

## Mesh lawsuits could derail Boston's big year



[Elizabeth Cairns](#)

Johnson & Johnson's Ethicon unit was hit with damages of \$3.3m in a lawsuit over its allegedly faulty surgical mesh products last week – but it can count itself lucky. Boston Scientific was yesterday told to pay a single patient treated with a similar product a whopping \$73m.

More than 20,000 more pelvic mesh cases are pending against Boston, and new ones are being filed at a rate of 2,000-3,000 per quarter, according to analysts from JP Morgan. They estimated the final bill to resolve the lot at just under \$1bn – but that was before yesterday's enormous award. 2014 was supposed to be Boston's year, with it on track to achieve organic revenue growth after five years in the doldrums, but this and other legal issues could yet cause it to be a disappointing one.

Of course, just because Boston has lost this last case, it does not follow that it will lose the others – indeed, it has already won two, one concerning the same mesh and one a different but similar product. And the damages in this most recent case, which comprise around \$23m in compensation and \$50m in punitive damages, are likely to be reduced on appeal.

### **\$40,000 each**

This particular suit was heard in Texas state court in Dallas and concerned Boston's Obtryx mid-urethral sling. The problems with vaginal meshes are not limited to one or even a handful of manufacturers: more than 30 device companies have run into trouble with the products, including Endo International, Coloplast and C.R. Bard ([Bard's investors shrug off use of potentially dangerous plastic in implants, June 26, 2013](#)).

Many lawsuits against Boston and others have been consolidated into class actions, though some remain single-patient cases. Michael Weinstein of JP Morgan wrote that in April Endo settled 20,000 vaginal mesh claims – around 90% of the cases brought against it – for a pretax total of \$830m. Coloplast settled with its claimants for roughly the same amount: \$40,000 per head.

If Boston ends up paying the same sort of sum its liability clocks in at around \$920m. The question now is whether plaintiffs will settle for \$40,000 when they know awards can go into the tens of millions.

### **New products**

Data compiled by *EvaluateMedTech* show that Boston's net sales have fallen each year since 2009, with 2014 forecast to reverse this trend. This expectation is fuelled by the 2012 launch of the company's subcutaneous implantable cardioverter-defibrillator in the US and the European approval of its Lotus transcatheter aortic valve a year ago.

But the group has hit some snags too. It put its renal denervation programme on hold after the failure of Medtronic's similar technology, thereby losing badly on its \$125m purchase of Vessix Vascular back in November 2012.

Current consensus forecasts for Boston's revenues suggest that the company will make \$233m more in calendar 2014 than it did in 2013. As an aside, its urology products, two of which carry the Obtryx brand name, brought in \$505m last year.

The first revenue growth since 2009 would be a victory for Boston – but a class action payout of nearly \$1bn, if such an agreement were to be reached this year, would make it a Pyrrhic one.

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