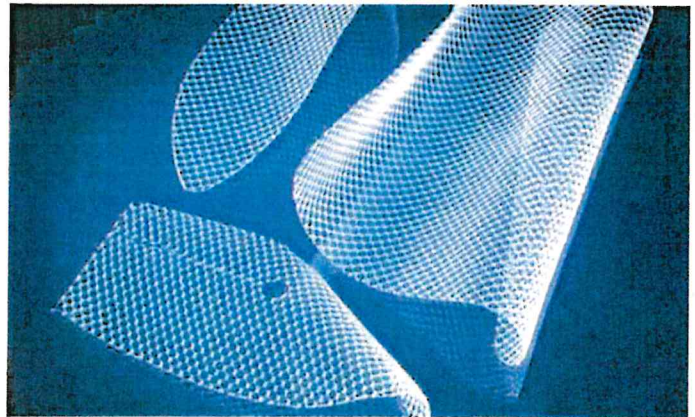


# \$35M Punitives Award Brings Bard Pelvic Mesh Verdict to \$68M

A jury in Bergen County, New Jersey, on Friday awarded \$35 million in punitive damages in a suit against C.R. Bard over defective pelvic mesh products.

By Charles Toutant | April 13, 2018

A jury in Bergen County, New Jersey, on Friday awarded \$35 million in punitive damages in a suit against C.R. Bard over defective pelvic mesh products. With [Thursday's \\$33 million award for compensatory damages](#)



*Pelvic mesh*

(<https://www.law.com/njlawjournal/2018/04/12/nj-jury-awards-33-million-in-pelvic-mesh-suit-against-bard-punitives-phase-on-deck/>) from the same jury, the total award to Mary McGinniss and her husband comes to \$68 million.

The jury found that Bard's Avaulta Solo Prolapse Repair System and the Align Transobturator Stress Urinary Incontinence Repair System were defectively designed and failed to contain adequate warnings. The jury found that as a result of the defects in these two medical devices, Mary McGinniss underwent several surgeries and has been left with permanent pain and serious injuries.

The verdict came after a trial before Superior Court Judge James DeLuca in Hackensack, New Jersey. The case is the first bellwether trial against Bard in New Jersey's mass tort program. According to the New Jersey judiciary's website, 154 pelvic mesh cases against Bard are pending before DeLuca.

The jury's compensatory verdict awarded Mary McGinniss \$23 million in compensatory damages and \$10 million to her husband, Thomas, for loss of consortium.

The plaintiffs were represented by Adam Slater of Mazie, Slater, Katz & Freeman in Roseland, New Jersey.

Slater said the standard for punitive damages was met because "the company knew these products were going to harm women based on the track record for similar products. Then when they ... were harming women, they kept selling the product and continued to tell doctors these products were safe."

Mary McGinniss suffered severe scarring and pain and went through multiple operations in attempts to remove the deteriorating product from her body. She experiences severe pain during intercourse and will suffer "chronic inflammation for the rest of her life," said Slater.

The jury consisted of nine men and three women.

With the close of the case, "virtually every important issue is decided" in the Bard pelvic mesh litigation, Slater said. "Trying these cases is more streamlined—it allows us to try these cases quicker." Asked if the verdict would prompt Bard to settle other mesh cases, Slater said, "they can always come and settle, but until that time, we'll keep trying these cases."

Bard was represented by Lori Cohen of Greenberg Traurig in Atlanta. A Bard spokesman, Troy Kirkpatrick, said in an email, "We do not believe this verdict is supported by the facts or the law, and plan to appeal."

The \$68 million total in the McGinniss case after the addition of punitive damages is topped by only two other pelvic mesh verdicts nationwide, according to the website Drugwatch.com. (<https://www.drugwatch.com/transvaginal-mesh/verdict-settlement/>)

In May 2015, a Delaware jury awarded \$100 million to Deborah Barba on claims that Boston Scientific's Pinnacle and Advantage Fit mesh implants were defectively designed after the devices eroded and caused vaginal scarring, constant pain and other complications.

In Barba's case, an appellate judge deemed the award excessive and reduced it to \$10 million, according to Drugwatch.com (<https://www.drugwatch.com/transvaginal-mesh/verdict-settlement/>).

And in September 2014, a Texas state jury awarded \$73.5 million to Martha Salazar after finding Boston Scientific was negligent for failing to warn doctors and patients of risks associated with the Obtryx bladder sling. An appeals court later reduced the award to \$34.6 million, Drugwatch.com reported.

And ALM publication The Legal Intelligencer reported (<https://www.law.com/sites/almstaff/2017/09/07/jury-hits-jj-with-record-57-1m-verdict-in-pelvic-mesh-case/>) in September 2017 a \$57.1 million verdict against Johnson & Johnson subsidiary Ethicon in a pelvic mesh trial in Philadelphia.

Bard settled more than 500 pelvic mesh lawsuits for \$21 million in 2014, and resolved another 3,000 cases for \$200 million in 2015.

Bard has also seen verdicts in individual pelvic mesh suits for \$5 million, \$3.6 million and \$2 million in recent years, according to Drugwatch.com.