



Johnson & Johnson is ordered to pay \$1bn over faulty hip implants

Owen Dyer

Montreal

A federal jury in Dallas has ordered Johnson & Johnson to pay \$1.041bn (£0.82bn; €0.98bn) in compensation and punitive damages after it found in favour of six plaintiffs who claimed that the company's DePuy medical devices subsidiary deliberately hid flaws in its Pinnacle metal-on-metal artificial hips from doctors and patients.

All six plaintiffs needed revision surgery to replace the devices and to repair injuries that included tissue death and bone erosion. The Dallas hearing was a test case, the third of seven "bellwether" cases intended to establish liability and to guide compensation in 8900 claims pending from other Pinnacle plaintiffs.

J&J won the first test case in October 2014, against a Montana woman who alleged that the device gave her metal poisoning. This March J&J lost the second test case against five patients in Texas. A jury awarded \$502m in damages, which was reduced to \$151m after review by the judge overseeing the test cases, US district judge Ed Kinkeade.

Since the third and latest settlement involves plaintiffs who all hail from California, the court will follow that state's law and the damages will not be adjusted by the judge. J&J will appeal the damages, however, to a higher court.

Just \$32m of the latest award is compensation for injuries, while \$1.009bn takes the form of punitive damages, the largest punitive award against a corporation in any US court this year. Mark Lanier, counsel for the plaintiffs, said that the verdict sent "a message loud and clear" that J&J has "a really nasty part of their business they need to clean up."

Lanier said, "The jury is telling J&J that they better settle these cases soon. All they are doing by trying more of these cases is driving up their costs and driving the company's reputation into the mud."

He added that J&J's lawyers had rejected the plaintiffs' offer to settle for \$1.8m before trial.

The result caps a difficult year in the courts for J&J, whose subsidiaries have been on the wrong end of six of the seven largest defective product verdicts in the United States in 2016.

The Pinnacle device, also marketed as the Ultamet, is the second artificial hip to land the company in legal trouble. J&J paid out over \$2.5bn in 2013 to settle more than 7000 lawsuits over its ASR metal-on-metal hip devices, which it recalled in 2010 because of high failure rates. The Pinnacle device predated the ASR but was discontinued only in 2013, when the Food and Drug Administration tightened its regulations on artificial hips.

A spokeswoman for J&J said, "DePuy acted appropriately and responsibly in the design and testing of Ultamet metal-on-metal, and the product is backed by a strong track record of clinical data showing reduced pain and restored mobility for patients suffering from chronic hip pain."

A fourth bellwether trial is scheduled for September 2017.

thebmj.com **Features** How safe are metal-on-metal hip implants? doi:10.1136/bmj.e1410; Out of joint: the story of the ASR doi:10.1136/bmj.d2905

Published by the BMJ Publishing Group Limited. For permission to use (where not already granted under a licence) please go to <http://group.bmj.com/group/rights-licensing/permissions>