

November 16, 2022

Case No. 2018-001842

Thelma R. Garrick, Orangeburg, S.C. vs  
Dr. George H. Khoury and Bon Secours  
St. Francis, Charleston, S.C.

**RECEIVED**

NOV 18 2022

TO: The Honorable C. J. Lockemy, and Huff and J.J. Hewitt **SC Court of Appeals**

Dear Sirs:

I would like to acknowledge receipt of the document to Dismiss my Lawsuit where you Concurred with the Circuit Court stating, "they did not err in dismissing Garrick's Complaint alleging Medical Malpractice against Respondents because she failed to file Notice of Intent and an affidavit of an expert witness as required....." I would like to correct this misinformation as well as others so that the records will be right. Please see enclosed documentation on each false allegation. Thank you.

I mean you no disrespect but may I ask where you were shown evidence of these facts(?): because I have evidence that does not add up. Mine is in black and white, see enclosed documentation. One very large fact was how the Judge accepted the way the attorney said I filed "Professional Negligence". This happened in both Lower Court and The

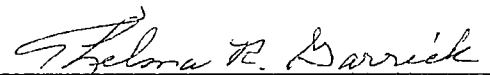
Court of Appeals. (Yes I filed Medical Malpractice because the District Court said I had to file the case under Medical Malpractice, but my documentation upon which I filed the Lawsuit plainly says "Doctor premeditatedly, willingly, knowingly implemented experimental devices and medication known for its permanent debilitating injuries without Plaintiff's knowledge or permission." (This was criminal intent to harm.) This operation was definitely approved by the hospital. Proof of being paid compensation to do these operations are enclosed.

Even with this evidence the Court refused to correct their error on how I filed.

Appellant has enclosed documentation about false allegations in the Transcript:

Summons, filing of the case, Motion to extend time and Intent, rule 212, Transcript, expert witness, motion by attorney incomplete did not receive, proof compensation paid, information on lawsuit, settlement offer, articles for information, product Liability, Medtronic Lawsuits, and table of contents on a brief sent to the Court. Most important is the Appeal Chart giving major steps in processing an appeal under the South Carolina Court rules that I followed and completed each section within the timeframe given. I completed my work up to the Clerk was to take over. Everything stopped there.

Please study the documents for the truth, then at least correct the court documents to have a clear and honest recording of this case. I even found a document from the doctor, and Medtronic's about a settlement but guess the Court wanted to look big in the eyes of the Respondents? (And did not think that if they had been honest the Court too would have been paid. Didn't they realize that I had been disabled and could no longer work? part-time to supplement my income. And am still struggling to maintain my home but it is a losing battle. The second thing I am still working on and will not give up is the importance of getting the word out to the people what they are doing in South Carolina, still harming people.

  
\_\_\_\_\_  
Thelma R. Garrick/Pro Se

TRG/tg

Enclosures

THE SOUTH CAROLINA COURT OF APPEALS  
COLUMBIA, SOUTH CAROLINA

Appellate Case No. 2018-001842  
Circuit Court Case No. 2018-CP-10-1163

**RECEIVED**

NOV 18 2022

**SC Court of Appeals**

Thelma R. Garrick

Appellant

vs

Dr. George H. Khoury and Bon  
Secours St. Francis W. Ashley

Respondents

Affirmed Dismissal of the Case (not dated)  
By Judge C. J. Lockemy, and Huff and J.J. Hewitt  
All concurred with report from Clerk of Court  
Case was dismissed without oral argument or Appellant ever meeting anyone in the court,  
attorneys, or seeing inside the Courtroom and without presenting her case.

This is to acknowledge records of the Court only, unless there is a  
Technicality.

PROOF OF SERVICE

Ms. Jenny A. Kitchings, Clerk ✓

Roger Townsend LLG  
Mr. Joseph J. Tierney, Jr.  
177 Meeting St., Suite 320  
Charleston, S. C. 29401

