

# Key Factors in Plastic Surgery MALPRACTICE CASES

When new mother Jeannette Bernal decided her breasts needed “a little lift,” she never dreamed that a series of inappropriate plastic surgeries would result in her completely losing both breasts. Sadly Jeannette’s story is not unique, as her doctor, Renaldo Silvestre, sometimes known as “The Butcher of South Beach,” operated on dozens of other patients. Eventually, a Miami jury awarded Jeannette, who was my client, \$5 million in a civil case while Silvestre faces ongoing criminal charges.

My practice focuses on these types of cases around the country, helping people facing the disfiguring physical and emotional scars of plastic surgery. With more and more procedures being performed on men, women and teenagers, there are bound to be complications and mistakes. Unfortunately, many patients find themselves on the wrong end of the scalpel of unskilled, undertrained or underinsured doctors.

For lawyers considering these cases, there are a number of factors to be considered:

1. “I am deformed.” Some of the most “horrific” looking cases can often be fixed. Asymmetrical breasts, tummy tuck scars, crooked noses can often be revised for less than ten thousand dollars. A plastic surgeon can examine your client and provide a consultative opinion.

2. “How come I don’t look like Angelina Jolie?” Some results that look bad are not really the result of malpractice – it could be the patient has unrealistic expectations.

3. “Watch your back.” Be careful around plastic surgery malpractice clients and always have a female member of your staff present when a female patient shows you her “problem.”

4. “Sometimes the pain is more than skin deep.” It’s important to document the emotional aspect of the injury, as well as the physical side. If your patient has been in therapy prior to the surgery make sure you obtain all of the records from that therapist.

5. “Know your opponent.” Find out as much as you can about the defendant’s experience and training in plastic surgery. You may discover that he or she has very little actual experience in your client’s procedure.

6. “Do not believe your eyes.” Find out what photographs the doctor showed your client. Some have provided “before and after” pictures of people who were not his patients. In another case, the doctor showed pictures of people who had not even had plastic surgery.

7. “The small print.” Read the consent forms very carefully. In Florida, many surgeons do not provide consent forms in Spanish, or have them accurately translated.

8. “May it please the Court.” Be prepared to try the case, even though there is now a wave of prejudice against plaintiffs in support of the physician. Case selection is extremely important as some



jurors are actually quite hostile toward plaintiffs who undergo plastic surgery.

9. “Getting help.” Finding an expert is one of the most difficult aspects of the plastic surgery case.

10. “Jury trial.” Be prepared to address juror comments like: “She should have been happy with the body God gave her” or “Everybody knows plastic surgery isn’t perfect.”

To summarize, selecting the right case with the right client is the most important factor in having success in this specialty. ↕



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