



## Aesthetic surgery of the breast: a medico-legal perspective

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Clinical images for which consent to internet publication has not been sought have been removed from this presentation

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# Aesthetic breast surgery

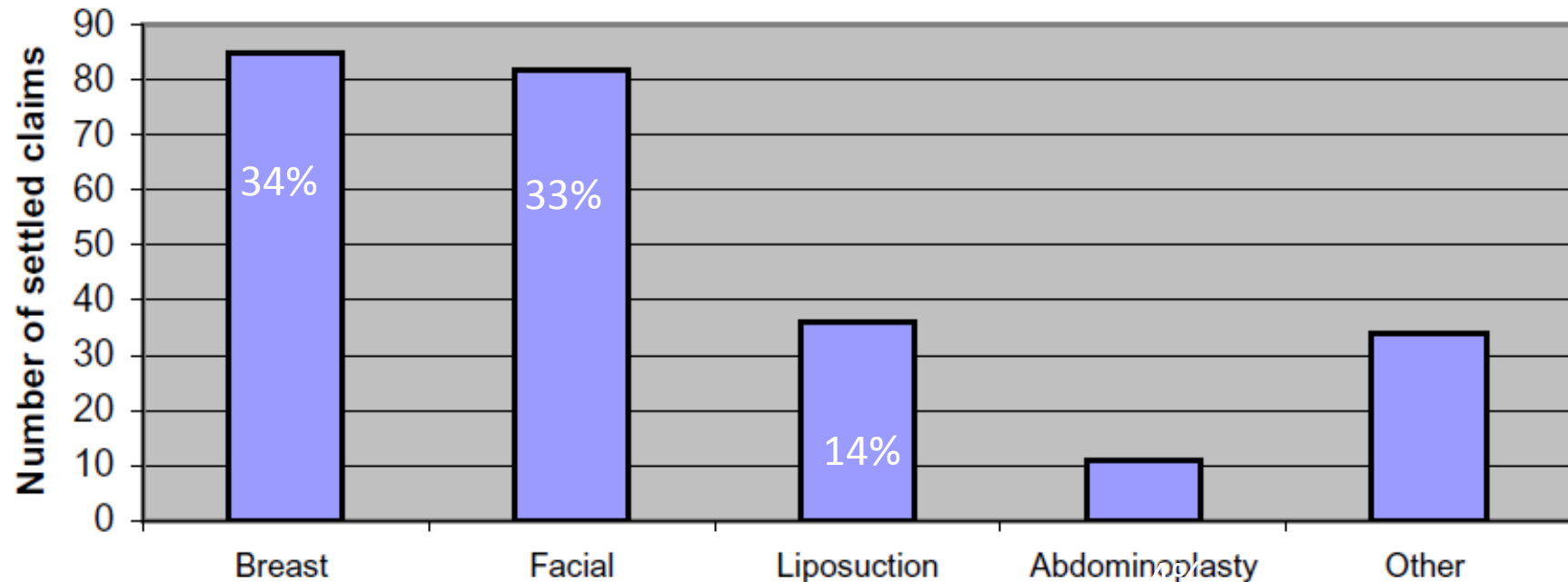
1. Litigation facts and figures
2. Consent
3. Breast augmentation
4. Breast reduction
5. Vertical mammoplasty



