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Janssen Hit With \$70M Verdict in Latest Risperdal Trial

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A Philadelphia jury hit Janssen Pharmaceuticals with a \$70 million verdict in a case over the antipsychotic drug Risperdal. The case, which was the fifth to go to trial from Philadelphia's Risperdal-related mass tort program, resulted in the largest award out of that program by a factor of nearly 30.

The unanimous verdict in *A.Y. v. Janssen Pharmaceuticals* came down July 1 after two weeks of trial before Philadelphia Court of Common Pleas Judge Paula Patrick. The largest Risperdal-related award to come down in Philadelphia had previously been a \$2.5 million award that a jury handed up in February 2015.

Along with awarding \$70 million, the jury also found that Janssen "intentionally falsified, destroyed or concealed records." That finding is required for plaintiffs to be able to recover more than the \$750,000 damages cap that Tennessee law imposes on noneconomic damages.

Attorney Jason Itkin from the Houston-based firm Arnold & Itkin tried the case for the plain-

tiffs, and Drinker Biddle & Reath attorney David Abernethy tried the case for Janssen.

Immediately following the verdict, Itkin said he felt the jury was swayed by Janssen's own experts.

"Their own witnesses lied on the stand, and the jury sent a message that they weren't going to accept it," Itkin said.

When asked about the size of the verdict, Itkin noted the work done on the four previous Risperdal trials, all of which focus on claims that the drug causes excessive breast growth in young boys. The plaintiffs, he said, are now more familiar with Janssen's defense arguments.

"We now know their playbook," Itkin said. "We think it will be a trend."

A spokeswoman for Janssen, however, said the verdict went against the evidence, and the company will seek an appeal.

"We believe this verdict is not justified by the evidence, and that the award is clearly excessive and far out of line with any factual assessment of actual damages," Kristina Chang said in an emailed statement. "We know that dealing with disorders of the brain is very difficult, and we sympathize with

the plaintiff in this case and his family."

The first Risperdal-related trial in California is scheduled to go to trial July 18 in Los Angeles Superior Court, an attorney knowledgeable with the litigation said.

The plaintiff in *A.Y.*, Andrew Yount, was born in 1998 and began taking Risperdal in 2003 to treat a severe psychiatric problem that attorneys described in their opening statements as including violent oppositional behavior. Itkin told the jury during the opening statements that Yount, a Tennessee native, began experiencing excessive breast growth by 2004.

Itkin's opening focused on arguments that Janssen withheld information showing a significant link between the drug and the breast growth. Itkin relied on the drug's label and internal documents from Janssen that he contended proved the company took steps to limit the medical community's understanding of the risks.

Abernethy countered during the opening statements that Yount's treating physicians knew the risks of the antipsychotic medication, but kept him on the drug because it was "the only thing that ever worked for him."

The opening statements, which were held June 20, also delved into an issue that has only recently arisen in the litigation—the reanalysis of a 2003 medical article published in the Journal of Clinical Psychiatry.

Early in the litigation plaintiffs had pointed to the article as an indication that Janssen hid data linking Risperdal to the breast growth, but Janssen countered that a recent reanalysis of that data showed that only irrelevant information had been omitted.

Starting with the last Risperdal-related case to hit trial, *Stange v. Janssen Pharmaceuticals*, the plaintiffs have begun arguing that the reanalysis was also manipulated.

Kline & Specter attorney Thomas R. Kline, who heads the Risperdal litigation in Philadelphia and tried several previous Risperdal cases, said A.Y. "built on everything we uncovered in the *Stange* case" about the reanalysis.

"This jury saw a full-blown version, brilliantly presented by the plaintiff's team," Kline said. "It was drilled home in this trial ... and that had very much to do with the verdict."

The *Stange* case came to a \$500,000 verdict in December. Before that, plaintiffs saw a \$2.5 million award, a \$1.75 million award, and one defense verdict, where the jury held that, although Janssen negligently failed to warn about Risperdal, the drug was not the cause of the plaintiff's breast growth.

Along with having the largest award in the Risperdal mass tort, the jury finding that Janssen hid records could indicate how arguments about puni-

tive damages could factor into the litigation in the future, according to Kline.

Punitive damages arguments have so far been barred from the cases in Philadelphia, but that issue is currently on appeal. Kline said arguments made to overcome that damages cap would be similar to those made if the ban on punitive damages is overturned.

According to Kline, no global settlement talks are underway, so the plaintiffs are gearing up to try the next Risperdal case, which is set to begin later this month.

"The Kline & Specter, Arnold & Itkin, Sheller P.C. consortium represent about 10,000 victims—the largest group in the country," Kline said, noting that the firms have about 400 cases in suit in Philadelphia. "We are prepared to file the next 1,000 cases on the heels of this jury verdict."