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Risperdal Plaintiffs Ask Justices to Toll Statute of Limitations

BY MAX MITCHELL
Of the Legal Staff

Two men who started taking the antipsychotic drug Risperdal in the 1990s had no way of suspecting its link to excessive breast tissue growth they experienced—until their mothers saw TV commercials discussing the link more than a decade later—attorneys have argued to the Pennsylvania Supreme Court in an effort to expand the statute of limitations for bringing lawsuits over the drug.

Attorneys for plaintiffs Jonathan Saksek and Joshua Winter filed a brief to the Pennsylvania Supreme Court on Oct. 31 asking the justices to overrule a Superior Court decision that said plaintiffs should have been aware of the connection by 2006.

According to attorneys involved in the litigation, the issues raised in the cases *Saksek v. Janssen* and *Winter v. Janssen* **Risperdal continues on 12**

Former Blank Rome Staffer Sues For Gender, Age Discrimination

BY LIZZY MCLELLAN
Of the Legal Staff

After a leadership change in its technology department last year, Blank Rome is facing allegations of gender discrimination and age discrimination.

Marion Letterie, Blank Rome's former director of telecommunications, sued the firm and its former chief information officer, Laurence Liss, on Nov. 1 in the U.S. District Court for the Eastern District of Pennsylvania. She alleges that she was fired because of her complaints of gender bias in the firm's technology department, and because of her age.

Blank Rome has said Letterie's claims are meritless.



Photo by Diego M. Radzinski

Liss announced his retirement from the firm last year, when Andrea Markstrom was hired as Blank Rome's new CIO. He stayed on as CIO emeritus for several months to ease the transition, but officially left the firm in February of this year, according to his LinkedIn profile.

Letterie worked in the firm's Philadelphia office for more than three **Blank Rome continues on 12**

Little Evidence Found To Support #MeToo Backlash, Experts Say

BY ERIN MULVANEY
Law.com

The recent backlash against the #MeToo movement suggests men should fear false accusations or reactive company investigations because of the pressure from social media or news organizations, yet little **Backlash continues on 12**

Chartwell Adds Six Lawyers in Miami, Making It the Firm's Largest Office

BY CATHERINE WILSON
Daily Business Review

A five-member team of Kelley Kronenberg attorneys and another lawyer have joined Chartwell Law in Miami as part of a firmwide expansion adding 25 lawyers.

The Kelley Kronenberg defectors are partners Jorge L. Cruz-Bustillo, Denisse

M. Ibarra and Nathaniel D. Tobin and associates Nicole E. Crabtree and Joel K. Ortega. Their specialty is first-party property insurance defense.

The other newcomer is commercial litigator Zohra M. Khorashi, a former intern with a children's advocacy nonprofit. Khorashi, who is fluent in Urdu, Gujarati

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Dozens of companies, including Microsoft, Google and The Coca-Cola Co., pushed back against recent attempts by the Trump administration to reduce protections for transgender people under federal civil rights laws. They instead stressed the importance of equality in a public statement released Nov. 1.

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Risperdal

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affect more than 40 percent of the roughly 6,700-strong Risperdal docket, which has seen dramatic growth over the past few years.

The plaintiffs, both of whom sued drug-maker Janssen Pharmaceuticals in 2014 after their mothers saw a TV commercial linking Risperdal to excess growth of breast tissue, asked the justices to remand the cases back to the Philadelphia Court of Common Pleas for further proceedings.

Both of the cases had been dismissed on summary judgment after Philadelphia Court of Common Pleas Judge Arnold

New, who oversees the city's Complex Litigation Center, determined that, based on the medical literature, newspaper articles and attorney advertisements, their claims began to run no later than August 2009. The Superior Court affirmed that ruling, and further determined that their claims began to accrue even earlier, saying the plaintiffs should have known about their injuries by the time that Janssen decided to change Risperdal's label in 2006.

In July, the justices agreed to take up the statute of limitations issue.

The brief, which was filed by Kline & Specter attorneys Thomas Kline and Charles "Chip" Becker, noted that the plaintiffs grew the breast tissue while they were in puberty, making it difficult for the boys to notice any link between the breast

growth and the drug, rather than the common weight gain that can occur during puberty. The brief also argued that neither boy was taking the drug by 2004, so they would not have been aware of the 2006 label change.

"The October 2006 inset may have sufficed to put somebody on notice of the Risperdal-gynecomastia connection so as to cause that individual's Risperdal claims against Janssen to accrue by that date. But nothing in this record suggests that the label change sufficed to place Jonathan or Joshua on notice as a matter of law," the brief said. "Janssen has a classic jury argument. The court should require Janssen to make that argument to a jury, and allow jurors to decide its persuasiveness."

In an emailed statement, Kline and Becker said they were pleased the justices had agreed to take up the case.

"Judge New's decision, affirmed in non-precedential fashion by the Superior Court, time-bars plaintiffs from bringing claims concerning permanent injuries that the plaintiffs did not know they had suffered and had no reason to relate to their ingestion of Risperdal," they said in the statement. "We are hopeful that the court will reinstate the legal rights of thousands of valid Risperdal claims."

A spokeswoman for Janssen said the company declined to comment on the brief, but added "we will continue to defend the claims in this litigation."

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Blank Rome

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decades, starting out as a secretary's assistant in December 1983, her complaint said. She worked her way up to the director position, but she was dismissed from the firm in September 2017.

During her employment, Letterie alleged, she was paid a lower salary and bonus than men in similar positions. She alleged that in 2008, when her pay dipped by at least \$10,000 due to market conditions, male staff at the director level did not suffer similar reductions in pay.

