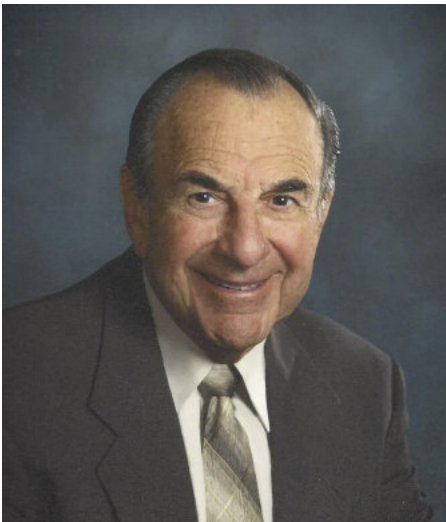




# Her Right to Know:

## One Trial Lawyer's Search for the Truth about the "Pill," by Sal Liccardo



### REVIEWED BY BILL TRINE

Sal Liccardo

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*Her Right to Know* is the true story of a jury trial that has the suspense of a well-written novel, with a surprising result that affected the lives of millions of women worldwide and publically revealed the fraudulent conduct of "Big Pharma."

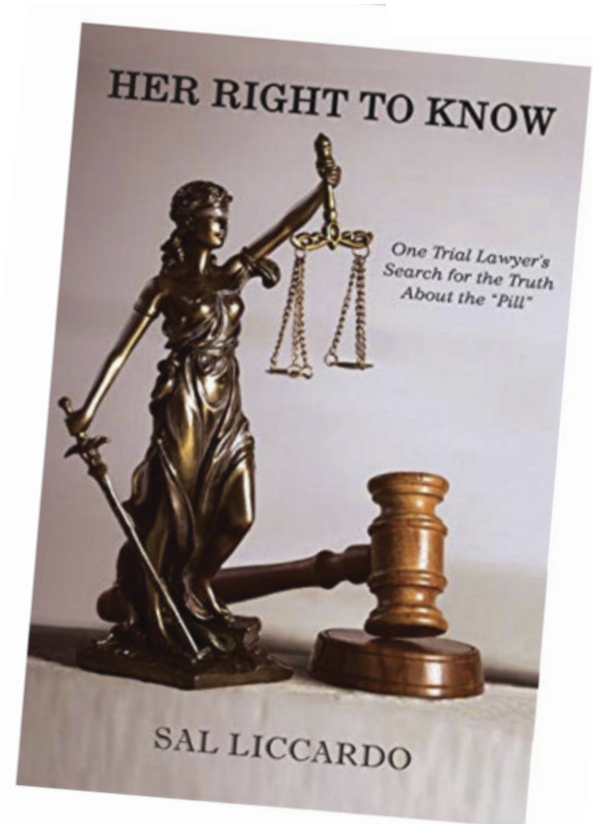
The author, Sal Liccardo, is a well-known California trial lawyer (See [www.Plaintiffmagazine.com](http://www.Plaintiffmagazine.com), October 2008) and was the lead lawyer in this highly publicized *Ahearn* trial. He has now had over 50 years' experience as a trial lawyer in over 200 jury trials. He is a fellow of the International Academy of Trial Lawyers, a member of the Inner Circle of Advocates, and the American Board of Trial Advocates. He is a former president of Trial Lawyers for Public Justice (now

Public Justice). He demonstrated tremendous courage and tenacity, and the skills of an exceptional trial lawyer, in the preparation and trial of this now-famous case.

In the 1960s, major pharmaceutical companies, collectively referred to as "Big Pharma," began manufacturing and selling oral contraceptive pills throughout the world. Many women of childbearing age ended up in hospitals from diagnosed blood-clotting disorders after taking the "pill." Lawsuits were being unsuccessfully pursued against various manufacturers of the pill before Sal Liccardo's involvement. He was retained by a young woman who became totally blind from blood clots after taking pills distributed by Ortho, a subsidiary of Johnson & Johnson. Through extraordinary investigation and consultation with medical experts, he discovered and developed a causation theory and pursued litigation on behalf of his courageous blind client, Michelle Ahearn, and her husband.

