

## Lap Sponge Left Inside: Court Splits Fault Between Nurses And Physician.

The patient's surgery to remove an ovarian cyst had apparently gone well with no complications, so she was discharged from the hospital.

Days later she began to have abdominal pain with nausea and vomiting. Her physician got an x-ray which revealed that a laparotomy pad had been left inside her abdomen. Emergency surgery was done that same day to remove the lap pad.

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***The surgeon has a non-delegable legal responsibility to remove all sponges and other surgical items from the patient's body before closing the incision.***

***The surgeon, therefore, is ruled 50% responsible.***

COURT OF APPEAL OF LOUISIANA  
November 3, 2006

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A jury heard the patient's lawsuit. The jury's verdict held the perioperative nurses 100% at fault and ruled the surgeon was not at fault. The judge, however, overruled the jury and imposed 50% of the blame on the surgeon.

The Court of Appeal of Louisiana agreed in general terms that it is squarely a nursing responsibility to count and to account for all of the pads, sponges and other items brought onto the surgical field. The surgeon is not expected to do more than conduct a quick visual examination of the incision before closing.

However, as the court pointed out, most US jurisdictions hold the physician answerable to the patient for mix-ups in the count even when it was the nurses and not the physician who committed the actual error. **McLin v. Breaux**, \_\_ So. 2d \_\_, 2006 WL 3103366 (La. App., November 3, 2006).