# Number of claims by procedure



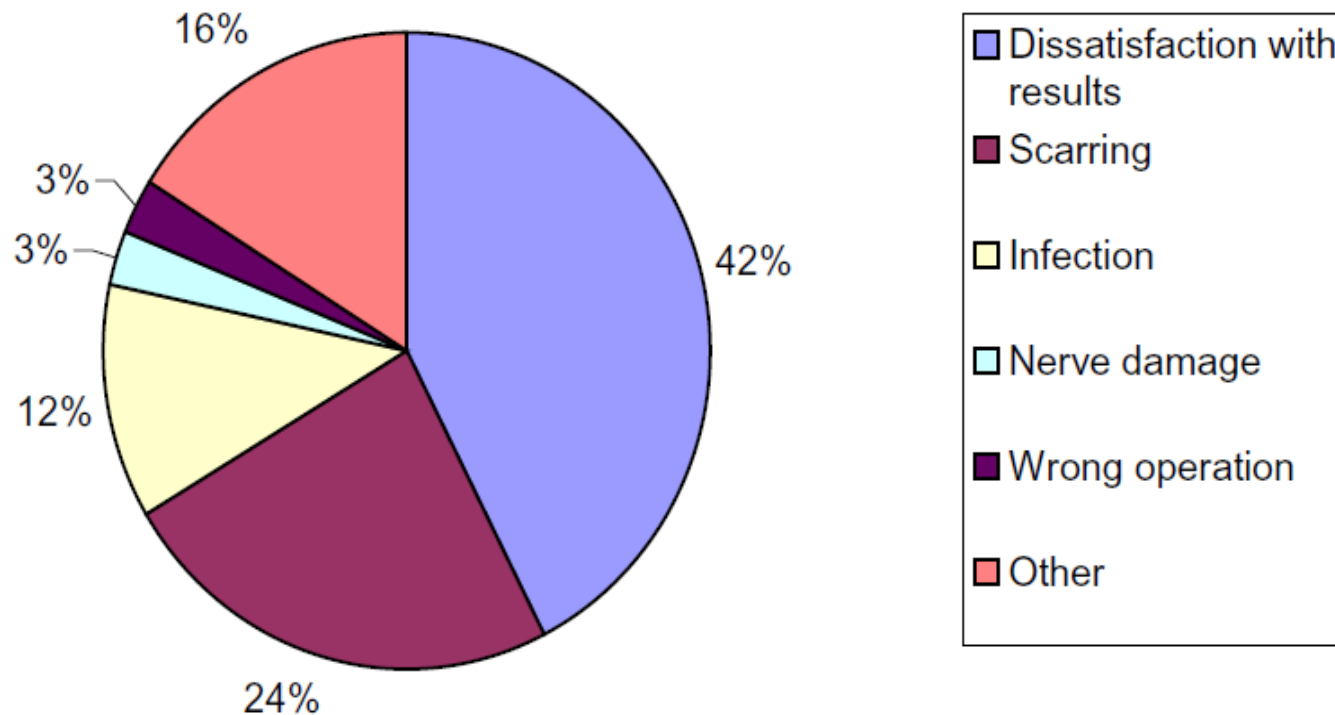
MDU Survey 2006



- Breast surgery: augmentation (63), reduction (21)
- Dissatisfaction with the result (wrong size / capsular contracture)
- Facial surgery: rhinoplasty, facelifts, blepharoplasty



