

## J&J Hit With \$80M Verdict In Philly Mesh Case

By **Matt Fair**

Law360 (May 17, 2019, 4:16 PM EDT) -- A Philadelphia jury returned \$80 million in damages against a Johnson & Johnson unit on Friday in the latest trial over chronic pain and other complications caused by its pelvic mesh implants.



A jury hit Johnson & Johnson unit Ethicon with an \$80 million verdict Friday, including \$50 million in punitive damages, in a pelvic mesh injury suit. (Getty)

The verdict, which included \$50 million in punitive damages, is the eighth to go in favor of plaintiffs out of 10 total mesh-related cases that have made it to trial in Philadelphia, and brings the total amount of damages awarded against J&J unit Ethicon Inc. to nearly \$350 million.

The verdict returned on Friday stemmed from claims lodged by Philadelphia-area resident Patricia "Jill" Mesigian, 75, over a Prolift implant she received in September 2008 to treat pelvic organ prolapse, a condition in which pelvic organs begin to sag against the vagina.

During a follow-up visit just months after receiving the implant, however, court records say that doctors discovered Mesigian was experiencing vaginal bleeding, and recommended she undergo a second surgery during which they found that a portion of the mesh had sawed into her vagina.

Four years after having the exposed piece of mesh removed, court records say Mesigian again began experiencing vaginal bleeding and discomfort during sex.

A subsequent examination found that the mesh had become exposed in her vagina in two places, requiring a third surgery to remove.

She went on to undergo three more surgeries between 2013 and 2017 to address additional mesh erosions she was experiencing, and two treatments in which she was chemically burned in an attempt to remove scar tissue that had built up around the mesh.

Thomas Kline, an attorney with Kline & Specter PC representing Mesigian, told jurors during closing arguments on Thursday that the mesh continued to cause his client severe pain, and had all but ended her sex life with her husband.

"The last time that Jill tried to have sex with that man who she loves was six months ago, and it felt like her vagina was being ripped in barbed wire, and that she was being torn apart," Kline said, according to a transcript.

Mesigian argued that the tight weave of the mesh in the device caused tissue to grow around the implant, rather than growing through it and integrating with it, and thus encapsulated it in scar plating.

The Prolift device was eventually taken off the market in 2012.

A trial in Mesigian's case kicked off in mid-April, and jurors began deliberating on Thursday afternoon.

Kline praised the verdict in an interview with Law360 after the jury was dismissed.

"Once again, a jury resoundingly found that the Prolift device, among many defective Johnson & Johnson transvaginal mesh devices, badly injured a woman, and that the conduct was such that punitive damages were warranted," he said.

Ethicon has argued that Mesigian waited too long to bring her February 2014 lawsuit, given that she began experiencing complications just a handful of months after receiving the implant.

They also argued that her mesh erosions, a known complication with the implant, were caused by vaginal atrophy, a condition in which vaginal tissue thins and dries with age, that she began experiencing in 2008.

The company also looked to pin the blame on a condition Mesigian suffers, lichen sclerosus, characterized by thinner-than-usual skin in the genital area.

"The evidence in this case is that Mrs. Mesigian's ... erosions and the related symptoms were not caused by a defect of the Prolift," Beck Redden LLP attorney Kathleen Gallagher told jurors during closing arguments on behalf of Ethicon.

But the jury ultimately found that the risks of the product outweighed its benefits, and that Ethicon failed to warn consumers about the true extent of potential complications

Two jurors noted their disagreement with the verdict as the panel was polled by the court.

Ethicon said in a statement on Friday afternoon that it disagreed with the jury's finding.

"While Ethicon empathizes with women who experience medical complications, this verdict and the damages awarded are inconsistent with the science and Ethicon's actions," the company said. "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."

Mesigian is represented by Thomas Kline, Kila Baldwin, Michael Trunk and Lee Balefsky of Kline & Specter PC.

Ethicon is represented by Kathleen Gallagher of Beck Redden LLP, Rebecca Bacon of Bartlit Beck LLP, Julie Callsen, Erica James and Sherry Knutson of Tucker Ellis LLP, Anita Modak-Truran, Adam Porter and Nils Burton Snell of Butler Snow LLP, John Hare of Marshall Dennehey Warner Coleman & Goggin PC, Larry Ottaway and Amy Sherry Fischer of Foliart Huff Ottaway & Bottom, and Andrew Reeve, Melissa Merk, D. Alicia Hickok and Kenneth Murphy of Drinker Biddle & Reath LLP.

The case is Patricia Mesigian et al. v. Ethicon Inc. et al., case number 140200399, before the Court of Common Pleas of Philadelphia County, Pennsylvania.

--Editing by Breda Lund.

*Update: This story has been updated with a comment from an attorney for Mesigian and a statement from Ethicon.*