

## April 2012 Fosamax Trial Jury Verdict For Sessner v. Merck Case Expected Soon In New Jersey

### Closing Arguments Focus On Medical Issue Of Whether Or Not Fosamax Causes Osteonecrosis Of The Jaw (ONJ)

(Posted by Tom Lamb at [www.DrugInjuryWatch.com](http://www.DrugInjuryWatch.com) on April 18, 2012; see <http://bit.ly/HI9ghO> )

---

#### **UPDATE: Defense Verdict For Merck**

Ques #1: Did Mrs. Sessner have ONJ? Yes (6-0)

Ques #2: Did Fosamax cause her ONJ? No (5-1)

**(4/18/12)**

---

On April 18, 2012 the jury for the *Jo Ann Sessner vs. Merck Fosamax* trial, which started back on March 5, was given their "jury charge" by New Jersey state court Judge Carol Higbee, and we expect a jury verdict to be rendered later this week.

The day before, April 17, this jury heard the closing arguments for both sides, which were presented by defense lawyers Christy Jones and Paul Strain on behalf of Merck, and by plaintiff attorneys Tim O'Brien and Gary London on behalf of Mrs. Sessner.

Although the Merck defense lawyers covered lots of ground in their respective arguments, their main points seemed to be:

- Osteonecrosis of the jaw (ONJ) is not caused by Fosamax, ever (or, put another way, Merck's corporate position is: Fosamax has never caused a single case of ONJ / no causal relationship has been established between Fosamax and ONJ); and,
- In the alternative, even if Fosamax does cause ONJ, it did not cause Mrs. Sessner's "jaw problems"; instead, any ONJ was due to a prior bone infection, *i.e.*, osteomyelitis, which Sessner developed independent of Fosamax (this being the opinion of Merck's medical causation expert).

To emphasize that second point, Ms. Jones used a slide during her presentation to the jury which was titled "The BRONJ Puzzle Does Not Fit For Mrs. Sessner", with BRONJ being short for "bisphosphonate-related osteonecrosis of the jaw".

Stepping back for a second, before the closing arguments -- from observing the evidence that the jury saw and the witness testimony that they heard (which I was able to do daily from the comforts of my office in North Carolina thanks to [Courtroom View Network \(CVN\)](#), which had cameras that were webcasting the *Sessner* trial from Judge Higbee's courtroom in New Jersey) it seemed to me that the *Sessner* verdict might depend on whether the jury "prefers" , *i.e.*, they liked better and/or believed more: The defense medical causation expert witness, Brent Ward, MD, DDS, **or** Mrs. Sessner's treating doctors, Charles Russo, MD and Robert Marx, MD.

Returning to what the jury heard on April 17, Mrs. Sessner's attorneys reiterated these several contentions, which they had constantly asserted throughout the trial:

- Merck never acknowledged that Fosamax has caused ONJ -- not a single case -- despite all the thousands of adverse event reports (AERs) submitted by doctors;
- To find for Merck you, *i.e.*, the jury, must disagree not only with Mrs. Sessner's treating doctors but, also, the patient's medical records (or, put otherwise, the evidence versus the defense expert's speculation);
- Who do you believe: The defense experts who were brought in after the lawsuit was filed **or** the treating doctors who diagnosed and treated Mrs. Sessner's ONJ before there was any conception of a Fosamax lawsuit ever being filed; and,
- Last but not least, [Fosamax did nothing for Jo Ann Sessner, it only did something to her.](#)

Of course, we will be watching for the *Sessner* trial jury verdict announcement and we will update this article with the "plaintiff verdict" or "defense verdict" result as soon as possible, thereafter.

---

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>