# Director of AEI Legal Center on Vioxx Settlement

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Media Inquiries: Sara Huneke
sara.huneke@aei.org; 202.862.4870

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Today, an appeals court in Texas reversed the $26 million judgment in *Ernst v. Merck*, which made worldwide headlines in 2005 when the first Vioxx case to go to trial returned a $253 million verdict.

At AEI events discussing the verdict and 2007 Vioxx settlement, Theodore H. Frank, now director of the AEI Legal Center for the Public Interest, predicted that the *Ernst* verdict would be reversed. Frank, who is writing a book about the Vioxx litigation, has criticized the litigation as legally meritless and argued that the $4.85 billion settlement reflects legalized extortion.

"While Merck was eventually vindicated on appeal, it was a Pyrrhic victory. Trial lawyers used the news of the $253 million verdict, which was obtained through procedural machinations and impermissible trial tactics, to recruit tens of thousands of new plaintiffs. Ninety percent of the Vioxx plaintiffs who filed suit did so only after the *Ernst* verdict, costing Merck billions at the eventual settlement. The Vioxx litigation shows the need for substantive and procedural reform in the mass tort arena," Frank said today.

For more information on the Vioxx settlement, please see the audio, video, or transcript for our events on the Vioxx settlement at www.aei.org/event1626 and the litigation at www.aei.org/event1139. Mr. Frank has also written about the Vioxx settlement in a Washington Legal Foundation Backgrounder entitled "Riverboat Poker and Paradoxes," available at www.aei.org/publication27701.

Mr. Frank is available for comment at 202.862.5857 or at tfrank@aei.org, or through his assistant at 202.862.5820 or sara.wexler@aei.org.

**Media Inquiries:**
Veronique Rodman
American Enterprise Institute
 1150 Seventeenth Street, N.W.
Washington, DC  20036
Phone: 202-862-4870
E-mail: VRodman@aei.org