Case No. 22-001761-NP

JUDGE DENIES DRUG MANUFACTURER'S IMMUNITY IN CASE OF CONTAMINATED COVID-19 MEDICATION

Civil Lawsuit Seeks Damages for Man's Irreversible Health Complications

DETROIT, MI (August 8, 2023) – In a groundbreaking decision, a Michigan judge has ruled for the first time that a drug manufacturer is not protected by the Public Readiness and Emergency Preparedness (PREP) Act in a case where a man suffered two strokes after receiving a COVID-19 medication contaminated with glass particles. The PREP Act was declared by the U.S. Department of Health and Human Services for emergency use, and shields manufacturers, administrators and distributors of vaccines from liability claims of loss caused by the drug. The ruling has significant implications for the pharmaceutical industry and its response to rushed testing of COVID-19 medications.

The case, filed by Ven Johnson Law on behalf of Dan Nowacki, focuses on Mr. Nowacki suffering a stroke after receiving contaminated Remdesivir containing glass particles. The drug was administered intravenously at St. Joseph Mercy Chelsea Hospital, and is designed to combat COVID-19 symptoms. Two lots containing approximately 55,000 vials of the drug were later recalled after it was found that they were contaminated with glass particles. Gilead Sciences, Inc. (Gilead), the drug manufacturer, and St. Joseph Mercy Chelsea Hospital, Inc. (St. Joseph Mercy), are named as defendants in the lawsuit, filed in Washtenaw County Circuit Court.

In Nov. 2021, Nowacki was admitted to St. Joseph Mercy Hospital in Chelsea, Michigan, and was diagnosed with COVID-19. During his stay, he was administered five doses of Remdesivir and at least two of those doses belonged to the contaminated lot, and days later, suffered a massive stroke and other serious complications. Nowacki then developed hematomas and swelling on his face, thighs and arms. On or about Dec. 16, Nowacki suffered another stroke, which left him permanently bedridden and in need of 24/7 round-the-clock care, 365 days per year.

On Dec. 3, 2021, a voluntary recall for Remdesivir was issued by Gilead, which highlighted the contamination of glass particles and risk of adverse events such as stroke and death. Neither Nowacki nor his family were made aware of the recall until April 6, 2022, when St. Joseph Mercy Chelsea sent a letter confirming Nowacki was given at least two doses of Remdesivir that were part of Gilead's nationwide recall.

"Dan Nowacki's case is a tragic example of the devastating consequences that can arise from sheer negligence and greed from pharmaceutical companies, and the incompetence of St. Joseph Mercy Chelsea in not giving timely notice of a recalled drug," said Ven Johnson, president of Ven Johnson Law. "Drug manufacturers and medical institutions need to prioritize patient safety above all else. The four month delay of alerting Nowacki of the recalled Remdesivir prevented Mr. Nowacki's subsequent treaters from administering necessary treatment, which compromised Nowacki's recovery."

On July 12, 2023 and August 2, 2023, Judge Carol Kuhnke heard oral arguments from both Ven Johnson Law and the defendants as to whether the case should continue to trial, despite protections from the PREP Act. Judge Kuhnke concluded that Congress did not plan to extend the PREP Act immunity to a drug that substantially deviated from FDA approval, and included glass particles.

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Ven Johnson has worked on some of the most notable personal injury cases in America, winning more than $500 million in jury verdicts and settlements totaling more than $1 billion. The firm's practice areas include product liability, trucking negligence, civil rights, police misconduct, premises liability, medical malpractice, and many more. For more information, visit www.venjohnsonlaw.com.

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