

# MRSA: Court Discusses Liability For Post-Op Infection.

A patient came down with methicillin resistant Staph aureus (MRSA) after heart bypass surgery.

The patient sued the hospital and the surgeon. The doctor who treated the patient for the MRSA infection was overheard saying that the surgeon had mentioned a break in sterile technique during the procedure.

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***The mere fact that an infection has occurred in a hospital is not enough to open the door to a court awarding damages.***

***The patient must point to specific facts proving what caused the infection.***

***Without specific factual proof, the patient's lawsuit must fail.***

COURT OF APPEALS OF ARKANSAS  
January 31, 2007

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The Court of Appeals of Arkansas agreed to dismiss the case. The surgeon's hearsay remark was not conclusive. It could be interpreted as an admission that sterile technique was broken, or just that such a break, in general, is a theoretically plausible explanation for a post-surgical infection.

A hospital's best defense to a lawsuit over a post-surgical infection is to be able to document that sterile technique was employed in the O.R. and that current accepted infection-control practices have been followed in the hospital at large. A post-surgical infection happening, in and of itself, does not prove the hospital or its staff were negligent. **Crist v. Dean, 2007 WL 266444 (Ark. App., January 31, 2007).**