

## First Taxotere Bellwether Trial Ends in Defense Verdict

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By Amanda Bronstad

Sanofi-Aventis U.S. LLC won the first bellwether trial over its chemotherapy drug Taxotere after a federal jury in New Orleans came out with a defense verdict.

The **verdict**, rendered late Thursday, comes after two weeks of trial and a few hours of deliberations, according to Sanofi, represented by Shook, Hardy & Bacon and New Orleans-based Irwin Fritchie Urquhart & Moore. It's the first trial to come out of the multidistrict litigation, which involves nearly 12,000 lawsuits.

"We are pleased with the jury's decision," said Hildy Sastre, lead trial counsel for Sanofi and a partner in the Miami office of Shook, Hardy & Bacon. "Taxotere remains an important chemotherapy option, and we appreciate the jury's determination that Taxotere was not the cause of Plaintiffs alleged injury."

Sastre tried the case with Jon Strongman, also of Shook, Hardy & Bacon, in Kansas City, Missouri.

Lawyers for the plaintiff, Barbara Earnest, diagnosed with breast cancer in 2011, were Darin Schanker of Denver's Bachus & Schanker and Rand Nolen of Fleming Nolen Jez in Houston. Co-lead counsel in the multidistrict litigation are Karen Barth Menzies, a partner at Gibbs Law Group in Oakland, California, and Christopher Coffin of PBC in New Orleans.

"We are certainly disappointed in the verdict," Coffin wrote in an email. "However, the trial was littered with evidentiary violations by the defense that were highly prejudicial to Mrs. Earnest. So much so that the Court had to give the jury curative instructions on three separate occasions,



Shook Partner Hildy Sastre



Shook Partner Jon Strongman

and we were compelled to move for a mistrial before closing arguments. Mrs. Earnest intends to seek appropriate post-trial relief."

The lawsuits allege that Taxotere, used in the treatment of breast cancer, caused **permanent hair loss**, or alopecia areata—a side effect the U.S. Food and Drug Administration acknowledged in a labeling change in 2015.

The jury, however, found that Taxotere did not cause Earnest's permanent hair loss.

The litigation has sparked big fights on both sides. Years earlier, plaintiffs attorneys **threatened sanctions** against Sanofi for filing a motion in an attempt to get information on outside funding in the litigation. Sanofi, in a **renewed motion**, raised concerns about fee arrangements with doctors, medical screenings of plaintiffs and outside funders that allowed

doctors to charge inflated costs on medical liens.

Ahead of this month's trial, plaintiffs attorneys **moved to bar** attacks on their profession.

Sanofi also made a **failed attempt to delay the trial**, citing this year's *Merck Sharp & Dohme v. Albrecht* decision by the U.S. Supreme Court. U.S. District Judge Jane Milazzo of the Eastern District of Louisiana denied Sanofi's summary judgment motion, even under the requirements set forth in *Merck*, but only as to Earnest's trial.

Hundreds more Taxotere cases are **pending in New Jersey** state courts.

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