



Products Liability Team Secures Reversal of Pelvic Mesh Verdict

In a first impression ruling in New Jersey that is expected to broadly impact product liability cases, Riker Danzig's Johnson & Johnson pelvic mesh defense team obtained a significant win for Ethicon in the Appellate Division on March 2, 2021. The plaintiff had sued Johnson & Johnson and its subsidiary Ethicon, Inc. for injuries allegedly sustained from mesh products implanted in 2008 to treat pelvic organ prolapse and stress incontinence. The case went to trial in late 2017 in the Superior Court of New Jersey, Bergen County, resulting in a \$15 million verdict, including \$10 million in punitive damages.

The verdict was appealed on multiple bases. Products Liability, Toxic Tort and Mass Torts partner Maha M. Kabbash argued the appeal for Ethicon on January 25th. The Appellate Division issued a consolidated opinion, which will be published, vacating the verdicts in both cases and remanding for new trials, on the grounds that the trial courts had improperly excluded all evidence of the FDA's 510k regulatory process by which such mesh products come to market. The Court held that the blanket exclusion of such evidence unfairly denied defendants the ability to present their story, including the FDA's clearance of the products for marketing and regulatory considerations that were relevant to the performance of clinical studies. The Court also voiced concerns that the complete exclusion of evidence of the FDA clearance of the products could have easily led jurors to presume incorrectly that defendants sold their mesh products to the public without any oversight or Agency involvement.

Firm Co-Chair and head of Riker Danzig's Products Liability, Toxic Tort and Mass Torts Practice Kelly S. Crawford, who leads our Johnson & Johnson team, was on the brief. Associates Kenneth Dzikowski and Angelica Halat contributed to the successful appeal.

The Appellate Division's ruling was covered in the [New Jersey Law Journal](#) and [Law360](#).

Attorneys:

Kelly Strange Crawford · Maha M. Kabbash · Angelica Halat

Practice:

Products Liability, Toxic Tort and Mass Tort

Headquarters Plaza, One Speedwell Avenue, Morristown, New Jersey 07962-1981 • t: 973.538.0800 f: 973.538.1984

50 West State Street, Suite 1010, Trenton, New Jersey 08608-1220 • t: 609.396.2121 f: 609.396.4578

500 Fifth Avenue, New York, New York 10110 • t: 212.302.6574 f: 212.302.6628

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