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Jury Awards Medical Firm \$934 Million

Fraud, Extortion by Subcontractor Lead To Panel's Verdict

Multiplier Formula

By **Mark Cromer**
Daily Journal Staff Writer

SANTA ANA — A Superior Court jury awarded Fullerton-based medical equipment manufacturer Beckman Coulter \$934 million in damages Wednesday after finding that a subcontractor had defrauded and extorted the company over circuit boards produced for a high-tech blood analyzing machine.

A financial data service said the verdict is the largest jury award this year.

Of the award, \$850 million is punitive damages, and a business litigation expert cast doubt on whether the jury's largess will survive judicial review.

"It's a whopping big punitive-damage award," said Mark McDonald, an attorney with Morrison & Foerster in Los Angeles. "The Supreme Court has indicated that anything over a single-digit multiplier is suspect. This sounds like it may be just over the line."

Post-Trial Motions

McDonald said that the trial judge may reduce the award in post-trial motions, or if not, an appellate court "will likely look really hard at it."

The impact of the award in *Beckman v. Dovatron*, 01CC08395 (O.C. Super. Ct., filed June 28, 2001), was immediate on Wall Street, where officials suspended trading of Flextronics International Ltd. stocks. Singapore-based Flextronics is the parent company of Dovatron.

Lawyers for Beckman hailed the verdict, which was reached after two days of deliberations.

'Flextronics' Greed'

"Flextronics' greed had the potential of putting the health of the general public at risk," said Daniel J. Callahan of Callahan & Blaine in Santa Ana, lead attorney for Beckman.

"I think that became a critical factor for the jury, when they found out that Flextronics withheld critical components and put its own financial gain over the health and safety of the American public," Callahan said. "They did it, and they never looked back."

Attorneys Gary Waldron of Waldron & Olsen in Newport Beach and Scott Farrell of Call Jensen & Farrell in Newport Beach, who handled the defense for Flextronics, did not return calls Wednesday.

Callahan said the award was not only the largest his firm has ever scored but also the largest award in an extortion case between two companies. He predicted the award would hold up against review by Judge Gregory H. Lewis, who oversaw the case at the Central Justice Center.

"It fits within constitutional standards the way it is presently written," Callahan

See Page 8 — MEDICAL

Medical Firm Wins \$934 Million in Damages

Continued from Page 1

said. "It is well within the 'single-multiplier formula' suggested by the U.S. Supreme Court, and it is even within the 'four-times multiplier formula' suggested by our own 4th District Court of Appeal in its *Diamond Woodworks v. Argonaut Insurance* ruling." *Diamond Woodworks v. Argonaut Insurance*, 109 Cal.App.4th 1020 (Cal. App. 4th Dist., June 16, 2003).

Diamond Woodworks was the state court's first application of the U.S. Supreme Court's decision in *Campbell v. State Farm*, 123 S.Ct. 1513 (2003), which established the single-multiplier formula guideline for damages.

According to Callahan, the jury found that Beckman faced potential economic damages of \$295 million.

Yet McDonald said the nation's high court does not rubber-stamp all large awards even if they fall with the formula.

"The U.S. Supreme Court didn't say anything under 10-times will always be OK, so this may be a pretty good test case," he said.

Lawyers for Fullerton-based Beckman argued that Flextronics had defrauded the medical equipment manufacturing firm and then virtually held the company hostage by refusing to produce critical components for Beckman unless it paid a surcharge.

At the center of the dispute is a \$300,000 chemistry analyzer that Beckman makes. In 1997, Beckman asked Flextronics to produce circuit boards for the machine for five years. According to Callahan, Flextronics abruptly canceled on May 30, 2000, after entering into a \$30 billion deal with Motorola Inc.

Beckman was forced to pay additional fees before Flextronics furnished the parts, which Beckman then had to assemble on its own. The company usually sells 400 of the machines a year.

Flextronics offered to settle the case before trial for \$4.5 million, according to Callahan.

"That was a little bit short," he said.

The jury was instructed — at the behest of Flextronic's counsel, according to Callahan — that the company was capable of paying any punitive award it may deliver.

"They stipulated they could pay any punitive damage allowed by law," he said.

"I believe that tactic backfired on them. Their rationale was they did not want to expose their financial records in any more depth to the jury, but I believe it gave the jury a sense of arrogance and lack of remorse."

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