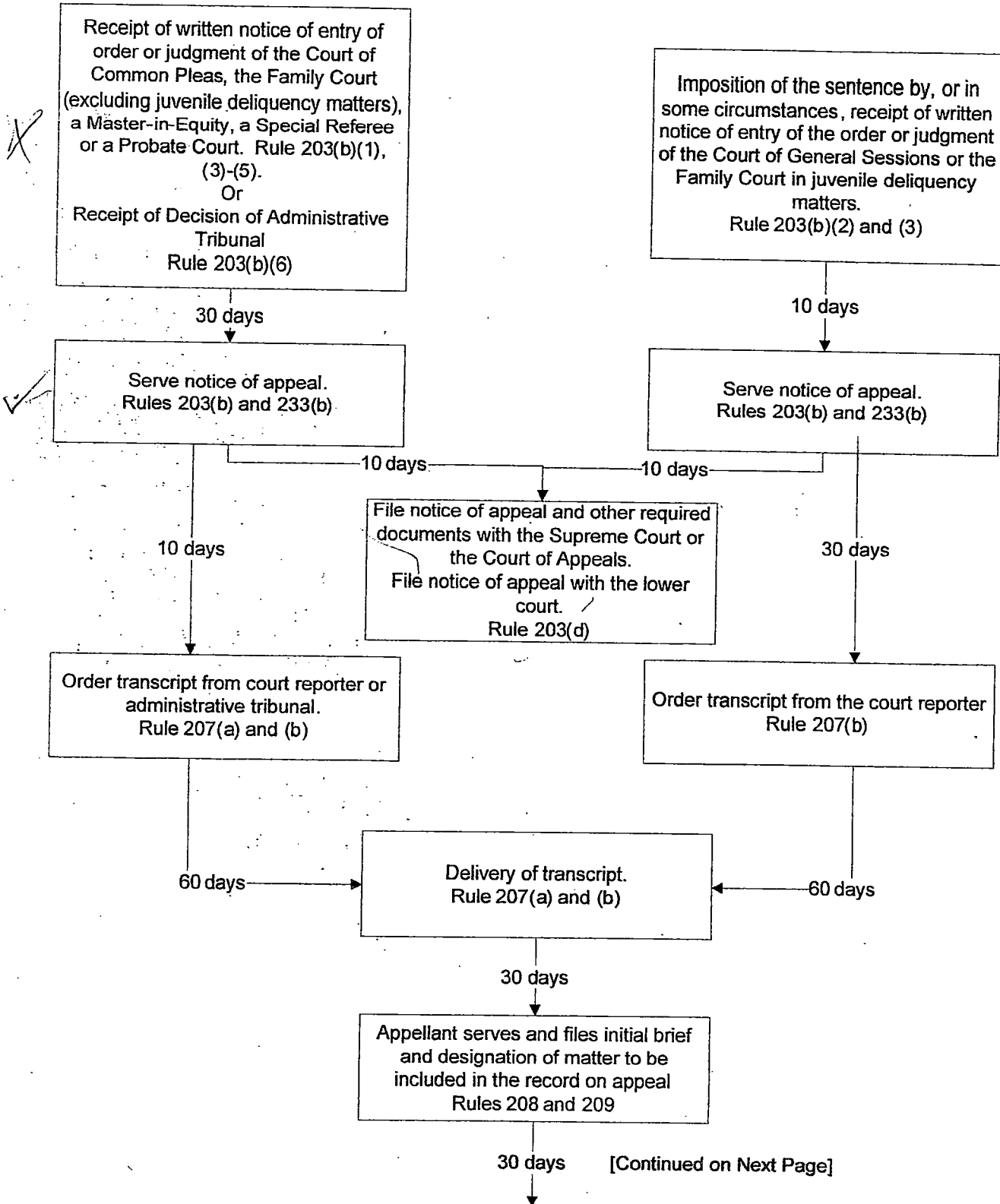
Young Clement Rivers, LLP  
Mr. Stephen Brown  
Mr. Russell G. Hines  
P. O. Box 993  
Charleston, s. C. 29402

Placed in the US mail service on the 16<sup>th</sup> Day of November, 2022.

**PART II  
APPENDIX B**

**APPEALS CHART**

This chart shows the major steps in processing an appeal under the South Carolina Appellate Court Rules and is intended to provide an overview of the direct appeal process. It does not give all of the detailed requirements for perfecting an appeal, nor does it show the steps necessary in special situations (cross appeals, multiple appellants, cases requiring no transcript from the court reporter, petitions for writs of certiorari to the Court of Appeals, etc.). Counsel should always consult the text of the Rules.



Respondent serves and files initial brief and designation of matter to be included in the record on appeal.  
Rules 208 and 209

10 days

Appellant serves and files initial reply brief and designation of matter to be included in the record on appeal.  
Rules 208 and 209

30 days

Appellant serves record on appeal on all parties who served a brief.  
Rule 210(a)

20 days

Each party serves and files its final brief. Appellant files the record on appeal with the appellate court.  
Rules 210(b) and 211

*Clerk did not follow through*

Clerk sends out notice of oral argument at least 40 days before term of court. Counsel notifies clerk of any conflict.  
Rule 216(a)

Case submitted without oral argument  
Rule 215

Clerk sends out roster of cases at least 15 days before term.  
Rule 216(b)

Oral Argument.  
Rule 218

Opinion filed.  
Rule 220

15 days

Petition for rehearing and action thereon.  
Rule 221(a)

Remittitur sent to lower court or administrative tribunal.  
Rule 221(b)

✓

✓

Secours Roper St. Francis West Ashley (collectively, Respondents). We affirm pursuant to Rule 220(b) of the South Carolina Appellate Court Rules.

