. This "second" Fosamax multidistrict litigation (MDL) case is *IN RE: FOSAMAX (ALENDRONATE SODIUM) PRODUCTS LIABILITY LITIGATION (NO. II)*, *MDL No. 2243*.

Again, from the Merck & Co., Inc. Form 10-K Annual Report For the Fiscal Year Ended December 31, 2011:

> ... Judge Joel Pisano was assigned to preside over the litigation in November 2011 due to Judge Brown's retirement. A Case Management Order has been entered that requires the parties to review 40 cases (later reduced to 33 cases) with a fact discovery deadline of July 31, 2012, an expert discovery deadline of November 28, 2012, and a projected trial date for the first case to be tried sometime after March 1, 2013.

The "first" Fosamax federal court MDL case is *IN RE: FOSAMAX PRODUCTS LIABILITY LITIGATION, MDL No. 1789* (Southern District of New York), with United States District Court Judge Joseph F. Keenan presiding. That Fosamax MDL, which is limited to osteonecrosis of the jaw (ONJ) and other jaw injury cases, was formed back in 2006 and Fosamax - ONJ trials are continuing there in 2012 while a Special Master conducts settlement discussions.

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