

J&J Looks at Third Strike In DePuy Pinnacle Hip Implant Litigation

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For the third time in a row, Johnson & Johnson (J&J) and its subsidiary, DePuy, have been hit with a 9-figure verdict in a bellwether trial involving DePuy's Pinnacle line of metal-on-metal hip implants. On November 16, 2017, after a two-month trial, a unanimous jury found the implant manufacturers liable for design defect, negligent design and inadequate warning, among other things. The \$247 million award to the six individual plaintiffs included \$168 million in punitive damages against these companies for wanton, reckless and malicious conduct.

Over the past several years the federal court has held several "bellwether" trials, which is a legal practice used to help the court and parties on both sides anticipate future trends in a specific type of litigation. These cases related to Pinnacle hip implants have been coordinated before a federal judge in the United States District Court, Northern District of Texas. There continues to be between 50 and 100 cases filed into the Pinnacle litigation every month and there are currently more than 9,200 cases pending. Plaintiffs allege that the Pinnacle device sheds microscopic metal ions into their bodies, causing side effects that J&J and DePuy were aware of, but failed to warn surgeons about. The failure of the device has caused patients to suffer a range of injuries, including intense pain, limited movement, severe tissue damage, permanent muscle loss and a permanent limp when walking.

The first bellwether trial against DePuy and J&J was tried in late 2014 and resulted in a verdict for the defendant manufacturers. However, since that time, there have been three additional bellwether trials, each involving multiple plaintiffs, that have resulted in plaintiffs' verdicts. The second bellwether trial consolidated five Texas cases and lasted 11 weeks. It resulted in a verdict of \$502 million. The third bellwether trial consolidated six California cases and resulted in a verdict for the plaintiffs in an amount over \$1 billion dollars. The trial judge did ultimately reduce the verdicts in each of these cases and both parties have appealed the court's judgments. Defendants are sure to appeal this latest decision and only time will tell how many more verdicts J&J will have to endure while it exhausts its appellate remedies.

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