The circuit court did not err in dismissing Garrick's complaint alleging medical malpractice against Respondents because Garrick failed to file a notice of intent to file suit and an affidavit of an expert witness as required under sections 15-17-125(A) and 15-36-100(B)-(C)(1) of the South Carolina Code (2005 & Supp. 2020). See *Grimsley v. S.C. Law Enft Div.*, 396 S.C. 276, 281, 721 S.E.2d 423, 426 (2012) ("On appeal from the dismissal of a case pursuant to Rule 12(b)(6), an appellate court applies the same standard of review as the [circuit] court." (quoting *Rydde v. Morris*, 381 S.C. 643, 646, 675 S.E.2d 431, 433 (2009))); *id.* ("That standard requires the [c]ourt to construe the complaint in a light most favorable to the nonmovant and determine if the facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case." (quoting *Rydde*, 381 S.C. at 646, 675 S.E.2d at 433)); *id.* ("If the facts alleged and inferences deducible therefrom would entitle the plaintiff to any relief, then dismissal under Rule 12(b)(6) is improper."); S.C. Code Ann. § 15-79-125(A) ("Prior to filing or initiating a civil action alleging injury or death as a result of medical malpractice, the plaintiff shall contemporaneously file a Notice of Intent to File Suit and an affidavit of an expert witness, . . ."); S.C. Code Ann. § 15-36-100(B) ("[I]n an action for damages alleging professional negligence against a professional licensed by or registered with the State of South Carolina and listed in subsection (G) or against any licensed health care facility alleged to be liable based upon the action or inaction of a health care professional licensed by the State of South Carolina and listed in subsection (G), the plaintiff must file as part of the complaint an affidavit of an expert witness which must specify at least one negligent act or omission claimed to exist and the factual basis for each claim based on the available evidence at the time of the filing of the affidavit."); S.C. Code Ann. § 15-36-100(G)(7) (2005) ("This section applies to the following professions: . . . medical doctors; . . ."); S.C. Code Ann. § 15-36-100(C)(1) ("If an affidavit is not filed within the period specified in this subsection or as extended by the [circuit] court and the defendant against whom an affidavit should have been filed alleges, by motion to dismiss filed contemporaneously with its initial responsive pleading that the plaintiff has failed to file the requisite affidavit, the complaint is subject to dismissal for failure to state a claim. . .").

As to Garrick's arguments that she had a valid reason to request a continuance and she is entitled to a judgment on the merits, we find these issues are not preserved for appellate review because the circuit court did not rule on Garrick's continuance

motion or the merits of her medical malpractice action. *See Wilder Corp. v. Wilke*, 330 S.C. 71, 76, 497 S.E.2d 731, 733 (1998) ("It is axiomatic that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [circuit court] to be preserved for appellate review.").

**AFFIRMED.**<sup>1</sup>

**LOCKEMY, C.J., and HUFF and HEWITT, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

Copy

Recorded  
5-21-2021  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Charleston County  
Diane Shaffer Goodstein, Circuit Court Judge

Only received  
Dismissal!

Appellate Case No. 2018-001842  
Circuit Court Case No. 2018-CP-10-1163

Thelma R. Garrick

Appellant

vs

Dr. George H. Khoury and Bon  
Secours Roper St. Francis W. Ashley

Respondents

REBUTTAL

To Letter of May 12, 2021 from Ms. Jenny A. Kitchings,  
Clerk of the Court of Appeals on dismissal of Case #001842,  
along with The Honorable Judges who concurred with her  
assessment of the case; Honorable C. J. Lockemy,  
Honorable Thomas Huff, and Honorable J. J. Hewitt.

PROOF OF SERVICE

I CERTIFY THAT IMMEDIATELY AFTER THE RECORDING OF THIS  
REBUTTAL COPIES WILL BE IMMEDIATELY FORWARDED TO THE  
ATTORNEYS FOR THE RESPONDENTS VIA U.S. MAIL TO:

YOUNG CLEMENT RIVERS, LLP  
Mr. Stephen L. Brown, Esquire  
Mr. Russell G. Hines, Esquire  
P. O. Box 993  
Charleston, S. C. 29402

Roger Townsend LLG  
Mr. Joseph J. Tierney, Jr., Esquire  
177 Meeting Street, Suite 320  
Charleston, S. C. 29401  
(Appellant was not informed that he was  
no longer one of the attorneys representing  
the Respondents.)

