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## Year's Top Wins For the Defense

*The most notable defense verdicts of '97 averted multi-million-dollar losses.*

### Products Liability

**CASE:** Warren v. Sandoz Pharmaceuticals Corp., 95-107 (Cir. Ct., Rankin Co., Miss.)

**PLAINTIFF'S ATTORNEYS:** Mark C. Baker, of Brandon, Miss.' Baker Law Firm P.C.; John W. Christopher, of Ridgeland, Miss.' Christopher Law Firm

**DEFENSE ATTORNEYS:** Joe G. Hollingsworth and Katharine R. Latimer, of Washington, D.C.'s Spriggs & Hollingsworth; Mildred M. Morris, of Jackson, Miss.' Watkins & Eager P.L.L.C.

**DATE OF VERDICT:** Oct. 1, 1997

SHORTLY AFTER GIVING birth to her first child Oct. 15, 1993, Leigh Ann Warren, then 23, was prescribed a medication called Parlodel, which is used to block post-partum lactation. Six days later, Ms. Warren had a massive stroke, leaving her with a loss of speech and complete loss of movement on her right side, said plaintiffs' attorney John W. Christopher.

Ms. Warren has since substantially recovered, though she still has some weakness in her right arm and right leg and falls occasionally, he said. Prior to the stroke, Mr. Christopher said, "she had no history of hypertension." Nor was there such a history in her family, he said.

Ms. Warren filed a products liability action against the maker of Parlodel, Sandoz Pharmaceuticals Corp., now part of Novartis Pharmaceuticals Corp., charging that the drug caused her stroke. Parlodel, said Mr. Christopher, had caused strokes or heart attacks in about 100 women; "several women had died; the others were primarily disabled."

The Food and Drug Administration had

approved the use of Parlodel for prevention of physiologic lactation, or PPL, in 1981. But, charged Mr. Christopher, by the end of the 1980s, "The FDA was trying to get them to take it off the market." In 1994, Sandoz voluntarily withdrew the PPL indication from the market. The drug remains on the market for a number of other uses, most notably for treatment of Parkinson's disease.

The Sandoz record in litigation over Parlodel was less than stellar. Sandoz had lost the only lawsuit involving Parlodel to come to verdict prior to Warren, ultimately paying nearly \$3 million when the appeals of the verdict were denied. The company had also settled a number of other lawsuits.

By early 1997, the Sandoz merger with Ciba-Geigy Corp., creating Novartis, had been finalized. At that time, Washington, D.C.'s Spriggs & Hollingsworth was hired as national trial counsel, and the newly formed company changed the philosophy on litigating the Parlodel lawsuits. "We recommended to the client that these cases were defensible," said defense counsel Joe G. Hollingsworth. Since this decision, there have only been a few nominal settlements to plaintiffs suing over Parlodel, he said.

Ms. Warren, however, would prove the first test of the belief that these cases could be won. But the defense was facing an uphill battle, Mr. Hollingsworth noted. The plaintiff and her husband were well-known members of the Rankin County, Miss., community. Her husband worked for the county sheriff's department, and numerous members of the department showed up frequently at the trial. The

withdrawal of the drug from the market also was a problem, particularly after "the plaintiff read into the record the basis of the withdrawal," Mr. Hollingsworth said.

The defense concentrated on its contention that, despite the withdrawal of the drug, there was no medical proof that Parlodel caused post-partum strokes in women. "Parlodel had been used by thousands of women with no increase in the rate of stroke," said Mr. Hollingsworth. The number of strokes and other cerebrovascular episodes following the use of the drug was not related to the drug, he said. "The rate of post-partum stroke is surprisingly high—it's 28 times higher for these women than for women who have not just given birth." This rate is not connected, he said, to the use of any medication. "It's a fact of human health. It's to be expected."

The plaintiff was seeking \$3.5 million in compensatories and an additional \$30 million in punitives, but the Mississippi jury Oct. 1, 1997, found no defect and no liability.

Plaintiff's post-trial motions to set aside the verdict were denied in December. The case has been appealed. The "major thrust" of the appeal, Mr. Christopher said, is the plaintiff's contention that the defendant withheld documents during the discovery phase "that would have gutted their defense."

Since the verdict, Novartis won in Texas in November, when a Galveston jury rejected the complaints of four women who claimed Parlodel had caused post-partum illness and again in January, when an Austin court granted the company summary judgment in a wrongful-death case.