

**S321,872 VERDICT - MEDICAL MALPRACTICE - NEGLIGENT IMPLANTATION OF SALINE BREAST IMPLANTS - CREATION OF TOO LARGE A "POCKET" FOR THE IMPLANTS - BREAST ASYMMETRY - ADDITIONAL SURGERY REQUIRED - LACK OF INFORMED CONSENT - PSYCHOLOGICAL INJURIES.**

*Palm Beach County*

The plaintiff, a 38-year-old female at the time in question, alleged that the defendant plastic surgeon negligently performed saline breast implants causing breast asymmetry which requires additional surgery to correct. The plaintiff also contended that she was not adequately informed of the possibility of such an outcome. The defendant maintained that the plaintiff's breast asymmetry pre-existed the surgery performed by the defendant and that some asymmetry is to be expected with breast implant surgery. The defendant also alleged that the plaintiff was fully informed of all possible risks and complications of the procedure and signed many written consent forms.

The plaintiff testified that she went to the defendant plastic surgeon to have silicone breast implants replaced with saline implants. The plaintiff's plastic surgeon testified that the defendant deviated from the acceptable standard of care by creating too large a pocket for the new implants, thus causing breast asymmetry. The plaintiff's plastic surgeon opined that surgical repair of the asymmetry would cost approximately \$25,000. The plaintiff also claimed to suffer psychological injuries stemming from the surgery.

The defendant claimed that the surgery performed by him was within the standard of care and that the plaintiff's asymmetry pre-existed the surgery as reflected by pre-operative photographs. The defendant's expert plastic surgeons testified that any alleged asymmetry experienced by the plaintiff was an acceptable complication of breast implant surgery caused by capsular contracture.

The jury found for the plaintiff in the amount of \$321,872.

**REFERENCE**

Plaintiff's plastic surgeon: Daniel Greenwald from Tampa. Defendant's plastic surgery experts: Bernard Kaye from Gainesville, Donald Zelman from Fort Lauderdale and Gilbert Snyder from South Miami.

Chandler vs. Mann. Case no. 95-2732; Judge Jack Cook, 2-11-97.

Attorney for plaintiff: David H. Gold of Goldfarb & Gold in Miami. Attorney for defendant: Thomas A. Graham of Wicker, Smith, Tutan, O'Hara, McCov, Graham & Lane in Fort Lauderdale.

**COMMENTARY:**

Before and after photographs played an important role in this medical malpractice action involving saline breast implants. The photographs may have served to dispel the defendant's position that the plaintiff's asymmetry pre-existed the surgery performed by the defendant to any significant degree. The photographs also showed that the plaintiff's condition was, in fact, much worse following the surgery. Evidence indicated that the plaintiff had a difficult time living with her deformity and sought the treatment of a psychiatrist and therapist. Testimony also indicated that her emotional difficulties were compounded by a troubled relationship with her boyfriend. There was no pre-trial settlement offer from the defendant. □