



News Release

For Immediate Release

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Wrongful Death Verdict Raises Issue of Stomach Stapler's Safety

Pittsburgh – (June 13, 2007) – On May 25, 2007, a jury awarded \$5 million to the family of a Western Pennsylvania woman who died after undergoing gastric bypass surgery at a Pittsburgh Hospital. The jury found that the woman's death was caused by a defective surgical stapler that failed to form proper staples, allowing her stomach contents to leak into her intestinal cavity.

The manufacturer of the cutter-stapler, Ethicon Endo-Surgery, Inc., a subsidiary of pharmaceutical giant Johnson & Johnson, maintained that the staple failure was instead caused by the surgeon's error. The company claimed that an improperly sized staple was used. The jury, however, found a design defect; i.e. that surgeons have no way to accurately determine stomach tissue thickness in order to always choose the proper staple cartridge. As a result, the jury returned its verdict against Ethicon.

"Was this an isolated case? Why should we believe that?" asked Alan Perer, the attorney who tried the case on behalf of the victim's family.

Since 1999, when Ethicon started to manufacture the stapler, the company received numerous reports of staple line failures that the company concluded were related to the surgeon choosing the wrong size staple. Rather than addressing the problem in the design of the stapler, the company continued to blame the surgeons. "There are over 177,000 Americans annually who undergo this kind of surgery, the majority of which use the Ethicon stapler. What we do know is that the staple failures are grossly underreported. The persons who undergo this type of surgery have no idea that equipment failure is a real risk which could result in death" said Perer.

Perer, senior partner at SPK, the law firm of Swensen Perer & Kontos, says he feels that Ethicon was not forthright in either accepting responsibility for the failure of the staples or in its willingness to inform the public about the hazards that come with their application in surgery. "The public should know about the risks that come with operations that involve these devices. The problem is that the staple failure may not happen immediately. If there is a delayed leakage, as there was in this case, the patient faces a serious risk of death. Anyone who has this procedure should be aware of the risks associated with stapler failure."

To give the public better information about the potential dangers that might arise due to the use of this kind of surgical staple, Perer's law firm will shortly be putting a page on its Web site that describes what happened in the case, along with other information regarding the use of these staplers in gastric bypass operations.

This information will be available on SPK's Web site -- www.spkpowerlaw.com – by June 15th. In the meantime, anyone immediately concerned about the procedure or these devices can reach Alan Perer at SPK by calling 412-281-1970.

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