Sprint Fidelis Lead Wire Defect Litigation Comes To An Apparent Disappointing End (Medtronic Wins)

8100 Pending Lawsuits Get Modest Settlement Payments; Remaining 100,000 Plus U.S. Patients Have No Legal Claim Due To Federal Preemption Ruling

(Posted by Tom Lamb at www.DrugInjuryWatch.com on November 10, 2010; see http://bit.ly/chYPS5)

As those who have been following the Sprint Fidelis litigation know by now, the thousands of product liability lawsuits that had been filed in connection with the defective lead wire recall by Medtronic did not go the way that injured plaintiffs had hoped.

Back in January 2009 U.S. District Court Judge Richard Kyle, who was overseeing the federal court Sprint Fidelis MDL -- *In Re Medtronic Inc. Sprint Fidelis Leads Products Liability Litigation*, 08-1905, U.S. District Court, District of Minnesota (Minneapolis) -- dismissed all of those personal injury and wrongful death lawsuits based on the U.S. Supreme Court's *Riegel v. Medtronic* medical device federal preemption doctrine ruling.

We will let reporter Andrew Longstreth take us from that point forward, to the apparent disappointing end -- from the patients' perspective, at least -- for this Sprint Fidelis litigation.

From his October 18, 2010 article for *The American Lawyer*, "Medtronic to Pay $268 Million to Settle Defibrillator Suits":

> Plaintiffs lawyers promptly appealed Kyle's ruling to the 8th U.S. Circuit Court of Appeals. But Medtronic didn't wait to see if the appellate court would affirm the decision. On Thursday the company announced that it would pay $268 million to resolve Sprint Fidelis-related suits pending in the Minneapolis federal multidistrict litigation, in Minnesota state court and elsewhere throughout the country. The amount includes attorney fees, according to Medtronic.
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> "The settlement is a compromise of disputed claims, and the parties have not admitted any liability or the validity of any defense in the litigation," said the company in a statement. Spokesperson Christopher Garland told Bloomberg that the deal covers about 8,100 cases, or virtually all pending U.S. claims.
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> The settlement will provide an average payout of about $33,000 per plaintiff, according to Bloomberg.

And then, next, from his October 21, 2010 article for *The American Lawyer*, "8th Circuit Affirms Pre-emption Dismissal of Defibrillator Cases Against Medtronic":

> Last week, when we reported on Medtronic's $268 million settlement of essentially all pending U.S. claims alleging product liability defects in its Sprint Fidelis defibrillator leads, we noted that the deal came before the 8th U.S. Circuit Court of Appeals ruled on the dismissal of many of those cases on pre-emption grounds. On Friday, that ruling came down. It's the first appellate interpretation of the U.S. Supreme Court's ruling in Riegel v. Medtronic -- and ***it's a home run*** for fans of federal pre-emption of state law-based product liability claims. [emphasis added]

For more details, see *In re: Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation*,__ F.3d __, 2010 WL 4026802 (8th Cir. Oct. 15, 2010), wherein this federal appellate court agreed with Medtronic that the plaintiffs' claims were preempted by federal law.

To show why this is such a disappointing conclusion for the Sprint Fidelis patients, we get these rather remarkable numbers from the October 15, 2010 coverage from *Bloomberg* news reporters Jef Feeley and David Olmos:

> About 268,000 patients had the targeted leads at one time, company officials said. They were introduced in 2004, the officials said. The company estimates that 170,000 people worldwide still have defibrillators with the Sprint Fidelis leads inside them.

Putting aside the relatively modest $33,000 average settlement payments to the individuals who had their Sprint Fidelis lawsuits pending prior to the October 2010 settlement by Medtronic, here is the harsh reality for those other 100,000 plus U.S. patients who still have the defective Sprint Fidelis lead wires implanted: If they ever suffer a series of unnecessary shocks from their defibrillator when it malfunctions, or a person dies when their defibrillator fails to shock due to the defect, there will be **no** legal compensation coming from Medtronic for the injury or the death.

This sure doesn't seem like the "right" outcome to me.

What do you think?

Attorney Tom Lamb represents people in personal injury and wrongful death cases involving unsafe prescription drugs or medication errors. The above article was posted originally on his blog, **Drug Injury Watch** – with live links and readers' Comments.
http://www.DrugInjuryWatch.com