cc: Ms. V. Claire Allen, Deputy Clerk  
cc: Ms. Jenny A. Kitchings, Clerk

TO THE HONORABLE JUDGES OF THE COURT OF APPEALS  
Regarding Rebuttal to Case #2018-001842, Number \_\_\_\_\_

Respectfully submitted,



Thelma R. Garrick, pro se  
(Acting attorney for self)  
195 Crescent Oaks Court  
Orangeburg, South Carolina 29115  
803-534-9912

Dated this 21st day of May, 2021

RE: Appellant Case No. 2018-001842

May 21, 2021

*Recorded  
5-21-2021  
S.C. Court of  
Appeals*

TO: THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS

Re: Order filed and dated February 01, 2021 (signed but could not read signature) and Letter of May 12, 2021 stating the decision of the Court on Appellant's case that is in the system. This Rebuttal is due to the Clerk of Court's denial to correct a Court error.

The Appellant realizes that the Honorable Judges, evidently, are only given certain information to base their opinion on a case. (I say evidently because I have not had time to access the duties of the Clerk of Court or how you obtain information.) Therefore, knowing that you could not have possibly decided legally to dismiss this case with the hundreds of documents and evidence that has been presented to the Court; and not to even mention the mistakes made by the Court. I beg the Honorable Judges to reconsider the findings by Ms. Jenny A. Kitchings, Clerk of the Court of Appeals.

Appellant has been denied her legal rights as follows:

1. Denied Mediation; I was asked by a Court Clerk had this been done because "this is the first step". (No, have not heard directly either by mail, telephone or even met the lawyers of Respondents at no fault of her own.) Appellant has not asked for anything but justice. (However, in her documents left this up to the Judges.) The intimidation by attorneys, their silence and ignoring requested information (such as a tape of the surgery) was solely to get a dismissal because that is the only way they could win the case. Denied the right to enter into record the reason the case was filed.
2. Denied correction of how Appellant filed the case, Very Important! Denied the right to being a part of any meeting with the people discussing the case. Case has been discussed without Appellant being present.
3. Denied opportunity for an oral argument.
4. Denied the Courts timetable to instruct the Appellant: whereas Appellant followed the Court's Chart and timetable and completed it.
5. Denied a court date, never put on docket.

6. Denied additional Supplemental Records on research documentation to be added. This record stipulates that in 2008 FDA notified the medical profession not to use the Morphogenetic Protein ("BMP") device in the cervical spine (one of the three implants) because of the results caused by this device. In 2015, seven years later after report from FDA, this was one of the devices implanted into my spine: cervical spine against FDA warning knowing the results from testing. (The results as stated in the FDA notice to the Medical industry are now being proven to be true for Appellant.)

In the Lower Court, also Court of Appeals the Clerks of Court did not file as instructed in Appellant's original filing document on this case. The Appellant has since August 20, 2015 suffered from the massive experimental surgery performed by the Respondents; that was done "premeditatively, willingly, knowingly implanted experimental devices without Appellant's knowledge or permission". The three implants in her spine were never needed as Appellant was told by an attorney who had let a neurosurgeon study the disks that she did not even need surgery. (This was also confirmed by an MRI.) (This attorney wanted to take my case but his partner did not.)

Respondents had contracts per government files with Medtronic and were paid to experiment on people with untested, untried, cadaver bones, using different materials, etc. (Proof by evidence already sent to the Court of Appeals.)

The attorneys filed with the court that Appellant had filed "Professional Negligence". Nowhere in my records will you find this other than denial. The Clerks were well aware of how Appellant filed. Many times I asked for a correction because the only way the attorneys could win this case was to have it dismissed because different methods of filing were necessary. Otherwise the Attorneys could not deny the information I have presented to the Court. In fact, the Attorneys have had very little to do with this case; the Court has assisted.

Appellant saw that information was not going to get to the Honorable Judges, she sent two Motions with \$100.00 and asked that after recording these motions they become a part of the Supplemental Records. Clerk refused quoting Rule 212. "With written consent of all attorneys of record, a party may supplement the Record on Appeal at any time before argument commences".

Appellant had not been added to the docket nor heard from the Clerk according to the Court's chart and timetables; the Appellant saw how important these documents were and filed the two Motions October 31, 2020 before Clerk resumed directions according to the Courts timetable of events as they needed to occur. (The decision to send out notice of oral argument before term of court. Counsel (Appellant included as pro se) notifies clerk of any conflict, Rule 216(a). There were no problems to proceed from appellant. This was where information was stopped.

Appellant would also like to point out that Clerk set a precedent to Rule 212 when she allowed Attorneys for Respondents to file a supplemental record by taking Appellant's own document and filed against her. Appellant was not notified of this Action or information that came by mail at a later date. Appellant always filed all documents and sent to Clerk and Attorneys the same day. At no time has Attorneys denied her documents nor has she received any opposition regarding Documentation.

