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Jury awards widow $3M after suicide

Drugmaker accused of masking dangers of antidepressant

BY PATRICIA MANSON
Law Bulletin staff writer

A federal jury Thursday awarded $3 million to the wife of a Chicago lawyer who killed himself six days after he began taking a generic version of the antidepressant Paxil.

The jury returned the verdict against Paxil's manufacturer, GlaxoSmithKline LLC (GSK), following more than five weeks of trial and nearly three days of deliberations.

Stewart Dolin died in July 2010 after leaping in front of a Chicago Transit Authority train at a Blue Line station in the Loop.

Dolin, 57, was a partner in Reed Smith LLP.

His wife, Wendy, contends GSK concealed what she maintains is an increased risk of suicide in adults who take the brand-name or generic version of paroxetine.

GSK counters it was the stress of working at a global law firm — not anxiety triggered by paroxetine — that led Dolin to take his own life.

Wendy Dolin had sought $39 million in damages.

But she said she is not disappointed the jury awarded only a fraction of that amount.

"This has not been about the money," she said outside the courtroom.

Instead, she said, the lawsuit she filed against GSK was about making the public aware of a health risk.

"It's a great day for consumers," she said.

In a statement, GSK spokeswoman Frannie DeFranco said the company will appeal the jury's verdict.

"GSK maintains that because it did not manufacture or market the medicine ingested by Mr. Dolin, it should not be liable," DeFranco said.

"Additionally, the Paxil label provided complete and adequate warnings during the time period relevant to this lawsuit."

Wendy Dolin filed the suit in 2012 in Cook County Circuit Court alleging violations of Illinois law.

The action was removed to federal court under diversity jurisdiction.

Dolin contends paroxetine causes akathisia, a heightened sense of anxiety and restlessness that can lead a sufferer to commit suicide or acts of violence.

Paroxetine carries a 6.7 times higher risk of suicide in adults who take the drug compared to those who take a placebo, Dolin contends.

But GSK manipulated test data, she alleges, to conceal this fact from the U.S. Food and Drug Administration.

As a result, the warning on the drug's label is inadequate, Dolin alleges.

The so-called "Black Box" warning on Paxil and its generic version states there is a suicide risk for children and young adults up to the age of 24.

Dolin contends that while her husband sometimes grappled with work-related anxiety, he was not mentally ill or clinically depressed.

GSK rejects the contention that an adult over 24 taking paroxetine faces an increased risk of suicide.

At trial, GSK presented evidence designed to show Dolin had long suffered from work-related anxiety and that his anxiety had become more severe in the three years before he committed suicide.

Dolin was working at Sachnoff & Weaver Ltd. when it merged into Reed Smith in 2007.

Sachnoff & Weaver was a 160-lawyer firm. Reed Smith, with its roots in Pittsburgh, is a global giant with offices in Europe, Asia and the Middle East as well as the United States.

Twice before the trial — first in 2014 and then last year — U.S. District Judge James B. Zagel declined to throw out Wendy Dolin's suit.

In his 2014 ruling, Zagel did grant summary judgment in favor of GSK on product-liability claims brought under a strict liability theory.

And he dismissed all claims against Mylan Inc., which made the paroxetine Stewart Dolin took.

But while conceding GSK did not manufacture the paroxetine, Zagel allowed Wendy Dolin to pursue various negligence claims against the company.

The federal Hatch-Waxman Act requires that a generic drug's design and warning match those of the name-brand drug, Zagel wrote.

Under this regulatory setup, he held, the brand-name maker must in some circumstances face claims that it negligently failed to warn consumers of the risks of taking any version of the drug.

Zagel's 2014 ruling was the first of its kind in Illinois.

In last year's ruling, Zagel rejected Paxil's argument that Wendy Dolin's failure-to-warn claim was pre-empted by the Federal Food, Drug and Cosmetic Act.

Zagel wrote a failure-to-warn claim is pre-empted by federal law only if there is "clear evidence" the FDA would not have approved the warning the plaintiff alleges is required by state law.

GSK did not present such evidence, Zagel wrote.

In 2007, he wrote, the FDA invited the company to discuss the option of retaining language from the 2006 Paxil label that warned of the possibility of an increased risk of suicide in adults.

But GSK did not ask for a formal meeting with the FDA and did not ask to include additional language on the label concerning Paxil's potential effect on adults, Zagel wrote.

Under those circumstances, he wrote, GSK failed to show it would have been futile to ask the FDA to add an adult suicide warning on Paxil's label.

Several months after Zagel issued his 2016 opinion, the case was transferred to U.S. District Judge William T. Hart.

Hart presided over the trial of the suit.

Dolin is represented by attorneys who include David E. Rapoport and Matthew S. Sims, both of Rapoport Law Offices P.C.

She also is represented by R. Brent Wisner and Michael L. Baum, both of Baum, Hedlund, Aristei & Goldman P.C. in Los Angeles.

GSK's attorney include Alan S. Gilbert of Dentons US LLP and Ursula M. Henninger of King & Spalding in Charlotte, N.C.

Attorneys from King & Spalding's Atlanta office representing GSK include Andrew T. Bayman, Todd P. Davis and Heather M. Howard.

Wendy Dolin, a therapist, said she has become a patient advocate since her husband's death.

She has formed a nonprofit organization called the Medication-Induced Suicide Prevention and Education Foundation in Memory of Stewart Dolin.

The foundation is dedicated to educating the public about the dangers of akathisia.

On Thursday, Dolin said she hopes the verdict — which she described as "extraordinarily bittersweet" — will help advance that goal.

The case is *Wendy B. Dolin v. SmithKlineBeecham Corp.*, No. 12 C 6403.