

MENU

HOME - NEWS - Ochtombol, 2011

Hospital Liable in Retained Object Case

Jury awards patient \$375,000 for surgical sponge left in abdomen nearly 5 years.

Published: September 28, 2011

Category: Outpatient Surgery > Surgical Malpractice

The failure to remove a surgical sponge from a patient's abdominal cavity proved to be a \$375,000 error for an Atlanta medical center.

In the case of *Tucker v. DeKalb Medical Center*, a jury found the hospital liable for negligently leaving a sponge inside Clara Tucker. It awarded \$375,000 to the 85-year-old patient, who underwent surgery at the facility nearly 8 years ago. The jury cleared her doctors of fault.

In January 2004, Ms. Tucker underwent an aortofemoral bypass at the hospital. For several years after the surgery, she complained of pain in the lower left quadrant of her abdomen, according to court documents.

On Dec. 17, 2008, Ms. Tucker was admitted to the facility with complaints of severe abdominal pain and a foul odor coming from her body. A CT scan found a mass near her colon that was determined to be a surgical sponge that hadn't been removed after the January 2004 procedure. On Dec. 21, she underwent surgery to remove the sponge, and was released from the hospital on Jan. 7, 2009.

In her lawsuit, Ms. Tucker alleged that the defendant's employees negligently failed to remove the surgical sponge, which resulted in pain and suffering. The defendant disputed the damages claim, and contended that the center's staff met the applicable standard of care, with the exception of performing a correct sponge count after the procedure. DeKalb Medical Center turned down a \$250,000 offer to settle prior to trial, instead making an offer of judgment for \$50,000.

The center's counteroffer was, in part, what motivated Ms. Tucker to go to trial, according to Louis Levenson, her Atlanta-based attorney.

"I expected at some point they would settle with her," says Levenson. "I knew the doctor wasn't going to settle, but if the hospital stepped up and paid a significant amount of money, they would have bought peace for themselves and for the doctor. But because they didn't ... the case ultimately went to trial.

"This was not a case where my client was permanently disabled, other than having a scar. [The defendant's] position was that she was pretty healthy beforehand, went through hell, and is pretty healthy now," says Levenson, noting that DeKalb did pay Ms. Tucker's medical bills for the additional surgery.

"The only thing the plaintiff was in a position to claim was how her life was thrown into havoc," says Levenson. "She had gone through hospitalization, fear, loss of work and time away from family, and [the defendant] didn't feel that was a significantly compensable component of her claim. I disagreed."

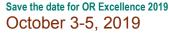
According to court records, the defendant has filed a motion for a new trial based on the "excessiveness of the verdict."

"The defendants conceded that [the sponge left in the patient] would cause pain and suffering," says attorney Timothy H. Bendin of Atlanta, who represented the defendants in the case. "The patient had a fairly routine recovery, was basically well and back to work within 2 or 3 months, and was back to herself completely in about 5 months. We thought the award the jury reached was far in excess, under the facts of the case. That's really the basis for the motion for the new trial."

Mark McGraw

© AORN, Inc. REPRODUCTION OF THIS COPYRIGHTED CONTENT IS STRICTLY PROHIBITED. We encourage LINKING to this content; view our linking policy here.

Also in the News...



Hyatt Regency New Orleans, New Orleans, LA



GI Facilities: You May Qualify For Free Benchmarking

Advertisement



OTHER ARTICLES THAT MAY INTEREST YOU

8-inch Forceps Left Inside Woman Surgeon Admits to Branding Patients' Livers Senator Creates Firestorm With Nurses Playing Cards Comment

Suspect Logged Into Electronic Prescription Program as Ophthalmologist to Fraudulently Issue Opioid Scripts

Marijuana Users May Need Higher Doses of Sedatives Before Endoscopy

Brainlab Recalls Spine & Trauma 3D Navigation 1.0 Software Due to Display Inaccuracies

FDA Orders Withdrawal Of Transvaginal Surgical Mesh From Market

Lawsuit: When PACU Lights Dimmed, Doc Asked Wife to Hold Penlight on Her Husband's Leaking JP Drain

R.I. Smoke Evacuation Legislation Becomes Law

New to Outpatient Surgery Magazine?	
Sign-up to o	continue reading this article.
	Register Now
Have an account? Please log in:	
Email Address:	
Remember my login on this computer	
	LOGIN

ABOUT US ADVERTISING

CONTACT US

PRIVACY POLICY

RESOURCES

SITE MAP

SUBSCRIPTIONS

SURGICAL SERVICES SURGICAL FACILITY ADMINISTRATION OUTPATIENT SURGERY NEWS AND TRENDS OR EXCELLENCE

№ 11 12 10

Outpatient Surgery Magazine

A Division of AORN, Inc. 255 Great Valley Parkway, Suite 100 Malvern, Pennsylvania 19355 Phone: 610-240-4918 Fax: 610-240-4919
© 1997--2019 AORN, Inc. All rights reserved.