

Thalidomide class action settled in Australia

December 2 2013, by Amy Coopes

A class action over birth defects linked to the morning sickness drug thalidomide was settled in an Australian court Monday, with the British distributor agreeing to pay victims Aus\$89 million (US\$81 million).

Lawyers representing some 100 Australian and New Zealand victims of the drug told the Victorian Supreme Court that settlement had been reached with Diageo, which owns now-defunct [thalidomide](#) distributor The Distillers Company.

"It has been difficult and challenging litigation but this settlement will now see a group of people receive compensation, a result that goes some distance to finally addressing a very grave historic wrong," said lawyer for the victims, Peter Gordon.

"The result we have achieved today is a vindication of their courage."

Monica McGhie, 50, is among the claimants. She was born without limbs after her mother took thalidomide during pregnancy and said the payout would be life-changing.

"I never thought this day would come," said McGhie. "Life has been a daily struggle for 50 years."

"This settlement will not take that hardship away but it means I can look to the future with more confidence, knowing I can afford the support and care I need."

The Aus\$89 million payout, plus Aus\$6.5 million in costs, signals an end to the case, with Gordon indicating that an associated compensation suit against German drug manufacturer Grunenthal would be abandoned.

Gordon's co-counsel in the litigation, Michael Magazanik, said victims had been "disgusted" that Grunenthal had refused to contribute to the settlement but noted that the German firm was facing similar suits in the US, Britain and Spain.

"The day is coming when Grunenthal's shocking behaviour in relation to thalidomide is exposed, and the company is forced to face up to the consequences," he said.

He described Monday's settlement as a "tremendous result".

"It is not often that badly injured people can achieve justice 50 years after they were wronged," said Magazanik.

Diageo was created through the 1997 merger of Grand Metropolitan and Guinness and was not directly responsible for distributing thalidomide but had "done the right thing by negotiating this settlement," Gordon said.

"Diageo has behaved in a compassionate fashion, and that should be recognised."

Diageo director Ian Wright said the company had endeavoured to act "responsibly and empathetically" with regard to thalidomide victims and was pleased to have resolved the case out of court.

"We believe that the settlement reached today is both fair and equitable to all involved in this very sensitive and difficult situation," said Wright.

The lawsuit's lead plaintiff, Lynette Rowe, settled her own case against Diageo in July last year for an undisclosed amount and was in court on Monday to hear Gordon's announcement.

Diageo had indicated at the time of Rowe's [settlement](#) that it was prepared to negotiate with the rest of the action's claimants.

Rowe was born in 1962 without arms and legs after her pregnant mother took thalidomide. Her legal team claimed Australia had been targeted as a priority market for the drug.

Thalidomide was launched in the late 1950s and was sold in nearly 50 countries before it was withdrawn after babies began showing severe side effects from the drug.

An estimated 10,000 children worldwide were born with deformities, including the absence of arms and legs.

Affidavits sworn last year in the Australian case alleged that Grunenthal was warned of [birth defects](#) years before thalidomide was withdrawn from sale and the drug was never tested on gestating animals, with pregnant women its first clinical trial subjects.

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