

New York Laws Ban Some Women from filing Medical Malpractice Suits for Botched Mammograms

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According to the American Cancer Society, beginning at the age of 40, women are advised to have annual mammograms. According to the law in New York, the statute of limitations for medical malpractice is two and half years from the date the malpractice occurs. This statute of limitations period is only postponed if a foreign object is found in a body after surgery or an individual has been receiving continuous treatment from the physical who commits the malpractice. So consider this hypothetical.

A 40 year-old woman has a mammogram performed. When the radiologist reads the mammogram film, he or she does not notice a potential tumor. For whatever reason, the woman does not get another mammogram until three years later when she finds a large lump in her breast. A new mammogram discovers the tumor in her breast and an oncologist determines the tumor is cancerous.

Under the New York statute, the statute of limitations bars the woman from bringing a medical malpractice suit against the radiologist. Furthermore, under *Nykorchuck v. Henriques*, toll exception to the statute of limitations does not apply to mammograms. *Nykorchuck v. Henriques*, 78 N.Y.2d 255 (1991).

About the Perecman Firm

“Falls are foreseeable and can be eliminated or controlled before they cause injury or even death,” continued Perecman, the founder of The Perecman Firm, one of New York’s construction accident law firms. The [New York Construction Accident Attorneys](#) focus on cases involving personal injury, construction accidents, and wrongful death in New York and New Jersey, including Manhattan, Queens, Brooklyn, Westchester, the Bronx, Long Island, Harlem, and upstate New York. Contact David Perecman of [The Perecman Firm](#).