

Jury in Tampa Finds For McNeil In Tylenol Poisoning Case

Tampa, Florida, April 9, 1997

Plaintiff Walks Away Empty Handed

McNeil P.P.C., Inc., the Johnson & Johnson subsidiary that distributes Tylenol, was found not liable today by a Federal District Court jury in Tampa, Florida in a case involving claims of wrongful death, negligence and failure to warn brought by the estate of Fred Domke. Mr. Domke died of liver failure after taking normal doses of Tylenol over a one-week period.

Domke, who had a history of liver problems, alleged that Tylenol was a substantial factor in bringing about his death. There was no dispute that acetaminophen, the main ingredient in Tylenol, creates a small quantity of a toxic chemical when it is metabolized, which, under normal circumstances, is neutralized by the liver. Alcohol, however, also absorbs this neutralizing ingredient and those who consume three or more alcoholic beverages a day are now warned by McNeil that they should consult their physicians before using the drug. When Domke took the drug, there was no alcohol warning on the package. The coroner's report indicated that Domke's death was due to Tylenol poisoning.

Domke, who drank a six pack or so of beer a day, argued that McNeil had sufficient knowledge, in the form of more than 100 case reports, to have issued the warning about Tylenol and alcohol before he took the drug. Plaintiff presented evidence that McNeil told its sales representatives not to discuss the alcohol-Tylenol poisoning possibility and failed to inform the public because the company thought its sales would decline.

McNeil argued that the FDA knew about all the case reports and to this day has not mandated an alcohol warning. The defense showed that the evidence of a need to warn was weak and inconsistent. Further, the defense presented strong evidence that Domke had a long history of liver disease and had died of hepatitis, not Tylenol poisoning. In addition, when Domke arrived at the hospital, he gave conflicting reports about the medicine he had taken, and blood tests showed several other medications in his system, one of which warned that it should not be taken by anyone who has liver problems.

The jury deliberated for more than two days and returned a verdict in favor of McNeil. Litigation Strategies, Ltd. assisted the trial team, headed by Robert Sparks of Jones, Day, and John Winter of Patterson, Belknap, with strategic research and jury selection.

- Strategic Research
- Witness Preparation
- Demonstrative Exhibits

