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Jury Awards \$41M to Woman Who Needed 9 Surgeries to Fix Pelvic Mesh

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Of the Legal Staff

A Philadelphia jury has awarded \$41 million to a woman who underwent nine surgeries to treat injuries she allegedly sustained as a result of defective transvaginal mesh.

The 12-member jury in *Emmett v. Ethicon* rendered the verdict Thursday in Judge Kenneth Powell's courtroom following a five-week trial. The award includes \$15 million in compensatory damages, \$25 million in punitive damages and \$1 million on a loss of consortium claim.

The verdict is the latest in a wave of multimillion-dollar verdicts juries have awarded over Ethicon's pelvic mesh products over the past few years.

Kline & Specter attorneys Thomas R. Kline and Kila Baldwin co-trie the case for plaintiff Suzanne Emmett, and attorney Tarek Ismail of Goldman Ismail Tomaselli Brennan & Baum, Anita Modak-Truran of Butler Snow and Joseph O'Neil of



KLINE



BALDWIN

Campbell Conroy & O'Neil were defense counsel for Ethicon, a Johnson & Johnson subsidiary.

Following the verdict, Kline said "overwhelming" evidence convinced the jury.

"Evidence in the case was overwhelming as to the product defect, and the testimony as to the damages which were caused to Suzanne Emmett were devastating," Kline said. "The case involves one of thousands of women who were injured by grotesquely defective products, many of whom have entered into de minimis settlements with Johnson & Johnson. This case should be

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seen through the lens of how a jury views their product, as well as the monetary value of the injury."

Mindy Tinsley, a spokeswoman for Ethicon, said the company plans to appeal the verdict, adding that the products were properly designed and the company adequately warned surgeons about the risks.

"Importantly, the jury found that the devices performed as surgeons expected," she

said in the statement. "Ethicon stands by, and will continue to defend, our pelvic mesh products in litigation."

According to Kline, Emmett, 57, had three pelvic mesh devices implanted after she suffered organ prolapse. The mesh, however, ended up repeatedly eroding into her vagina, leaving her with urinary incontinence, painful bladder contractions and pain during sex, Kline said. According to Kline, she underwent nine surgical procedures and underwent more than 40 nerve treatments, including injections. Kline also said the husband's loss of consortium claim was bolstered by evidence that a piece of mesh

cut Michael Emmett's penis "like a piece of barbed wire" during sex.

The injuries, according to Kline, are expected to be permanent.

Kline also noted that the defense contended the case was brought outside the statute of limitations, since the mesh was installed in 2007 and her lawsuit was filed in 2013.

Emmett's case is one out of nearly 90 cases pending in Philadelphia and more than 33,000 pending across the country stemming from pelvic mesh devices and allegations that the mesh-makers failed to properly warn about the risks of the devices.

At one point, with more than 100,000 pelvic mesh cases pending in a federal multidistrict litigation against six manufacturers, the pelvic mesh litigation was one of the largest-ever consolidated matters, attorneys said.

The cases, however, have recently begun to settle in large batches. Some attorneys, however—including Kline & Specter's Shanin Specter—have been critical of those settlements, claiming many lawyers took on too many cases and, as a result, were forced to settle for small amounts.

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