

The Legal Intelligencer

THE OLDEST LAW JOURNAL IN THE UNITED STATES 1843-2011

PHILADELPHIA, FRIDAY, MAY 17, 2019

An **ALM** Publication

Pelvic Mesh Plaintiff Secures \$80M Verdict From Phila. Jury Against J&J Subsidiary

by Max Mitchell

Of the Legal staff

A Philadelphia jury has awarded more than \$80 million to a woman who claimed a pelvic mesh device developed by a Johnson & Johnson subsidiary eroded and caused injury.

The verdict, which came down Friday afternoon in front of Philadelphia Court of Common Pleas Judge Daniel Anders, totaled \$80.025 million for plaintiffs Patricia and George Mesigian of Media, Pennsylvania. The award also included \$50 million in punitive damages, and came down a little more than a month after another Philadelphia jury slammed the same J&J subsidiary, Ethicon, with a \$120 million verdict.

Patricia Mesigian's trial team was led by **Kline & Specter attorneys Thomas R. Kline, Kila Baldwin and Michael Trunk.**

In a statement released after the verdict, Kline said the company had put profits before patient safety.

"In this largest transvaginal compensatory jury verdict to date, this jury resoundingly found that Johnson & Johnson terribly injured another one of thousands of women implanted with its defective transvaginal mesh device, recognizing not only the severity of the injury

but the abhorrence of the conduct," Kline said.

A statement from Ethicon spokeswoman Mindy Tinsley said that the verdict and award are "inconsistent with the science and Ethicon's actions."

"We believe the evidence showed Ethicon's Prolift device was properly designed and that Ethicon acted appropriately and responsibly in the research, development and marketing of the product," Tinsley said. "The jury was not permitted to hear critical evidence related to the FDA's review and classification of these devices, which we believe significantly influenced the verdict and punitive award in this case."

According to the plaintiffs' counsel, Mesigian, now 75, had the mesh implanted in 2008 to treat organ prolapse, but the product eroded, leaving her with significant pain, infections, inflammation and scar tissue that caused pain during sex and required several revision surgeries.

Mesigian, along with more than 80 plaintiffs with cases currently pending in Philadelphia's Complex Litigation Center, alleged that J&J subsidiary Ethicon failed to adequately warn about the erosion rate of the device, and instead misled the medical community about the product's safety.

The verdict marks the eighth time a Philadelphia jury has awarded a woman significant compensatory and punitive damage awards over pelvic mesh products. According to a statement from Kline & Specter, the awards now total \$346 million.

Ethicon has won two defense verdicts in the litigation, with the latest coming in mid-April. The first defense win, however, was later reversed by the trial court, after the judge who oversaw the case determined that the jury's findings were inconsistent on the issue of whether the alleged design defect caused the injuries. The judge ultimately determined that the case should proceed to a damages hearing, but that decision is currently on appeal to the Pennsylvania Superior Court.

Defense counsel included Katherine Gallagher of Beck Redden, Rebecca Bacon of Bartlit Beck, John Hare of Marshall Dennehey Warner Coleman & Goggin and Alicia Hickok of Drinker Biddle & Reath.