

Major Settlements With Medtronic, NECC for Injured Patients

Susan Jeffrey | May 28, 2014

Some of the most high-profile recent cases involving claims of patient injury are moving toward settlement.

Medtronic Inc announced earlier this month it has agreed to certain plaintiffs' counsel to settle their inventories of filed and unfiled product liability claims related to the use of *Infuse Bone Graft*, the company's recombinant bone morphogenic protein-2 product used in spinal fusion surgery that was [linked to safety issues](#) in 2011.

"Under the terms of the agreement, Medtronic has agreed, subject to certain conditions, to resolve the claims of an estimated 950 claimants for a total payment of approximately \$22 million," the company said in a statement provided to *Medscape Medical News*.

"This agreement is a compromise of disputed claims and is not in any way an admission of liability or validity of any defense in the litigation by Medtronic," the company emphasizes. "The company continues to stand behind Infuse Bone Graft, which has been utilized in more than 1 million patients since it was approved more than 10 years ago, and will vigorously defend the product and company actions in the remaining cases."

Earlier this month, "on the eve of trial and after several days of pretrial motions, a California trial judge entered summary judgment in favor of Medtronic in the first Infuse Bone Graft case scheduled to go to trial," Medtronic notes in their statement, dated May 6.

Approximately 750 filed cases brought by approximately 1200 individual plaintiffs remain pending in various courts throughout the United States, it notes. "The majority of these cases are still in the early procedural stages and none have resulted in a finding of liability against Medtronic."

As previously disclosed in Medtronic's Securities and Exchange Commission filings, certain law firms have advised the company that they may bring a large number of similar claims against the company in the future, the statement adds. "The company estimates those law firms represent approximately 2,600 additional unfiled claimants."

Fungal Meningitis Settlement

Also on May 6, news outlets reported that a \$100 million settlement between owner of the New England Compounding Center (NECC) and its controlling trustee was filed in bankruptcy court. NECC was at the center of an outbreak of fungal meningitis that was ultimately linked to [tainted injectable](#) products made at their compounding pharmacy.

The *Wall Street Journal* reported that under the settlement, NECC, its insurers, and 1 of the company's affiliates will contribute more than \$100 million to a compensation fund to be distributed to the company's creditors, including patients who died or sustained significant injuries after receiving injections prepared by NECC.

As of October 2012, 64 patients had died and 751 had been injured by tainted injectables prepared at NECC, the *Wall Street Journal* reports. "The settlement, which had been expected, still requires approval from Judge Henry J. Boroff to the US Bankruptcy Court in Boston, Massachusetts, before distributions can be made to victims," the *Wall Street Journal* reports. "The trustee, Paul D. Moore, said he hopes to complete the process by the end of the year."

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