

HORMONE THERAPY LITIGATION UPDATE

Last month we reported on the Pennsylvania Appellate Court decision to affirm a \$1.5 million dollar compensatory and \$8.6 million dollar punitive award against Wyeth. Plaintiff's attorneys Zoe Littlepage and Rainey Booth did an excellent job with the trial and appeal of this case. Their client, Mary Daniel, was diagnosed with hormone positive breast cancer after taking Wyeth's hormone pill, Prempro, for 18 months. Since reporting on this, we have had people ask about the verdict track record in this litigation that has been going on for several years now. So, here it is:

PREMPRO JURY VERDICT TABLE

Date	Venue	Plaintiff	Defendant	Injury	Length of ingestion	Compensatory	Punitive	Verdict (after reduction)
18. Dec. 2010	PR	Rivera-Adams	Wyeth	Breast cancer	Short-term	Plaintiff verdict \$1.5 million	Prohibited by PR law	Wyeth is appealing.
17. Dec. 2010	VA	Torkie-Tork	Wyeth	Breast cancer	??	Defense verdict		
16. Oct. 2010	AR	Wilson	Wyeth	Breast Cancer	4.5 years	Defense verdict	Not in case	
15. Aug. 2010	PA	Henry Buxton	Wyeth	Breast Cancer	8 6	Defense verdict on case specific causation as case was reverse bifurcated	Phase 1 only	
14. Feb 2010	PA	Foust (deceased)	Wyeth	Breast Cancer	4	Defense verdict	Prohibited by Indiana law	
13. Feb. 2010	PA	Singleton	Wyeth	Breast Cancer	6.5 years (18 month post WHI case)	Plaintiff verdict: \$3.25 million \$200,000 to husband	\$6 million	All post trial motions denied. Verdict entered in total. Wyeth is appealing.
12. Nov. 2009	PA	Kendall	Wyeth and Pfizer	Breast Cancer	11 years	Plaintiff verdict: \$ 6.3 million	\$ 28 million	All post trial motions denied except punitive verdict remitted to \$1 million. Plaintiff is appealing on remitted punitives. Wyeth and Pfizer are cross-appealing.

Date	Venue	Plaintiff	Defendant	Injury	Length of ingestion	Compensatory	Punitive	Verdict (after reduction)
11. Oct. 2009	PA	Barton	Wyeth	Breast Cancer	5 years	Plaintiff verdict: \$3.74 million	\$ 75 million	All post trial motions denied except punitive verdict remitted to \$5.6 million. Plaintiff is appealing on remitted punitives. Wyeth is cross-appealing.
10. Feb. 2008	AR	Scroggin	Wyeth and Pfizer	Breast Cancer	11 years	Plaintiff verdict: \$2.75 million Paid by Wyeth after it lost the appeal.	\$27.1 million	U.S. Court of Appeals for the Eighth Circuit affirmed compensatory award and ordered a new trial on punitives against Wyeth, finding sufficient evidence to sustain a punitive award. Wyeth appealed to US Supreme Court which declined to accept the case. Wyeth paid compensatory verdict in full. Wyeth settled punitives claim before re-trial.
9. Sept. 2007	NV	Scofield	Wyeth	Breast Cancer	15 years	Plaintiff verdict (Verdict remitted by judge to): \$7.2 million	(Punitives remitted by judge to): \$12 million	Nevada Supreme Court, <i>en banc</i> , unanimously affirms remitted compensatory and punitive award.
8. Sept. 2007	NV	Forrester	Wyeth	Breast Cancer	10 years	Plaintiff verdict (Verdict remitted by judge to): \$7.9 million	(Punitives remitted by judge to): \$13 million	Nevada Supreme Court, <i>en banc</i> , unanimously affirms remitted compensatory and punitive award.
7. Sept. 2007	NV	Rowatt	Wyeth	Breast Cancer	7 years	Plaintiff verdict (Verdict remitted by judge to): \$7.5 million	(Punitives remitted by judge to): \$10 million	Nevada Supreme Court, <i>en banc</i> , unanimously affirms remitted compensatory

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								and punitive award.
6. April 2007	PA	Simon	Wyeth and Pfizer	Breast Cancer	10 years	Plaintiff verdict against Pfizer: \$1.5 million. (Defense verdict for Wyeth).	Not submitted	JNOV granted. Pennsylvania appellate court reversed JNOV. Pfizer settled the case.
5. Jan. 2007	AR	Rush	Wyeth	Breast Cancer-	9 years	Defense verdict	Not submitted	Appeal to 8 th circuit. Denied.
4. Jan. 2007	PA	Nelson II	Wyeth	Breast cancer	5 years	Plaintiff verdict: \$3 million	Not submitted	JNOV granted. Case appealed. Appellate court affirmed JNOV. PA Supreme Ct denied cert.
3. Jan. 2007	PA	Daniel	Wyeth	Breast cancer	1 ½ years	Plaintiff verdict: \$1.5 million	Punitives awarded. \$8.6 million	PA Superior Court affirms compensatory and punitive damages and reverses trial court's JOV and granting of new trial.
2. Sept. 2006	PA	Nelson	Wyeth	Breast cancer	5 years	Plaintiff verdict: \$1.5 million	Trial was bifurcated and mistrial declared, before punitives submitted	Mistrial declared after compensatory verdict due to jury misconduct
1. Sept. 2006	AR	Reeves	Wyeth	Breast cancer-	8 years	Defense verdict	Not submitted	

As you can see, plaintiffs have won trials 12 out of 18 times. The average compensatory verdict has been \$2.6 million – this is certainly understandable given the serious nature of breast cancer. Each time a jury has been allowed they have found Wyeth's and/or Upjohn's conduct to be so bad as to warrant punitive damages with the average being \$30.4 million.

I understand there are a number of prempo trials scheduled this year, including two we will try right here in Montgomery in July and December. It will be interesting to see what juries have to say in the coming months.