# Number of claims settled by type



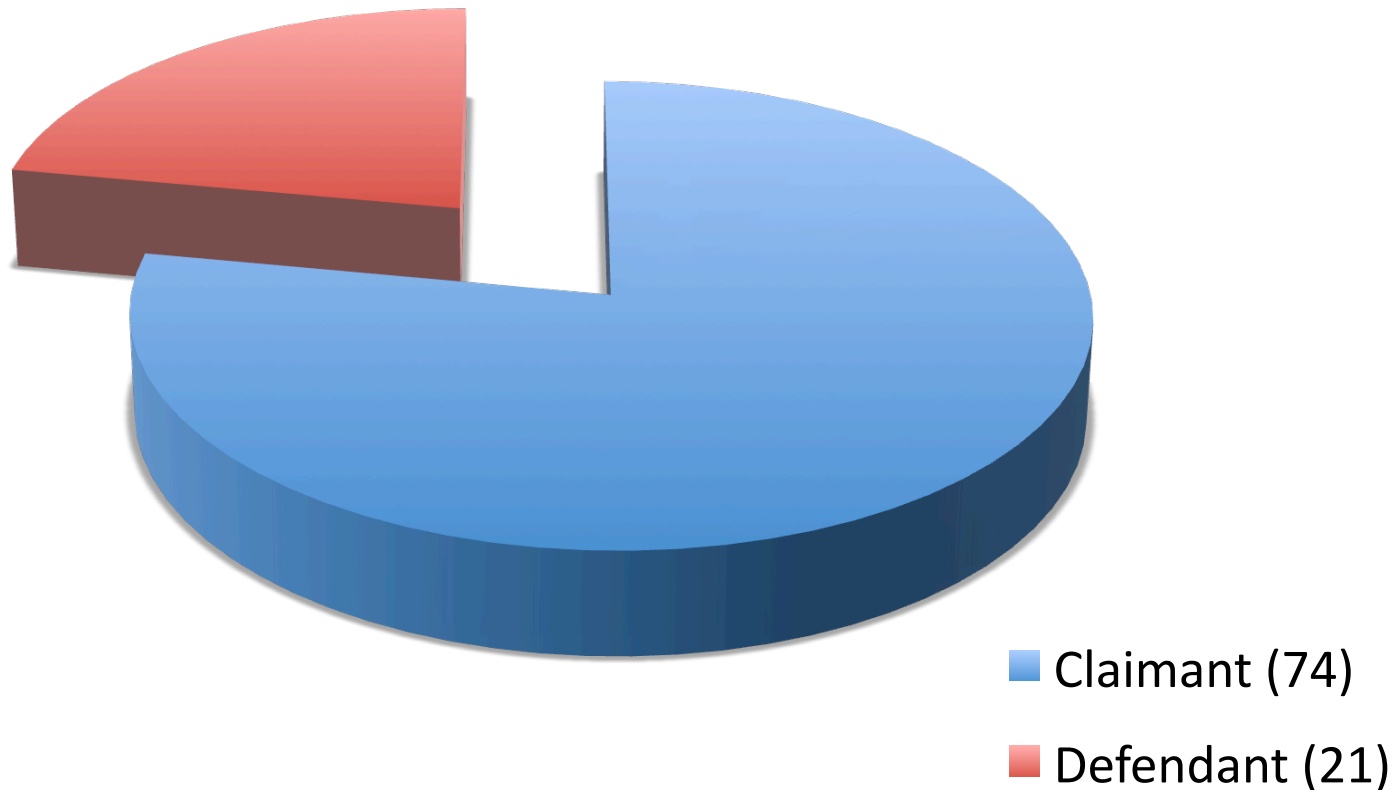
- Poor communication, failure to warn of risks, consent failures
- 'Other': failure to diagnose cancer, diathermy burns, retained swabs or instruments
- Infection and nerve injury most expensive





