

## Jury Awards \$500K in Risperdal Case

[Max Mitchell](#), *The Legal Intelligencer*

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A Philadelphia jury awarded \$500,000 on Dec. 11 to the plaintiff in the fourth Risperdal trial to go to a verdict.

After about six hours of deliberating, the 12-member jury in *Stange v. Janssen Pharmaceuticals* found that Janssen Pharmaceuticals negligently failed to warn about the antipsychotic drug, and that the negligence caused the injuries of plaintiff Timothy Stange. While the jury was unanimous on the issues of damages and failure to warn, two jurors found for Janssen on the causation issue.

Stange, like the other plaintiffs in related Risperdal cases, alleged his use of the antipsychotic drug caused him to develop enlarged breasts. Stange took Risperdal from 2006 to 2009 to control his Tourette syndrome symptoms.

Stange's case was the fourth Risperdal case to be tried in the Philadelphia Court of Common Pleas. So far, the litigation has resulted in two verdicts over \$1 million, and one defense verdict, which specifically found for Janssen on the issue of causation.

Thomas R. Kline of Kline & Specter, who was the lead trial attorney for Stange, said the verdict was "another win in a string of plaintiffs verdicts."

"Yet one more in a line of cases, which prove the point that Janssen negligently failed to warn," Kline said.

When asked about the verdict being the first to come under \$1 million, Kline said Stange's damages were largely related to humiliation he suffered during his teenage years.

"Everyone knew going into this case that the compensatory damages were modest," Kline said, noting that Stange had undergone a same-day breast reduction procedure that resulted in no scarring, and no life expectancy table was introduced before the jury. "The verdict seems to me to be in line."

Robyn Frenze, a spokeswoman for Janssen, said the company will consider its "options going forward."

"We know that dealing with disorders of the brain, including mental illness and neurodevelopmental conditions, is very difficult, and we sympathize with the plaintiff and his family," Frenze said in a statement. "During the trial, the jury heard evidence that the [U.S. Food and Drug Administration]-approved label properly warned of Risperdal's potential side effects and that his physical condition was not caused by using the medication."

The case, which was heard before Judge Kenneth Powell, went to trial in October. After the verdict was rendered, Powell shook the hands of all the jurors as they left the room, saying they had been "phenomenal."

According to court documents, Stange started taking the drug when he was 11 years old, and according to Kline, "a year after the prescription of the drug, he had grown female breasts."

Kline had told the jury that Stange had surgery to remove the excess breast tissue when he was 18, but the emotional damage that came from his peers' taunts is not so easily repaired.

He added the drug caused Stange to gain 60 pounds, initially masking the breast growth. The gynecomastia, Kline argued, was not revealed until Stange had lost weight after ending his use of the drug. Stange also complained of stabbing pains in his left nipple while on the drug.

Kline told the jury that Risperdal was marketed for off-label use in children, despite the fact that it was not indicated by the FDA for that purpose.

He further maintained that Janssen hid information on the alleged increased prolactin levels—the hormone that causes breast growth—associated with Risperdal from the FDA. And on the Risperdal label, Kline said, Janssen noted the incidence of increased prolactin levels was rare (one case of gynecomastia in 1,000) when it was actually closer to five in 100.

During closing arguments, McCarter & English attorney Michael Kelly, who represented Janssen, told the jury that the plaintiff's arguments had been "a lot of noise," and the plaintiff never provided any evidence linking the drug to gynecomastia.

Specifically, Kelly said the timeline of when Stange said he began noticing excessive breast growth did not match up with the time he took Risperdal, and none of the doctors were able to prove Stange's gynecomastia was a result of the drug.

According to Kelly, doctors agree that most gynecomastia is caused by puberty, and 10 to 20 percent of those instances result in permanent tissue. The *Stange* case, Kelly said, hinged on Stange being in the much smaller range of Risperdal takers who developed gynecomastia as a result of the drug.

The jury in the first Risperdal case awarded plaintiff Austin Pledger \$2.5 million, and the following month, another jury handed up a defense verdict, finding Risperdal had not caused plaintiff William Cirba's breast growth.

Last month, another jury awarded \$1.75 million to Nicholas Murray on similar claims regarding Risperdal.

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