Products Liability Law Daily Wrap Up, JURY VERDICTS—MEDICAL DEVICES—Pa. Ct. Com. Pl.: $12.5 million verdict punctuates pelvic mesh trial, (Dec. 23, 2015)

Products Liability Law Daily Wrap Up

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By Susan Lasser, J.D.

A Philadelphia jury awarded $12.5 million in damages to a patient who was injured after having been surgically implanted with the Prolift Pelvic Floor Repair System, a pelvic mesh device manufactured by Ethicon, Inc., a subsidiary of Johnson & Johnson. The jury found that the implant and Ethicon's negligence were the cause of the patient's injuries and rendered a $5.5 million verdict for her. The $7 million balance of the total award was in punitive damages that the jury determined the manufacturer must pay (*Hammons v. Ethicon, Inc.*, verdict on compensatory damages (December 21, 2015); verdict on punitive damages (December 22, 2015); Bernstein, M.).

The patient's complaint asserted that she was implanted with one or more of the manufacturer's pelvic mesh products and/or its mesh components as part of a surgical pelvic floor repair mesh packaged as Prolift to treat her stress pelvic floor prolapse. As a result of the implant, she alleged that she experienced and would continue experiencing a number of conditions, injuries and complications, including mesh erosion, mesh contraction, infection and inflammation, scar tissue, organ perforation, dyspareunia (difficult or painful intercourse), pelvic floor damage and pelvic pain, and recurrent urinary incontinence. She asserted that despite knowing of these complications caused by their product, the manufacturers manufactured, marketed, and sold it while failing to adequately warn and label the product. Her complaint alleged claims for strict liability, defective manufacture and design, strict liability failure to warn, and negligent misrepresentation, among others.

Jury verdict. The jury determined that Ethicon did not adequately warn the patient's physician about the risks of the Prolift system and that her doctor would have altered his decision about whether he would have prescribed its implantation to her if the manufacturer had provided him with all proper warnings and information. Further, in addition to finding that the Prolift system was a cause of the harm suffered by the patient, the jury concluded that the Prolift system was defective and that the defect was a cause of the patient's injuries. Finally, the jury found that Ethicon was negligent and that the manufacturer's negligence was a cause of harm suffered by the patient. These findings lead the jury to award $5.5 million in compensatory damages as fair and reasonable compensation for the patient's injuries. The following day, the jury awarded $7.7 million in punitive damages to the patient.

The case is No. 3913.

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Companies: Ethicon Inc.; Johnson & Johnson

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