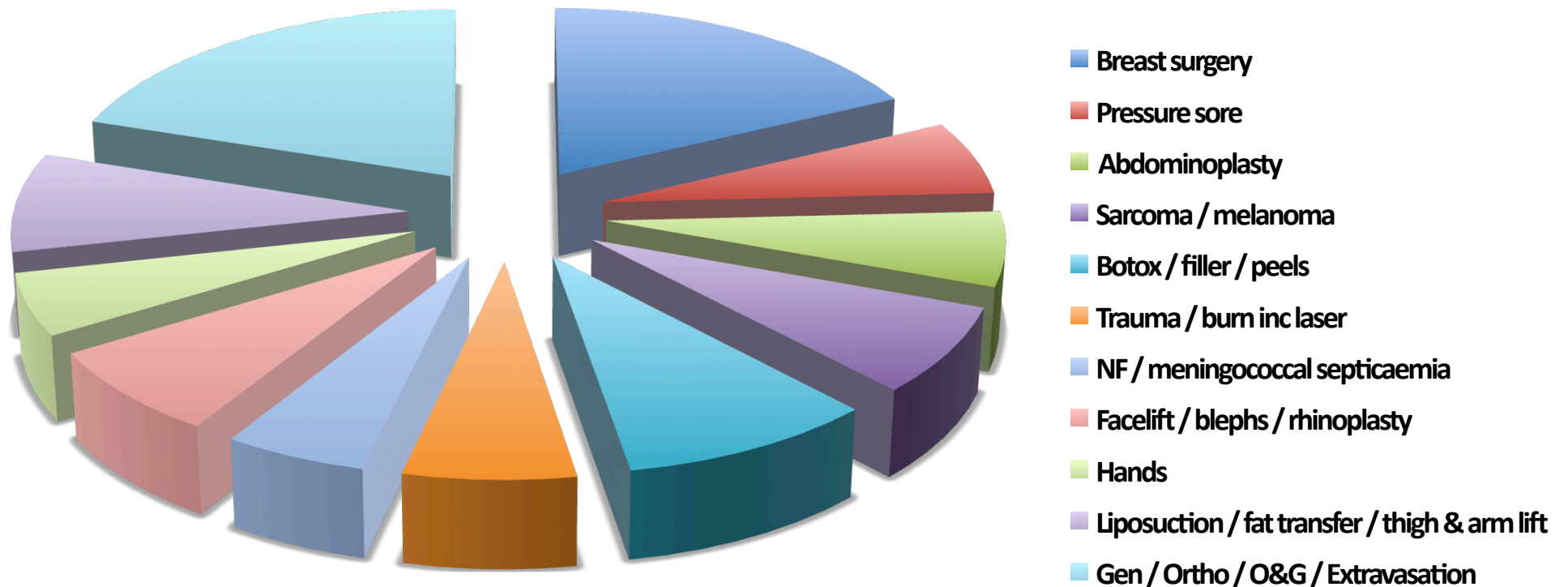
# Clinical negligence cases

Oct 2009 – Aug 2013 (n=95)



# Clinical negligence cases

Oct 2009 – Aug 2013 (n=95)



# Claim value

- DG v North Bristol NHS Trust (2009)
  - Breast reduction
  - Breasts misshapen and inadequate reduction, out of Court settlement £17,000
- Kidd v K (2007)
  - Augmentation mastopexy
  - Inadequate development of sub-muscular pocket causing implants to sit too high with asymmetry, £21,000
  - No admission of liability
- G v Mahdi (2006)
  - Breast augmentation
  - Diathermy burn to chest, out of Court settlement £19,500



# Consent: duty to warn of risks



# Consent: duty to warn of risks

- ***Bolam v Friern Hospital Management Committee* [1957] 1 W.L.R. 582**
  - ‘(a doctor)...is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art.’
  - Paternalistic ‘doctor knows best’ approach
- ***Sidaway v Board of Governors of the Bethlem Royal Hospital and the Maudsley Hospital* [1985] A.C. 871**
  - *Bolam* standard applied
  - Would still have undergone surgery even if she had known of the risk
- ***Pearce v United Bristol Healthcare NHS Trust* [1999] E.C.C. 167**
  - Reasonable patient test: what risk would the reasonable patient consider material?
- ***Chester v Afshar* [2004] WLR 927**
  - Would not have undergone surgery on that day
- ***Al Hamwi v Johnston, The North West London Hospitals NHS Trust* [2005] EWHC 206**
  - Doctor must ensure that patient understands the risks
- ***Birch v UCL Hospital NHS Foundation Trust* [2008] EWHC 2237 (QB)**
  - Doctor must explain alternative treatment options





# General risks – any surgery

- Scars
  - Hypertrophic / keloid
- Infection
  - Increased risk with obesity, smoking, diabetes, clean-contaminated / contaminated surgical site, long duration of surgery (multiple procedures)
  - Prophylaxis: intra-operative, post-operative
- Bleeding
  - Increased risk with bleeding disorders, anticoagulation
- VTE
  - Increased risk with obesity, previous VTE, OCP
  - Prophylaxis: mechanical, mechanical and pharmacological



# Things we can't control

- Swelling
- Scarring
- Patient factors
  - Skin type
  - Smoking
  - Diabetes
  - Obesity
- Non-compliance