A letter was received from the Clerk of Court dated February 23, 2021 regarding Rule 240 and filing a motion. This Rule, according to the book on Rules of Appellant's

Practice states "Frivolous Appeals, Petitions, Motions or Returns". (Appellant misinterpreted because this case is not Frivolous but realized her mistake in not filing a motion when she received the Clerk's letter of May 12, 2021.)

This case is about harm, especially to the elderly, by experimenting on them without their knowledge thus putting them in more pain or death. All for greed, money. Respondents had contracts (Dr. Khoury for years 2013, 14, 15, and 16) with Medtronic to experiment with these implants that had never been tried or tested. (Copies of lawsuits in five different States with over 10,000 people suing for damages have been forwarded to the Court.) Appellant begs the Honorable Judges for justice, the proof is in my documentations.

Again, why would the reason Appellant filed the case be ignored? March 6, 2019 Order from S. C. Court of Appeals that Appellant had notified Respondents that she was filing.

When Appellant filed for an extension to the July 12, 2018 date to appear in Court, she had been gathering information for almost three years and still did not know everything the respondents had done to her in surgery; new information had been uncovered. She felt that this could have a bearing on her case. All necessary documents were received by the Court before deadline (evidence in records). Appellant also questions the actual date of the meeting due to one of the clerks.

It was not the Appellant's fault the lawyer/Clerk filed her case their way instead of the way she filed. It was not her fault the Judge did not review her case and took the word of the attorney. It was not her fault the attorney and Clerk did not tell the Judge

the reason Appellant was not there so she could reschedule. It was not her fault the Clerk had ignored her request for an extension that was within her rights. (The request for the extension was filed at a much later date.)

I feel that the Honorable Judges could not have received pertinent information about this case. May I ask, what did you concur with in your discussion with the Clerk? (May Appellant have a copy of this meeting where you concur with Clerks Assessment?)


The documents from the print out of the status of the case recorded on the computer was forwarded to Appellant, at her request. She was told that these documents went to a "Panel" for review. The documents received certainly was not a true list of the said documents recorded. (Proof of this is available if needed.)

Appellant has been honest in all the data she has forwarded to the Court and evidence to back it up. What she incurred under the hands of her doctor, and then by the Court is very depressing. Appellant did not realize the power a person has in giving you information to form your opinion on the case. What an awesome responsibility. (Appellant, in all of her career, never fraternized with person's with whom she had to make unbiased opinions.)

Appellant also asks the Honorable Judges to schedule a meeting with the Attorneys/Respondents, and the Honorable Judges. Appellant would like to put faces to names as Appellant feels she has been fighting in the dark. Appellant also needs closure so the nightmares will go away. Hopefully this meeting will make it so. Appellant would be available to answer any questions, not arguments, the Honorable Judges might have.

Thank you in advance for allowing me this one chance for closure.

Respectfully submitted,

  
Thelma R. Garrick, pro se  
Resident of Orangeburg County  
City of Orangeburg South Carolina  
195 Crescent Oaks Court  
Orangeburg, S. C. 29115  
803-534-9912

Copies to:  
Mr. Russell Hines, Mr. Stephen Brown,  
Mr. Joseph J. Tierney, attorneys at law  
Ms. V. Claire Allen, Deputy Clerk  
Ms. Jenny A. Kitchings, Clerk

/tg

Signed Release with attendant holding my hand (Incomplete Release) # 3 7 11 1

12. Done immediately after arrival at hospital. See operative report for same info as above

MR: 001245892 DOB: 01/12/37  
GARRICK, THELMA H  
St Francis UPC  
PHYS: KHOURY MD, GEORGE H  
ACTE: 15232-00065 08/20/15

**Informed Consent for Operation/Procedure/  
Anesthesia INCLUDING Blood and Blood Products**

- I give my permission to Dr. (include any assistants) Khoury to perform the following procedure(s) Lumbar laminectomy & Removal of hardware & Fusion @ L4/5 on Thelma Garrick (patient's name)
- I understand that during the procedure(s) new findings or conditions may appear and require an additional procedure(s) for proper care.
- My doctor has discussed with me the items listed below:
  - the nature of my condition;
  - the nature and purpose of the procedure(s) that I am now authorizing;
  - the possible complications and side effects that may result, problems which may be experienced during recuperation, and the likelihood of success;
  - the benefits to be reasonably expected from the procedure(s);
  - the likely result of no treatment; and
  - the available alternatives, including the risks and benefits.

*Not*

(g) My physician has also explained that, in addition to the specific risks involved in the procedure(s), there are other possible risks that accompany any surgical and diagnostic procedure. I acknowledge that neither my physician nor anyone else involved in my care has made any guarantees or assurances to me as to the result of the procedure(s) that I am now authorizing.

