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Jury Deadlocks in Sixth Mesothelioma Trial Against Johnson & Johnson

After a week of deliberations, the jury failed to reach a verdict, telling the judge they were deadlocked at 8 to 4.

By Amanda Bronstad | September 24, 2018



(Photo: SewCream/Shutterstock.com)

After a week of deliberations, a jury in Los Angeles has failed to render a verdict in the sixth trial over whether Johnson & Johnson's baby powder caused mesothelioma.

Los Angeles Superior Court Judge Margaret Oldendorf, who sits in Pasadena, declared a mistrial on

Monday.

According to Courtroom View Network's coverage of the trial, Oldendorf polled each juror, then said "I did not hear any of you indicate that there was any confusion or misunderstanding on a particular point of law, and if there were, I would certainly

attempt to address that with clarification of a jury instruction, things of that nature. I believe that the evidence is in and, regrettably, I'm going to declare that the jury is deadlocked and declare a mistrial in the case."

The foreperson of the 12-member jury, which began deliberating on Sept. 17 after a month of trial, told the judge they were deadlocked 8 to 4. About a day after deliberations began, the jury said it was deadlocked 7 to 5, after which Oldendorf ordered additional arguments from the lawyers and brought in an alternate juror.

Based on their comments, jurors had different interpretations of the same evidence, according to Courtroom View Network's coverage.

The trial comes in a case brought by California resident Carolyn Weirick, diagnosed in 2017 with mesothelioma, a type of lung cancer. Weirick, 59, claims her illness was due to her prolonged use of Johnson & Johnson's baby powder, which she says contained asbestos.

Weirick's lawyer, Jay Stuemke, is a shareholder at Simon Greenstone & Panatier in Dallas. A spokesman for the plaintiff's attorneys did not respond to a request for comment.

Orrick's Christopher Vejnaska, a partner in San Francisco, represented Johnson & Johnson.

"We are grateful to the jury and the court for their time and careful consideration of this case," Johnson & Johnson spokeswoman Kim Montagnino said in an email statement. "We look forward to a new trial to present our defense—which rests on decades of independent, scientific testing confirming that J&J baby powder and Shower to Shower do not contain asbestos. Johnson & Johnson stands by our talc products, which have been on the market and used safely for more than 130 years."

The first trial alleging Johnson & Johnson's baby powder caused mesothelioma ended with a defense verdict on Nov. 16 in Los Angeles Superior Court.

This year, another Los Angeles Superior Court jury awarded (<https://www.law.com/therecorder/2018/05/24/jj-hit-with-25-75m-verdict-over-baby-powders-link-to-mesothelioma/>) \$25.75 million, and a jury in Middlesex County, New Jersey, awarded \$117 million (<https://www.law.com/njlawjournal/2018/04/11/jj-imerys-hit-with-80m-in-punitives-over-claims-linking-talc-to-mesothelioma/>), to plaintiffs in mesothelioma cases against Johnson & Johnson and Imerys. Two other cases in Los Angeles Superior Court and Darlington County Circuit Court in South Carolina (<https://www.law.com/nationallawjournal/2018/05/18/trial-opens-over-lawyers-death-allegedly-caused-by-jjs-baby-powder/>) ended in mistrials.

Similar trials began last month in Los Angeles Superior Court and last week in Middlesex County Superior Court in New Jersey.

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