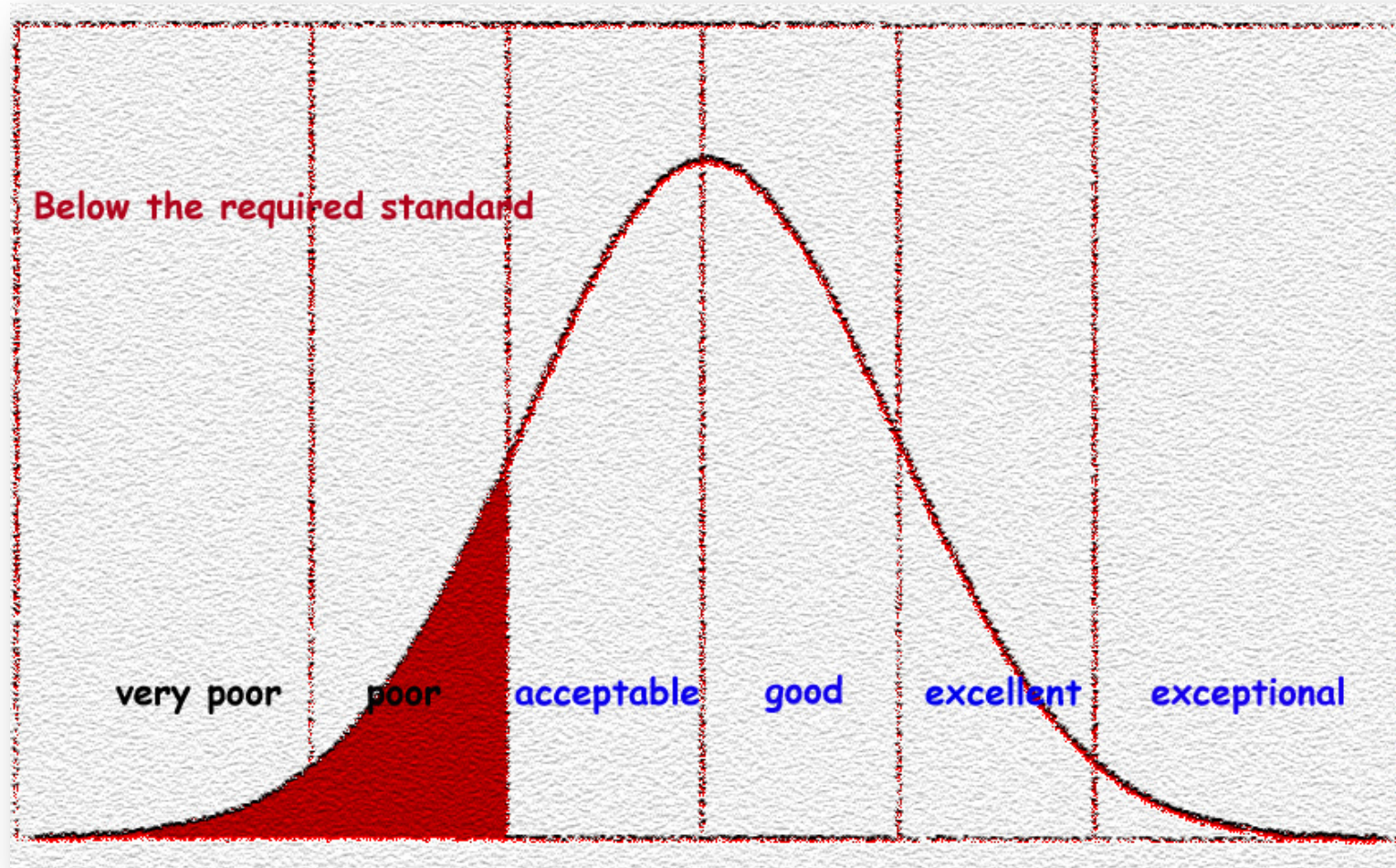
# Problem areas

- Unrealistic expectations
- The difficult patient
- Psychiatric history including Body Dysmorphic Syndrome
- Financial relationship
  - Initial costs, loans
  - Re-operation costs
  - Refunds
- Assessment of the aesthetic result





