Philadelphia Prolift Mesh Case Yields $12.5 Million Verdict for Plaintiff - Mesh Medical Device Newsdesk

> Philadelphia Court of Common Pleas
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> **Mesh News Desk, December 22, 2015 ~ After negotiating for less than 24 hours, the 12 jurors in the case of a woman implanted with a Prolift pelvic mesh made by Johnson & Johnson (J&J), added to her $5.5 million compensatory award with $7 million in punitive damages bringing her total jury award to $12.5 million.**

According to a report in Philly.com (***here***), the seven women and five male jurors made that award to Patricia Hammons, 65, a store stocker at Walmart from Indiana.

Punitive damages are intended to send a message to a company to stop its behavior.

Hammons claimed that her pelvic damages are permanent and the Prolift cannot be removed causing her chronic infection, pain, repeated surgeries and an inability engage in sex. The polypropylene implant is implanted to treat incontinence or pelvic organ prolapse.

> Tarek Ismail, attny for J&J

During closing arguments, attorney for Ethicon, a subsidiary of J&J, Tarek Ismail of Goldman Ismail Tomaselli Brennan & Baum told the jury, "*It stings to be told by members of our community that we didn't meet their expectations,"* referring to Philadelphia's proximity to J&J headquarters in New Brunswick, New Jersey.

In a turn of events, Ismail said the Prolift was taken off the market three years ago indicating the company acted appropriately after it learned of the risks.

> "***The corrective action has already been taken,***" Ismail is quoted by ***The Legal Intelligencer.***

Ironically when Prolift and three other meshes were removed from the market, Matthew Johnson a spokesman for J&J (no relation), cited financial reasons for the product removal, not safety or efficacy.

> Johnson told ***Pharmalot*** that "***This is not a product recall. We continue to have confidence in the safety and efficacy of these products. Our decision to discontinue these products is based on their commercial viability in light of changing market dynamics, and is not related to safety or efficacy."***

During punitive phase deliberations, the financial worth and size of the company was presented.

Johnson & Johnson earns about $70 billion a year, but Prolift reportedly made only $4.2 million in sales between 2005 and 2012, according to an accountant with J&J. The $5.5 compensatory award given to Ms. Hammons Monday exceeds company profits for the medical device, he said.

Judge Mark Bernstein presided over the case in the Philadelphia Court of Common where 181 other pelvic mesh cases are pending. Adam Slater of Mazie Slater and Shanin Specter of Kline& Specter represented Ms. Hammons.

A CASE OF FIRSTS

This was the first pelvic mesh case to be heard in this court. It is also the first time the Prolift Pelvic Floor Repair System has been found defectively designed and that J&J failed to warn doctors about the dangers it understood were inherent with the product.

This jury trial marks the first time in Johnson & Johnson pelvic mesh litigation that there has been any mention of document destruction by the company to jurors. J&J destroyed thousands of pages of documents that were on a litigation hold to help plaintiffs prepare for litigation, according to a conclusion by West Virginia Magistrate Judge Cheryl Eifert. So far that fact was never allowed to be mentioned before a jury.

During the two-and-a half week trial, J&J research and development engineer Scott Ciarrocca said the company had not considered how to remove the mesh if there were any complications.

Prolift was marketed in June 2005 bypassing any notification to the U.S. Food and Drug Administration (FDA). It wasn't until three years later when the company wanted to put Prolift M+ on the market that the FDA had any awareness of the Prolift mesh kit. There were no sanctions imposed for bypassing the FDA approval process.

This marks the second time Prolift mesh has been the subject of a product liability trial. In 2013, the case of Linda Gross led to $11.1 million in compensatory damages for Ms. Gross. The couple from South Dakota has not seen their compensation since their case is still on appeal.

The Prolift trial of the late Joan Budke ended with a settlement last January after her 91-year-old husband took the stand weeping over his lost "bride." Ms. Budke, 77, died of a systemic infection that originated at the site of the pelvic mesh implant.