(for physician use to add any specific risks he/she deems necessary)
- I know that other clinical staff may help my doctor during the procedure(s) and have been told of any surgical assistants that will assist my doctor.
- I understand that the procedure(s) may require that I undergo some form of anesthesia, which may have its own risks. My doctor or a representative from the department of anesthesiology, has informed me of the course of anesthesia that is recommended (if any) along with its possible risks and alternatives.
- Any tissue or specimens taken from my body as a result of the procedure(s) may be examined and disposed of, retained, preserved, or used for medical, scientific, or teaching purposes by the hospital.
- I understand that my procedure(s) may be photographed or videotaped and that observers may be present in the room for the purpose of advancing medical care and education.
- I understand that, during or after the procedure(s) my doctor may feel it necessary to give me a transfusion of blood or blood products. My doctor has discussed with me the alternatives to, and possible risks of transfusion.
- I understand what my doctor has explained to me and have had all my questions fully answered.
- Additional comments:

Having talked with my doctor and having the opportunity to read this form, my signature below acknowledges my consent to the performance of the procedure(s) described above.

Signature of Patient or Legal Representative Thelma R Garrick Date 8-20-15 Time 9:05

If Legal Representative, Relationship to Patient

Witness Donald (Roger Donald) *Did not even witness the attendant holding my hand because I could not see*

Verbal or Telephone Consent  
Name of Legal Representative Relationship to Patient Date Time

Witness Witness

1. I have explained the risk, benefits, potential complications, and alternatives of the treatment to the patient and have answered all questions to the patient's satisfaction, and he/she has granted consent to proceed.

Physician or Authorized PA/APRN Signature [Signature] Date 8/21/15 Time 8:00

Rev 11/08; 1/09; 2/10; 8/14

# Pages 6



PRINTED BY: barness DATE 12/28/2016

*My parent did not tell me what they were going to do a day later!*

*My initial by fusion is proof of my allegations on being drugged before going into the operating room and to...*

Surgery August 20, 2015

*Learned  
later it was  
No. Mac Donald*

Plaintiff arrived at Hospital approximately 6:10 or 6:15 AM. Was taken immediately back to pre-op waiting area. After the IV port was put into right wrist a nurse or one of Doctor's team brought in a hypodermic needle filled with medication, (daughter-in-law still in waiting room). I wanted to know why she was giving me a shot and she said, "It is to relax you." No sooner than she said "you" I was out. (This is why I believe the medication was Versed because it is the only pre-op medicine I can take without becoming nauseas, and had mentioned this to the Doctor on 6-22.) Plaintiff was able to wake up when prompted with a question or do what she was instructed to do, another side effect of Versed. Yet, Plaintiff is unable to remember going over her meds, anesthesia, getting an EKG, preparing for surgery other than the gown and IV port. Another effect of Versed is temporary amnesia. What they forgot is that I could remember before the shot was given!) Plaintiff next remembers being in the hallway going back to the operating room when daughter-in-law awakes her with a kiss on the forehead and telling her she would see her when she got back. Then I was out again until I was awakened and told I had to sign a paper on a clipboard. I asked her what it was and she said, "It is to give us permission to do your surgery". I remember chuckling and saying you do need my signature to relieve the pressure on the left sciatic nerve. I could not see the signature line and asked her to show me where it was. She took my hand and guided my signing of the Consent form. After this she told me to initial the top of the release. When I looked everything was still hazy but was able to make out that there were two lines of handwriting. I could not read it, not clear, and remember asking her "what is all that, I am only supposed to have a fusion releasing the left pinched sciatic nerve. Her voice was very sharp when she said, "just initial it".

By this time I am thinking I needed to talk to my doctor because I felt something was wrong but being so sedated I having a hard time concentrating, trying to read what was written, and wondering where to sign. However, one word became legible and stuck out from all others "fusion". I initialed by this word because I knew this was the reason for the surgery. I then immediately went back to sleep and knew nothing until I awakened after surgery in inhumane pain.

Doctor Appointment March 7, 2016

Plaintiff was still having so much pain the Doctor had requested an MRI to be done on March 3<sup>rd</sup> in Moncks Corner.

As I entered the patient waiting area on the 7<sup>th</sup> the Doctor met me at the door and took me to the computer room. He showed me this device that was implanted in the lower lumbar (later in a telephone conversation his staff said it was a Distribution Port). I had a fusion on the right sciatic nerve so I knew this was nothing like that fusion that was needed after the spinal stenosis surgery in April of 2011. I was shocked at what I was seeing and sick from a week's steroid pills that I did not ask any questions that day. The Doctor explained in detail how this port worked. You would go into the first screw using an x-ray and put a massive dose of steroids that would trickle down over time. (No other

STATE OF SOUTH CAROLINA,  
COUNTY OF Charleston

IN THE COURT OF COMMON PLEAS  
2018-CP-10-1163

SUMMONS

Thelma R. Garrick Plaintiff

vs.