# Assessment of the aesthetic result



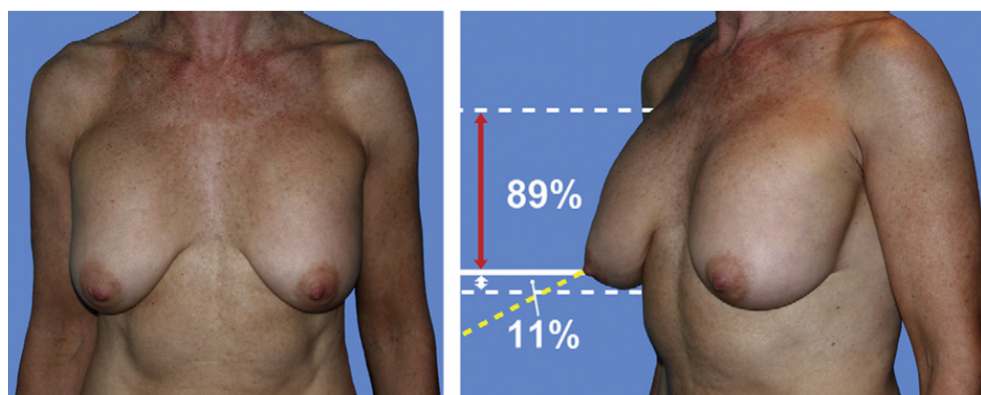
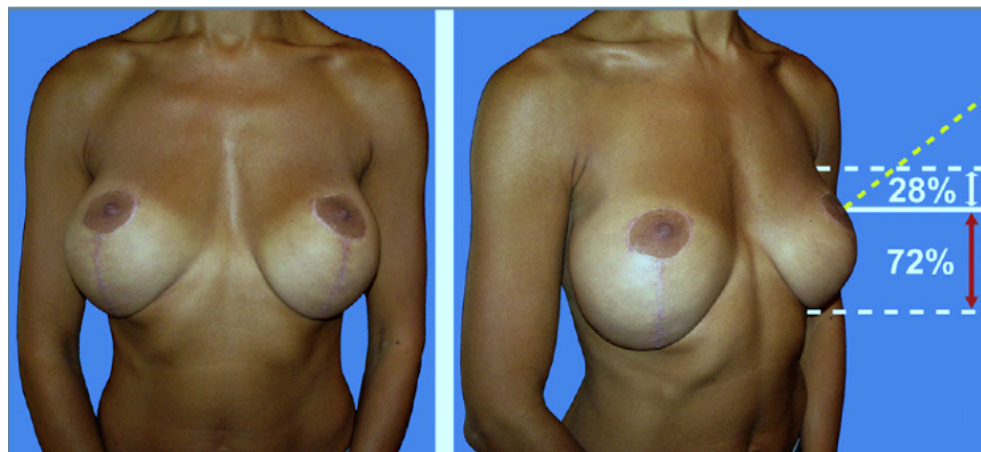
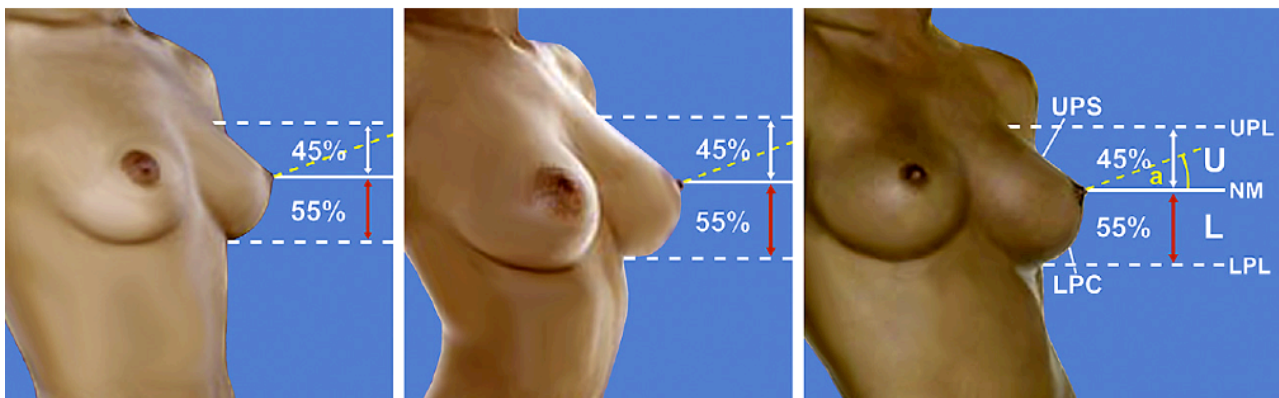
# Ideal breast aesthetics?

