

# 術中遺留紗布 造成人工生殖治療無效

Gauze Left Behind During an Operation Causes  
an Artificial Reproductive Treatment Ineffective

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## 摘要

原告X於1997年間至被告Y醫院接受子宮肌瘤手術時，因醫師誤將紗布遺留子宮直腸窩處，致兩側輸卵軟阻塞、沾黏，使之後1年多的人工生殖療程均不成功。2002年4月原告X因摘除卵巢囊腫，方取出前手術遺留之紗布。原告X就此向被告Y請求債務不履行之損害賠償。最終東京地方法院認為因遺留紗布致使該1年多之人工生殖療程無效，乃被告過失行為所造成的損害，故負此部分的賠償責任；惟取出紗布後的人工生殖療程，尚無沾黏或癒合而使療程無效的情形，因此一部分費用被告無須負擔賠償責任。

The plaintiff X went to a hospital which belonged to the defendant Y to undergo a surgery for a fibroid, but the surgeon left the gauze in the rectal fossa of the uterus

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mistakenly, causing obstruction and adhesion of the ovarian soft tissue on the both sides, making the subsequent artificial reproductive operation unsuccessful for over a year. The plaintiff X removed the ovarian cysts and removed the gauze left behind from the previous surgery in April 2002. X sought damage from the defendant Y for non-performance of her debt. Tokyo District Court held finally that the artificial fertility treatment for more than one year was ineffective due to the leftover gauze, which was caused by the defendant's negligent act, and therefore was liable for this part of the damages. However, the artificial reproductive treatment after removing the gauze had not yet become ineffective due to adhesion or healing, so the defendant was not liable for these part of the cost.

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## 壹、事實概要

### 一、事件概要

原告X於1997年間被告Y經營的醫院接受子宮肌瘤手術時，術中有以輸卵管通氣法確認兩側的輸卵管並未阻塞，惟醫師誤將紗布遺留在子宮直腸窩處；1年後X開始進行多次人工生殖療程。直到2002年4月為摘除卵巢囊腫至他院開刀，發現兩側的輸卵管因遺留紗布產生癒合、沾黏，此時才取出紗布。X於這段期間並未接受過其他手術，故可確認該紗布為本件手術過程所遺留。X主張因遺留紗布造成輸卵管和輸卵管傘沾黏等後遺症，影響其日後的不孕症治療，要求Y負起債務不履行之損害賠償責任。本件爭點在侵害利益的內容與人工生殖療程的賠償範圍。