

30 YEARS LATER

Benedict P. Morelli's Long-Awaited Victory For An Injured Staten Island Man

It was a spring day in 1979 when one Staten Island man's life changed forever. His wife had just taken the couple's five-month old baby to the doctor to receive a second dose of a live oral polio vaccine. The man had recently had surgery on his hand, and contracted paralytic polio from his daughter's stool while changing her diaper. He became permanently paralyzed and was confined to a wheelchair.

The couple filed a suit against the manufacturer in 1981, but it took 30 years for justice to finally come. For years, the case went on appeal numerous times all the way to the New York Court of Appeals. One of the attorneys handling the case decided to ask Benedict P. Morelli for help.

"The other attorney thought I had the expertise to try a pharmaceutical case like this," Morelli says. "He asked me to take on the case and serve as lead counsel at trial."

In March 2009, Morelli went to trial. He tried the case two months from the 30th anniversary of the incident. Morelli argued that the vaccine was an unreasonably dangerous product and that the manufacturer failed to warn doctors of the vaccine's risks. The father was not warned that the oral polio vaccine was a live vaccine, Morelli said.

Counsel for the opposing side argued that the company didn't do anything wrong, and that the vaccine was approved by the U.S. Food and Drug Administration (FDA), according to court documents.

After Morelli gave his summation, he says that the company offered to settle. Morelli advised his client that he deserved more, and the advice paid off. The jury deliberated for a single day, and found the manufacturer 100 percent liable for the man's condition, according to court documents. It awarded Morelli's client \$17.5 million for past and future pain and suffering, and \$5 million for lost earnings and medical and rehabilitation expenses—a total verdict of \$22.5 million.

The man was 31 when the incident occurred and 61 when the case was won.

"It might have been the oldest case ever to go to trial," Morelli says. "It was the largest verdict ever in Staten Island and it was the largest vaccine verdict in the country."

Morelli says that part of his success comes from his natural instinct to know what the jury will do. He says that it's the lawyer's job to make sure that the jury understands the case. "It's easier for the jury to say no. As a plaintiff's attorney, we want the jury to say yes and then we want the jury to do something about it," he says. "I'm not smarter than the jury, and I never talk down to it. I talk to the jury members straight."

Looking back on his career, Morelli says that he's especially proud of being in a position to select cases that can make a difference.

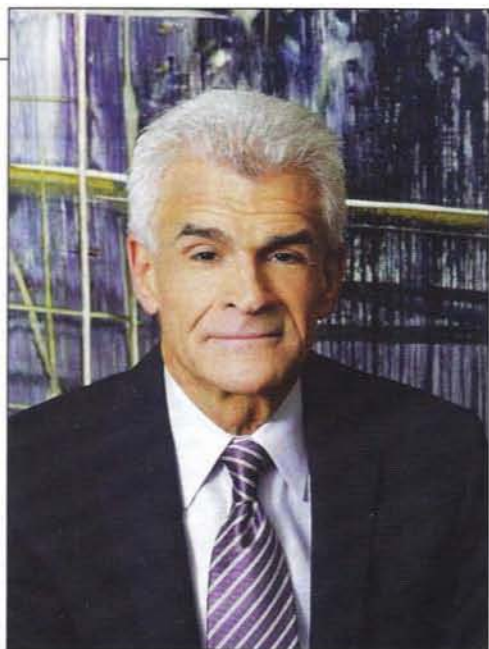
Three years ago, the firm became involved in the mass tort lawsuits surrounding a drug that is prescribed to diabetic patients. The FDA released a safety alert to the public in 2007 about the drug and increased cardiovascular risk. In this litigation, Morelli was selected as a member of the plaintiff's steering committee of the mass district litigation, as well as lead trial counsel on one of the first two cases to be tried in court.

The firm is also involved in the litigation involving a smoking cessation drug which allegedly has been linked to health risks, a hip replacement product that was pulled from the market due to allegedly high failure rate, and a psoriasis drug.

In addition to these mass tort cases, Morelli handles employment discrimination cases involving race, sexual harassment and gender bias.

"It's more important for me to be involved in cases that make a difference in society. If there's a drug out there that's killing people or hurting people, I want to handle that case. If women are being discriminated against in the workplace or sexually harassed, I should be involved in that," he says. "We never back up, we never back down. I was born to do this."

—Ashley Cisneros



Stacia Grossman

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—BENEDICT P. MORELLI