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## A CLOUDED VICTORY

### Woman's 1977 lawsuit over failed breast implant foreshadowed current furor

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OF THE HOUSTON POST STAFF

**N**ORMA CORLEY HAS been following the gathering storm of controversy surrounding silicone gel implants with more than passing interest.

Fifteen years ago Corley fought her own battle with the manufacturer of her silicone gel implants, one of which she said leaked and caused severe medical problems. Represented by a Houston attorney, she won the battle in a 1977 decision which is believed to be the first reported breast implant case won against Dow Corning.

"I have one regret about the lawsuit," says Corley who is 54 and lives near Cleveland, Texas. "It didn't do as much good as I thought. I hoped it would keep others from going through the problems I did. It hasn't."

Last Thursday, the Food and Drug Administration panel of experts recommended the government severely restrict silicone gel implants for breast enlargement, but allow them for women needing them for reconstructive surgery.

The FDA last year called for an investigation into the safety of the gel implants, which have been used increasingly in the last few years for breast enlargement as well as breast reconstruction following cancer surgery. Some patients and medical experts testified they had seen a small but



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Norma Corley and attorney Richard Mithoff wish others had learned more from their fight.

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increasingly serious incidence of side effects, including autoimmune diseases, in women with the gel implants.

Although victory was sweet for attorney Richard Mithoff in this first implant case, he says he regrets that key information from his case never seemed to have much impact on the medical world or at the FDA.

"It became the landmark decision for medical implants in this country," he says. "Unfortunately, it became a precedent in the legal realm but not a precedent in the medical realm."

Houston attorney Harry L. Durant, co-chair of the national breast implant litigation group of the American Trial Lawyers Association, says "As far as I know, Mithoff's case is the first reported case in which a jury verdict returned for the plaintiff in a silicone breast implant case."

Houston is now fast becoming a center for breast implant litigation. Currently, there are several hundred suits being filed in Houston against implant manufacturers, including Dow.

In 1977, the Houston jury awarded Corley \$170,000 after hearing evidence that her implants leaked silicone into her body and caused accompanying medical problems.

Corley had a mastectomy in 1972, when she was 35, and received silicone gel implants.

Several weeks later, Corley's doctor discovered her left implant was leaking silicone. Doctors removed the implant and replaced it with another one. Between September 1972 and January 1973, Corley had four surgeries related to her implants. She continued to have problems with infection and scar tissue that wouldn't heal. Finally, Corley had her second left implant removed and to this day has only her right implant.

The pain in her breast continued, making it difficult for her to do her job. She and her husband owned a general store near Cleveland, and considered themselves average working people.

Corley remembers growing more and more depressed about not getting well. Her doctor recommended anti-depressants.

One day as she sat surrounded by medical bills, Corley recalls, a sudden wave of anger swept over her.

"I got mad that day. I didn't do this to myself. Someone else did," she recalls saying. Norma Corley found a lawyer.

Mithoff says he was skeptical of going up against Dow. But he found Corley's story compelling.

"Dow told me they never lost one of their cases," he recalls. "They told me I would never

win."

Corley met with similar discouraging words. "Several people told me I was never going to win against Dow. It has too much clout," she says.

But she was undaunted. "I couldn't get well," she says. "I didn't see why I should have to pay all these bills when it wasn't my fault. I had two children to take care off." Her children were 15 and 16 years old at the time.

Dow argued that the doctor who placed the implant had punctured it accidentally. Mithoff argued that the implant was already defective, pointing out that the company had a 15 percent implant rejection rate (due to imperfections) during routine testing.

The jury sided with Mithoff and his client.

Corley says even today she feels some anger toward Dow. She also says she is still learning more about implants on a daily basis.

When asked if she has considered having her right implant removed, she replies, "I'm more concerned about the one that leaked."

The decision on this case was appealed but upheld by the Texas Supreme Court.

About the current cases mounting against silicone gel breast implant manufacturers, Mithoff says, "I do not weep for Dow."