- upper : lower pole ratio 45:55
- the angulation of the nipple upwards at a mean angle of 20° from the nipple meridian
- the upper pole slope is linear or slightly concave
- the lower pole is convex

J Plast Reconstr Aesthet Surg. 2012 Jan;65(1):8-16







JPRAS 2012 Jan;65(1):8-16



# Specific risks – breast augmentation

- Silicone risks
  - Connective tissue disease, ALCL, silicone lymphadenopathy
- Capsular contracture
  - Manufacturer's data
- Cancer induction and surveillance
- Palpable implants
- Rippling (palpable, palpable and visible)
- Asymmetry (shape and volume)
- Pain
- Numbness
- Breast feeding
- No guarantee regarding cup size
- Midline separation (dual plane)
- Displacement (dual plane)
- Double bubble (dual plane)
- Ptosis, pseudoptosis
- Further surgery - guaranteed

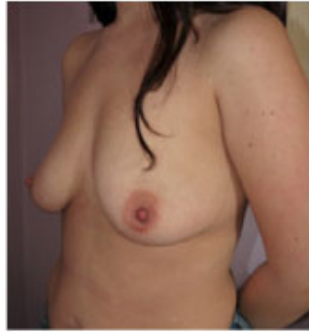




## Early complications



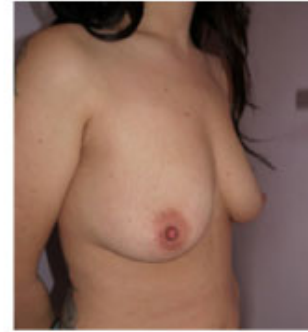
# Excellent aesthetic result



Before



Before



Before



After



After



After





# Good aesthetic result



Before



Before



Before



After



After



After





# You decide!



# Specific risks – breast reduction / mastopexy

- Scarring - distribution
- Nipple necrosis – partial / total
  - Increased risk with large breast reduction, smoking
- Nipple sensory changes – increased / decreased
- Asymmetry – shape / volume
- Pain
- Numbness
- Breast feeding
- Fat necrosis
- Dog-ears
- Revisional surgery at extra cost
- No guarantee regarding cup size



# Excellent aesthetic result



Before



Before



Before



After



After



After



# Good aesthetic result



Before



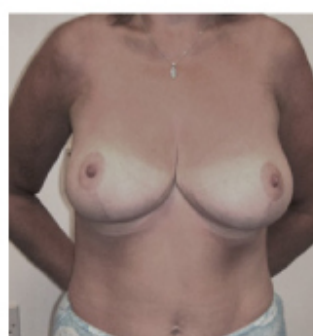
Before



Before



After



After



After



# Specific risks – Vertical Mammoplasty

- As for breast reduction / Wise pattern mastopexy plus:
  - Pleating of vertical scar
  - Excess lower pole tissue (conversion to short horizontal scar)
  - High nipple-areolar complex (need to adjust markings)
  - Increased likelihood of nipple numbness
  - Inability to breast feed
  - **Learning curve**