What developed made legal and medical history when the jury determined that the pill was the cause of blood clots resulting in blindness. The jury verdict was upheld on appeal, opening the door for the success of thousands of lawsuits that then followed. More importantly, Big Pharma, including Johnson & Johnson, was forced to disclose their fraud to the medical profession, the FDA, and further disclose the risk of blood-clotting to women worldwide.

I found the story of this trial, the appeals, and the aftermath, to be inspirational, educational, and an excellent example of the importance of jury trials in the public disclosure of corporate



fraud that can injure millions of people until the facts become known.

This story and case is unique because the client's treating physicians denied that the pill caused her blindness and instead blamed it on a throat infection, as did the defendant's expert witnesses on direct examination. However, the concessions made by these witnesses on cross-examination were devastating to the defense, and an illustration of the importance of thorough and unrelenting preparation by Liccardo and his co-counsel, Dr. J. Harold Williams, M.D., LL.B.

The trial was also unique because the judge demonstrated bias that favored Big Pharma, causing Mr. Liccardo to request a mistrial, which was denied.



The judge also allowed the jurors to openly, orally question all witnesses without counsels' prior knowledge or consent to the questions being asked. However, as the trial progressed, it became clear that this well-educated jury understood the complex medical issues and often advanced the understanding of those issues with the questions they asked and the answers given. Liccardo admits that he was later grateful that the court not only denied his mistrial motion but permitted jury questioning, which proved to be helpful in post-trial motions.

The trial and subsequent appeals also demonstrated a degree of professionalism by the lawyers that should serve as a role model, and demonstrates the conduct that all trial lawyers should strive to achieve despite the sometimes intense and bitter rivalry of courtroom battles. The fraud of Big Pharma was also clearly revealed in its failure to warn the medical profession, the FDA, and the public of the known danger the pill posed to women who had a pre-disposition to blood-clotting based on blood-type and other characteristics. Within weeks of the jury verdict in 1974, Big Pharma published a revised and extensive warning label advising physicians of the increased risk of serious complications from taking the pill, including blood-clotting which "is well established" and a cause of "ocular lesions."

The book's epilogue is particularly revealing in disclosing a test developed

by a French physician that could be easily administered to a patient to determine if she has the specific gene variation that exists in 20% of the human race, which subjects that person to an increased risk of blood-clotting. The physician wrote letters advising Big Pharma of this new test but received no response. This information was then used by Liccardo during the settlement of additional lawsuits that he filed after the *Ahearn* jury trial. Following the verdict, Liccardo also learned that the insurance company working with Ortho on the defense of the case had ordered a thorough investigation into Liccardo's financial status after he filed the lawsuit and learned that he alone was financing the cost of litigation. To help pay for the cost of the *Ahearn* litigation, Liccardo and his wife, Laura, refinanced their family home. Following the jury trial, a former employee of the insurance company disclosed that meetings were held to discuss ways of deliberately increasing the financial strain on Liccardo through litigation discovery procedures with the goal of "bankrupting" Liccardo before the case could be brought to trial. How often does this occur, resulting in case dismissals or inadequate settlements?

Liccardo notes the recent \$80-million punitive damage verdict against Johnson and Johnson and their talc supplier when a courageous New Jersey jury found that this pharmaceutical giant acted with reckless indifference in selling asbestos-containing talcum powder that

contributed to a man's development of mesothelioma, an aggressive and rare cancer caused by exposure to asbestos.

Liccardo's timely book demonstrates the importance of jury trials and the judicial system in protecting the public from pharmaceutical fraud. It further demonstrates how a potential case should be thoroughly and carefully investigated and prepared for trial, and why the trial lawyer should often personally prepare the appeal that follows. I recommend that this book be read and studied by all trial lawyers. It's a real gem!



Trine

*The reviewer, Bill Trine, has been a trial lawyer for 55 years with offices in Boulder, Colorado. He is a past president of the Colorado Trial Lawyers Association, a founder and past president of the Washington, D.C.-based Trial Lawyers for Public Justice (now Public Justice), and on the Board of Directors of the Florida-based Human Rights Defense Center which publishes Prison Legal News. He is on the teaching staff of the Trial Lawyers College in Wyoming. He is the co-author of a book and over 75 published articles including an article describing the importance of jury verdicts that promote needed changes to protect the public.*

