Jury awards $15 million in damages in pelvic mesh case

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(Photo: Viorel Florescu/northjersey.com)

HACKENSACK — A Bergen County jury awarded damages totaling $15 million to Elizabeth Hrymoc, the South River woman who sued Johnson & Johnson after receiving a faulty pelvic mesh implant in 2008 that left her in chronic pain

The jury found that one of the two pelvic mesh devices that Hrymoc received in 2008, sold under the brand name Prolift, was defective, and that the Johnson & Johnson subsidiary that designed the product, Ethicon, failed to adequately warn the woman about the potential side effects. The jury awarded Hrymoc $4 million for pain and suffering and $1 million for loss of conjugal affection, and assessed $10 million in punitive damages against Johnson & Johnson.

A single tear slid down Hrymoc's cheek as the jury announced its verdict after six hours of deliberations. She hugged her attorney, Adam Slater, and her husband, Tad, after Judge Rachelle L. Harz polled the jurors and the verdict became official.

Moments afterward, Hrymoc said she was satisfied with the verdict "but not just for myself. For the thousands of other women who have gone through this."

"I'm very pleased that justice was done, not just for me, but for all other women who were hurt," she said.

The jury of six men and four women heard 2½ weeks of often highly technical testimony from doctors and expert witnesses. The plaintiff built her case largely on the internal communications, reports and memos by Ethicon researchers, who often seemed to cast doubt on the product's safety.

The case generated more than 1 million pages of documents. But it took the jury only six hours to reach a unanimous verdict that the Prolift device was defective, and that Hrymoc had not been adequately informed of the potential complications.

Slater acknowledged that the case was complex, but said the evidence was clear.

"We felt the case was very strong, and we felt the wrongdoing was clear," he said. He said Hrymoc and her husband were "incredibly brave" for taking on Johnson & Johnson.

"This verdict is not just for her, it's for all the other women," Slater said.

The attorney said he has 240 other clients who have filed complaints against Johnson & Johnson regarding pelvic mesh implants who are waiting for their day in court.

"It's time that these women had some peace," he said. "It's time to settle with them."

Ethicon released a statement minutes after the verdict saying that it would appeal.

"Ethicon intends to appeal this verdict, as we believe that the evidence showed that the company appropriately informed surgeons of pertinent complications and that the products were properly designed and studied," said Mindy Tinsley, a company spokeswoman.

Hrymoc, a 71-year-old former research technician, is one of thousands of women who have filed lawsuits after receiving the Prolift implant, a polypropylene mesh that was developed by Ethicon and sold between March 2005 and the end of August 2012. Once inserted into the vagina, the device is meant to treat organ prolapse, a common problem for women as they age and the vaginal walls weaken.

Johnson & Johnson put Prolift on the market in 2005 thinking it had developed a better alternative to pelvic floor reconstruction, a risky type of surgery that had a high failure rate and often didn't relieve urinary incontinence, one of the prime symptoms of prolapse. But Hrymoc testified that the product was a disaster for her right from the start.

Hrymoc said she was never made aware of all the risks associated with polypropylene mesh. Her attorney, Slater, introduced correspondence between Ethicon researchers in which they expressed concerns that the mesh material could contract once it was inside the vagina, which could erode the vaginal wall.

Despite those concerns, researchers pressed forward with polypropylene mesh, and the product was put on the market absent a clinical study. Ethicon countered that it had a team of 50 researchers who spent thousands of hours developing and testing the product, but Slater argued that there numerous "red lights" they ignored along the way.

Johnson & Johnson argued that the symptoms that Hrymoc complained about —chronic discomfort, pain during sex, and unrelieved incontinence — were not the result of a faulty device, but were complications that arose from surgery and that she had been forewarned about them.

Commonly known as a sling, the pelvic mesh is made of polypropylene, a porous plastic. The Food and Drug Administration approved pelvic mesh in 2002. But after receiving thousands of complaints, it now considers the device to be a "high-risk" treatment.

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