

Capsule:

Cosmetic Surgery Malpractice
Foreign Object: Gauze Left Inside Breast Cavity
3 Subsequent Surgeries
Medical Bills/Wage Loss: \$18,000

Facts:

Plaintiff testified that she researched plastic surgeons online and was impressed with the information delivered by this doctor's office. According to his operative report, the doctor diagnosed hypoplasia of the breast and performed a retropectoral breast augmentation. The surgery was performed in a non-certified operative suite.

The doctor advised the patient of several potential complications of breast augmentation surgery. However she was never advised nor could anyone expect that in addition to receiving new breasts, she received a bundle of gauze stuffed deep into her breast cavity.

After several followup visits for drainage, blood and pain, this doctor had no solutions to offer. She went to a hospital closer to home and their plastic surgeon removed her implants, washed out the cavities, evacuated hematomas and replaced her implants. Because this physician wanted to evacuate hematomas, cleanse the implants and return them to proper placement, there was no reason to explore deep into the breast cavities to look for any foreign material. A second surgery was scheduled after three months of continued pain and drainage.

The plastic surgeon diagnosed: **Left breast implant infection; partial extrusion; retained foreign body.** Upon removing the left implant he noticed a significant amount of purulent drainage around the implant. Gram stain showed 4+ white blood cells. Concerned about this, he inserted an endoscope deep into the pocket at the most superior portion and noted an irregularity in the capsule. Upon careful inspection it was noted that this was actually a gauze sponge. The sponge was examined and noted to be standard dressing gauze rather than a Ray-Tec which is commonly used in operating rooms. He was able to remove approximately 99% of the gauze sponge, however there were multiple threads left behind in the pocket. Under

endoscopic guidance he carefully extracted each of the threads from the area. He then performed a thorough debridement finding further some cotton debris within the cavity as well. With the left breast implant removed, a Jackson-Pratt drain was applied and the wound was closed.

Three months later, she presented for her third surgery. The purpose was to replace the implant on the left side. She was also concerned with a rippling appearance of the right breast implant. Therefore she decided to go with bilateral augmentation using silicone implants.

Plaintiff's expert offered a very straightforward affidavit of merit in which the only violation of the standard of practice was that the defendant failed to ensure that all sponges, gauze and all foreign objects were removed from the patient's body and accounted for before closing the wounds. The defendant's operative report and chart contains no statement that a sponge and instrument count was performed. There is no way for him to account for the whereabouts of any materials used during the procedure.

Damages:

The plaintiff owes medical bills. Blue Cross has claimed a lien in the amount of \$7,877.21. Her subsequent surgeon is owed \$8,470.51. Total owed: \$16,347.72. Additionally she was forced to miss several days from work with wage loss totaling \$1,537.28.

In addition to her economic damages, plaintiff has endured a great deal of pain, suffering, discomfort and disfigurement. From August through November she only had one breast. The left side remained either with a drain or unsightly stitches. She still encounters pain, numbness and loss of sensitivity.