

Phila. jury awards \$12.5M in vaginal mesh case

Chris Mondics,
INQUIRER STAFF WRITER

A Philadelphia jury awarded \$12.5 million Tuesday to a woman who alleged that a vaginal mesh implant made by Johnson & Johnson caused her to have extreme pain during sex and required multiple corrective surgeries.

Even after the surgeries, Patricia Hammons, 65, a Wal-Mart shelf stocker from Indiana, claimed in her lawsuit, she could no longer have sex and suffered from other health problems.

The Common Pleas Court jury awarded \$5.5 million in compensatory damages for her ongoing health problems and inability to have sex. The jury also awarded \$7 million in damages to punish the health-care-products giant for having marketed an unsafe product.

Hammons is "gratified" by the jury's verdict, said her lawyer, **Shanin Specter of the Center City law firm Kline & Specter.**

"Every American depends on Johnson & Johnson to put safety ahead of selling," Specter said. "They aren't doing that, and they need to

engage in some honest soul-searching."

A spokesman for Ethicon, the J&J subsidiary that made the product, said the company would appeal.

"We believe the evidence showed Ethicon's ... pelvic organ prolapse repair kit was properly designed, Ethicon acted appropriately and responsibly in the research, development and marketing of the product, and the [mesh] was not the cause of the plaintiff's continuing medical problems. We have always made patient safety a top priority and will continue to do so," the spokesman said in a statement.

The 21/2 week trial pitted experts for Hammons against those of J&J, and focused on the testimony of J&J managers, physicians, and others who worked on development of the implant, known as Prolift.

In a pivotal moment in the trial, Hammons' lawyers elicited damaging testimony from a product engineer for Ethicon on the lack of a backup plan if the implant failed. Although removal of the implants is a hugely complex surgical procedure, Scott Ciarrocca said the company had never given any thought to how to remove the mesh if it

caused problems. In earlier testimony, a plaintiff's expert described such procedures as exceedingly difficult and tantamount to a surgical "train wreck."

Moreover, while the company knew before its product launch in 2005 that vaginal mesh implants had been associated with pain during sex, that was not included on the product warning label.

During the portion of the trial devoted to determining whether the company should be subject to punitive damages - hurt financially for acting recklessly in selling Prolift - a company official testified the company had \$108 million in Prolift sales from the time the product was launched in 2005 until it took it off the market in 2012, following complaints from women who had the implants.

Pelvic mesh implants came into wide use a decade ago for treatment of a condition when the bladder and other organs, weakened by childbirth, sag over time into the vagina, causing urinary incontinence, pain during intercourse, and other maladies.

Hammons had implant surgery in 2009, when she was 58. Although

she underwent corrective surgery, the pain persisted, as did other problems, including incontinence. In subsequent surgeries to remove the mesh, her physician noted that the mesh was "bunched up" along the undersurface of her bladder and that the movement likely caused the perforation of her bladder.

About 180 women who alleged that failed pelvic mesh implants have caused them ongoing health problems and interfered with their ability to have sex have filed suit against J&J in Philadelphia courts. The company faces tens of thousands of additional lawsuits in courts around the country.

During his arguments in the punitive damage phase of the trial, Specter argued that J&J acted recklessly by placing the product on the market before it fully understood how it would work, and then by delaying its withdrawal even as evidence mounted that it was severely injuring some of the women who had the implant.

J&J's lawyer, Tarek Ismael, acknowledged that J&J made mistakes in the development of Prolift. But he said that the company never intended to do harm and that J&J employees were devoted to improving public health.