Letterie alleged that Blank Rome and Liss gave her performance feedback colored by gender biases, assigned her clerical

duties that were outside the scope of her job as a technology department employee, and expected her to do the paperwork of other technology employees.

The complaint also alleged that Liss repeatedly denied Letterie's requests for additional resources or training, and excluded her from network operations meetings. When she requested to be involved in the network group so she could better manage the firm's transition to voice over internet protocol (VoIP) technology, the complaint said, she was told she "was 'aspiring above her station.'"

Beginning in 2004, the complaint said, Letterie made complaints to the firm about these alleged instances of bias, including a formal complaint in 2016 alleging gender-based pay disparities. She alleged

that none of these complaints was investigated by the firm.

In April 2017, Letterie filed an external complaint for the first time, with the Philadelphia Commission on Human Relations.

After Markstrom was hired, Letterie received a 3.5 percent raise and a \$15,000 bonus, which she alleged in her complaint was not sufficient given her work the previous year on transitioning the firm to a VoIP system. She alleged that Liss continued to influence decisions on her pay after Markstrom joined the firm.

In August 2017, Letterie was notified that her employment would be terminated the following month "as part of a purported 'reduction of force' within the technology department," the complaint said.

At the time, she noted, she was the oldest non-administrative employee in the technology department, at 63 years old. She alleged that her firing was motivated by her gender discrimination complaints and her age.

Letterie is seeking reinstatement to her position at Blank Rome, as well as lost compensation and other damages. Julie Uebler of Greenblatt, Pierce, Funt & Flores is representing her.

In a statement Nov. 2, a spokeswoman for Blank Rome said: "The firm has thoroughly investigated the allegations of this complaint. They are meritless, and will be vigorously contested."

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Backlash

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evidence exists to prove a push against sexual harassment in the workforce hurts men, experts and federal regulators said Oct. 31.

Any unintended consequences of the movement targeting harassment may rather be at the expense of women in the workplace, who may be left out of advancement opportunities, such as socializing with bosses or mentorships, according to the panel at the U.S. Equal Employment Opportunity Commission's public meeting.

"With social causes there is always the unintended consequence of a backlash," Morgan, Lewis & Bockius partner David Bowman told the commission. "That problem is in the minority not the majority."

Federal regulators want to make sure the #MeToo movement is more than a moment that gives women temporary power and help tackle the structures that allowed sexual harassment to persist for years in the workplace. The EEOC, which saw sexual harassment charges spike last fiscal year, asked attorneys, academics and human resource trainers to delve into what is working and what still needs attention to prevent not just sexual harassment, but also against other protected classes.

EEOC Chairwoman Victoria Lipnic said that the belief that #MeToo has gone "too far" suggests there are views that believe

there is a rush to judgment, unproven accusations and a bandwagon effect. She asked the panel whether this idea could negatively affect company attempts to change the culture.

"It's important to remember when we look back at the #MeToo movement that is now a year old that when we first started this was not one of false complaints. The issue was about complaints that did not surface," Bowman said. "That is the core."

'MEN ARE WORRIED'

Bowman said there has not been a wave of false accusations causing people to lose their jobs or haphazard investigations.

"Men are worried [the companies] are pulling the trigger too quickly," he said. "Exclusion from work activities, whether intentional or not, can stunt diverse employees' careers. They must focus on the business imperative of corporate values not just fit within the legal or regulatory framework."

Commissioner Chai Feldblum said the commission, which issued harassment guidelines in 2016, is attempting to "nip [it] in the bud before it arose."

The final fiscal year 2018 data showed a 13.6 percent increase in sexual harassment charges and a 50 percent increase in lawsuits filed alleging sexual harassment. The push to combat harassment started with a task force that studied harassment in the workplace in 2016. The #MeToo movement sparked by allegations by The New

York Times and The New Yorker against Harvey Weinstein helped draw attention to the issues raised in the report, the commissioners said. Now, they want to leverage this attention to create institutionalized change.

"We stand at a watershed moment with regard to harassment," Feldblum said. "We can see it. We can hear it. We can feel it. The question is whether we can—and will—leverage this moment to significant and sustainable change. I believe we can."

Companies responded to the #MeToo movement in force, with many investing in additional training and internal investigations into their policies. The solutions are far from set in stone, however. There are also unintended consequences. According to a survey by Working Mother and the ABA Journal released this year, most men (56 percent) are nervous about one-on-one interactions with women at work and the charges of impropriety that might result.

EEOC Commissioner Charlotte Burrows also said that it's important not to focus training and harassment prevention only on women. The reaction should encompass all protected classes, race, national origin and religion, as well.

"This sparked an overdue conversation, but the challenge is to find concrete solutions so that workplaces reflect our values of equality, justice and respect for human dignity," Burrows said. "We need to find ways to change the culture."

The witnesses, which included union leaders, academics and attorneys, at the

meeting suggested training approaches and accountability measures to address harassment. They pointed to the importance of board input, transparency and accountability, online and other interactive training and movements driven from within the workforce. The commissioners said they want to create guidelines that will fit many types of industries.

Additional training on its own does little to move the needle for workplace culture improvements, the 2016 agency task force concluded. The report found such training "cannot stand alone, but rather must be part of a holistic effort."

Bowman said organizations must use a multifaceted campaign that focuses on leaders setting the right tone, conducting a workplace culture assessment, and implementing different training formats that inspire employees to create a more positive setting that works for everyone.

"It is important that organizations create a healthy top-down culture," Bowman said, "where managers and leaders actively support the prospect of creating a healthier work environment."

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