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## Supreme Court Won't Take Up Appeal Over Reduction of \$27M Knee Injury Verdict

*The decision keeps in place lower court rulings that previously reduced the verdict to \$21.5 million for a woman who needed four knee surgeries after taping a promotional video showing the success of her initial knee replacement.*

**BY MAX MITCHELL**

*Of the Legal staff*

The Pennsylvania Supreme Court has denied a company's efforts to further reduce a \$27 million verdict that had been awarded to a woman who needed four knee surgeries after taping a promotional video showing the success of her initial knee replacement.

The justices on Tuesday declined to take up the appeal in *Polett v. Public Communications*. The decision keeps in place lower court rulings that previously reduced the verdict to \$21.5 million, which included \$20.6 for Margo Polett and \$900,000 for Daniel Polett.

**Kline & Specter attorney Shanin Specter, who is representing the plaintiff, Margo Polett, said in an emailed statement that, with interest, the judgment now stands at just under \$23 million.**

**"The Poletts are glad that this 10-year legal odyssey is over, unless, of course, Zimmer appeals to the U.S. Supreme Court and then the International Court of Justice in The Hague," Specter said.**

Troy S. Brown of Morgan, Lewis & Bockius, who represents the defendants, did not respond to a request for comment.

Polett has climbed the appellate ladder several times since a jury awarded the initial verdict of \$26 million for Polett and \$1 million to her husband.

In June 2016, a divided en banc panel of the Superior Court granted the defendants' motion for remittitur. The ruling reversed a decision from a Philadelphia Court of Common Pleas judge who denied a motion from Public Communications and Zimmer that sought a reduction of the total \$27 million award.

After the ruling, the trial court reduced Margo Polett's award by 25 percent and her husband's by 10 percent.

According to court papers, the defendants contended that, despite the reduction, the number remained "conscience-shocking" and "grossly-excessive." The defendants claimed an appropriate award would be more to the tune of \$1.5 million for Polett and a quarter-million dollars or less for her husband.

The June 2016 ruling marked the third time the Superior Court had tossed out the original verdict in the case, which was handed up in 2010 after trial before Philadelphia Court of Common Pleas Judge Frederica Mas-siah-Jackson.

The award was initially vacated by a three-judge Superior Court panel in

March 2013. That panel split 2-1. In December 2013, an en banc panel,

which was split 7-2, reached the same conclusion and again vacated the award. At that point, the Superior Court had ordered a new trial without examining the defendants' remittitur arguments. But, after the Poletts appealed that decision, the Supreme Court reinstated the award, and ordered the lower court to consider the remittitur issue.

On remand, the Superior Court granted the defendants' motion for remittitur.

According to Judge Jacqueline O. Shogan, who wrote the court's memorandum opinion in June 2016, although Polett was entitled to compensatory damages, her injuries, which included, among other things, a patellar fracture, the need to use a walker and an embarrassing scar, were not sufficient to warrant the amount of money awarded.

The defendants had continued to argue that the award was too high, but in December, a three-judge Superior Court panel rejected those arguments, and affirmed the trial court's reduction. The Supreme Court's ruling Tuesday leaves that decision in place.