

# Drug Firms Ordered To Pay \$162 Million In Hep C Case

Oskar Garcia, AP

A Nevada jury has ordered three pharmaceutical companies to pay \$162.5 million in punitive damages in a lawsuit that accused them of negligently distributing large vials of an anesthetic to Las Vegas clinics at the center of a 2008 hepatitis C outbreak. The damages awarded in Clark County District Court are on top of the \$20.1 million in compensatory damages awarded to five plaintiffs after a jury found Teva Parenteral Medicines, Inc., Baxter Healthcare Corp. and McKesson Corp. liable. Plaintiffs' lawyers had accused the companies of putting corporate profits ahead of patient safety, and of recklessly distributing 50 milliliter vials of the powerful anesthetic propofol to clinics where 10 or 20 milliliter doses were commonly needed for outpatient colonoscopy procedures. They had sought \$600 million in punitive damages.

Philip Hymanson, attorney for Baxter and McKesson, told jurors the propofol was manufactured properly and delivered properly, and that clinic doctors and anesthesiologists were at fault if they misused it. Hymanson said there was no proof that happened. The companies maintain the vials were properly marked with instructions and warnings, and that jurors weren't allowed to hear that reusing syringes on multiple patients and not following proper sterilizing procedures could also have spread the incurable liver disease.

Teva was ordered to pay \$89.4 million, while Baxter was told to pay \$55.3 million and McKesson was ordered to pay \$17.9 million.

The civil trials are the first of several now reaching trial phases in Las Vegas stemming from the 2008 hepatitis outbreak traced to colonoscopy clinics run by Dr. Dipak Desai. Southern Nevada health officials advised about 50,000 patients who received endoscopy procedures at Desai clinics to be tested for hepatitis. At least nine and as many as 114 patients were infected with the disease. Desai and his clinics reached undisclosed settlements with plaintiffs before trial and are no longer involved.

A jury heard seven weeks of testimony before finding the three companies responsible for injuries to endoscopy clinic patients Robert Sacks, Anthony Devito and Arnold, and to spouses Donna Devito and James Arnold. A statement from company spokeswoman Denise Bradley blamed plaintiffs' injuries on clinic doctors and anesthesiologists who "blatantly ignored" product handling instructions "and also used unsanitary practices."

Separately, Desai and two nurses have been indicted on criminal charges including racketeering, insurance fraud and neglect of patients. They pleaded not guilty. Trial in Clark County District Court has been delayed until next year amid questions

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about Desai's competence to stand trial after several strokes.

Propofol is the same anesthetic at issue in the ongoing involuntary manslaughter trial in Los Angeles of Michael Jackson's former physician, Conrad Murray. Authorities say Jackson died in June 2009 of acute propofol intoxication combined with other sedatives administered by Murray in the singer's bedroom. Murray has pleaded not guilty.

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