Dr. George H. Khoury  
Bon Secours St. Francis Defendant  
West Ashley

FILE NO.

2018 MAR -5 PM 12:23  
JULIE M. HARRIS, CLERK  
BY \_\_\_\_\_

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Charleston, South Carolina

Thelma R. Garrick  
Plaintiff/Attorney for Plaintiff

Dated:

March 5, 2018.

Address:

195 Crestent Oaks Ct.  
Orangeburg, S.C. 29115  
803-534-9912

When this was delivered to  
Dr. the Defendant; they nor the  
attorneys contacted Plaintiff.  
(Signature)

STATE OF SOUTH CAROLINA  
SOUTH CAROLINA SUPREME COURT  
IN THE COURT OF COMMON PLEAS  
COUNT OF CHARLSTON

Civil Action No. 2018 CP 10 1163

Thelma R. Garrick  
195 Crescent Oaks Ct.  
Orangeburg, South Carolina 29115  
Telephone No. 803-534-9912

Plaintiff

VS

Dr. George H. Khoury MD  
Bon Secours St. Francis, West Ashley  
2145 Henry Tecklenburg Drive  
Charleston, South Carolina 29414  
Telephone No. 843-723-8823

Defendants

*Complaint*

Doctor-Patient Relationship

Plaintiff's medical doctor made an appointment with Dr. George H. Khoury (here-in after known as Doctor) in 2011 from a spinal stenosis diagnoses. This resulted in surgery on April 12, 2011 (record not in medical file), and several weeks later a lumbar disk ruptured requiring another surgery on October 20, 2011 to replace disk with cadaver bones and grafting. After this surgery at Bon Secours St. Francis (here-in after known as Hospital) Plaintiff had slight problem with left sciatic nerve. Over time, pain escalated from the back down leg below the knee and at times into the groin. Plaintiff contacted Doctor in December 2014. X-rays and MRI of the entire spine was ordered by Doctor on 1-30-15. After being unsuccessful in trying to get out of having surgery again the surgery was scheduled on June 22, 2015 for August 20, 2015. Dates of all appointments outlined on personal calendar.

Surgery discussion between Defendant and Plaintiff

A fusion would be done to relieve pressure on left sciatic nerve. Date was set for August 20, 2015. There was no other pain. Only discussion with Doctor.

FILED  
2018 MAR -5 PM 12:29  
JUDGE J. ADRIAN FORTS  
CLERK OF COURT

*Thelma R. Garrick*

# The South Carolina Court of Appeals

Thelma R. Garrick, Appellant,

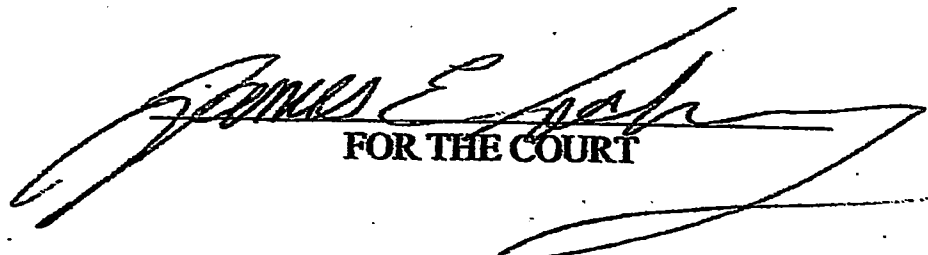
v.

Dr. George H. Khoury and Bon Secours St. Francis West  
Ashley, Respondents.

Appellate Case No. 2018-001842

ORDER

After careful consideration and because Appellant's proof of service establishes Appellant timely served Respondents with the notice of appeal, Appellant's motion to allow the late filing of the notice of appeal is granted.

  
FOR THE COURT

Columbia, South Carolina

cc:  
Thelma R. Garrick  
Joseph John Tierney, Jr., Esquire

**FILED**  
March 6, 2019

(copy)

### Reason for Case

Let me first say that I am not an attorney nor do I claim to be. I therefore ask the Court to be a little lenient. Thank you.

My reason for this case is to expose a Doctor and Hospital that there are consequences of their actions in experimentation and deceit no matter what their reasons for posterity or gain.

### Complaint

*(Criminal Intent)*

Doctor performed major back surgery using medical devices for experimentation and benefit. Doctor premeditatedly, willingly, knowingly implemented experimental devices and medication known for it's permanent, debilitating injuries without Plaintiff's knowledge or permission.