# Poor aesthetic result: the inferior pole and nipple position



<http://www.realself.com/question/fix-bottomed-breast-lift-implants>

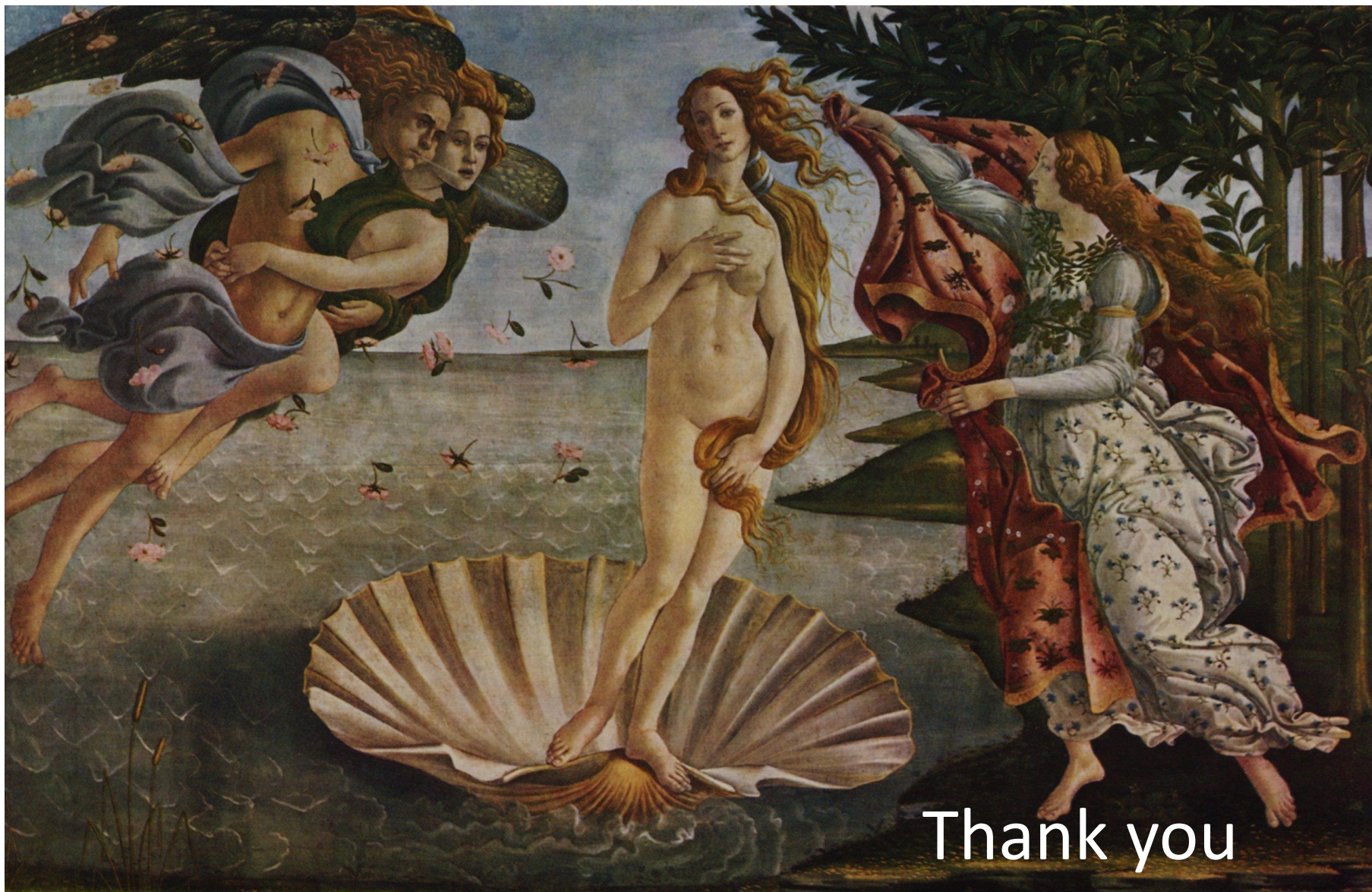


# Conclusion: Medico-legal checklist

- Breach of duty to warn of risks
- Negligent versus non-negligent complication
- Acceptable versus unacceptable aesthetic result
- Lack of due skill and / or care







Thank you