Permanent physical and emotional damage done from the experimental devices inserted into the spine have caused pressure on all nerves resulting in spasms, and cramps above and below waist with any twisting of body thus causing constant pain. The pinched left sciatic nerve was never repaired causing even greater pain and often sharp knife-like pain when turning or twisting. Placing the large distribution port (still do not know name) into the lumbar spine when it did not have the depth required for this implant, and the Doctor knew of Plaintiff's medication allergy that was to be used to test this device; the Plaintiff was never a candidate.

Six months after the surgery during a visit in the Trident office on March 7, 2016, Plaintiff informed Doctor that she did not understand she was getting worse instead of better. The Doctor replied, "Your body is rejecting what I put in you." The next appointment was on April 18<sup>th</sup> and turned into a massive cover-up.

### History Before Operation of August 20, 2015

Called Doctor in December about sciatica pain. Appointments:

January 16, 2015, left sciatic pain

January 30, 2015, MRI and x-rays (available)

February 2, 2015, follow-up on results

February 25, Pain clinic, shot of steroids (Had one but due to severe reaction cancelled others.)

March 16, 2015, follow-up, advised Doctor of reaction to shot

April 27, 2015, follow-up

May 20, 2015, follow-up. (Still trying to keep from having more surgery.)

June 22, 2015, finally agreed to have a fusion to relieve pressure on left sciatic nerve.

Operation date was set for August 20, 2015.

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Thelma R. Garrick  
Plaintiff

vs

Dr. George H. Khoury and Bus  
Services St. Francis West Ashley  
Defendant

(Article 5

IN THE COURT OF COMMON PLEAS  
9th JUDICIAL CIRCUIT

CASE NO: 2018-CP-10-1163

MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET

Plaintiff's Attorney: <u>(David T. Kelly)</u>	Defendant's Attorney: <u>Joseph T. Tenney, Jr., Esquire</u>
Pr. <u>SE</u> , Bar No. <u>in S.C. 29122</u>	As <u>Christine H. Toppenberg</u> , Bar No. <u>29122</u>
Address: <u>195 Crescent Oaks Ct.</u>	Address: <u>York, Clement Rivers LLC, P.O. Box 993,</u>
<u>Charleston, S.C. 29405</u>	<u>Charleston, SC 29405</u>
Phone: <u>803-539-9712</u> , Fax: <u>---</u>	Phone: <u>843-720-5406</u> , Fax: <u>843-379-1518</u>
E-mail: <u>---</u> , Other: <u>---</u>	E-mail: <u>---</u> , Other: <u>---</u>

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: \_\_\_\_\_  
Estimated Time Needed: \_\_\_\_\_ Court Reporter Needed:  YES /  NO

SECTION II: Motion/Order Type

- Written motion attached
  - Form Motion/Order
- I hereby move for relief or action by the court as set forth in the attached proposed order.

Thelma R. Garrick Signature of Attorney for  Plaintiff /  Defendant  
June 30, 2018 Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT: \$25.00
  - EXEMPT: (check reason)
    - Rule to Show Cause in Child or Spousal Support
    - Domestic Abuse or Abuse and Neglect
    - Indigent Status  State Agency v. Indigent Party
    - Sexually Violent Predator Act  Post-Conviction Relief
    - Motion for Stay in Bankruptcy
    - Motion for Publication  Motion for Execution (Rule 69, SCRCP)
    - Proposed order submitted at request of the court, or, referred to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_  
 Other Motion To Extend Time of hearing 7-13-18

JUDGE'S SECTION

Motion Fee to be paid upon filing of the attached order.  
 Other: \_\_\_\_\_  
JUDGE CODE: Judge Goodstein  
Date: \_\_\_\_\_, 20

CLERK'S VERIFICATION

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_, 20  
 MOTION FEE COLLECTED: \$ \_\_\_\_\_  
 CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

SCCA 233 (11/2003)

49

Continuance request  
sent to Judge via  
Clerky Court Page 2 of 3



(Intent)

TRANSCRIPT AND COURT ORDER

The Transcript dated July 12, 2018 and signed by Ms. Karen V. Anderson, RMR, CRR, Circuit Court Reporter for South Carolina, in the Court of Common Pleas, Case No. 2018-CP-10-1163. (Copy enclosed)

At the beginning of the Transcript the Judge wanted to know why Appellant/Plaintiff was not at the Hearing. Respondents/Defendants Attorney and the Clerk of Court both knew I was waiting for an answer from the Court about the requested Continuance.

A request that was never recorded and never acknowledged.

Judge Goodstein asked if Appellant had been informed. Respondents Attorney told her I had been informed. The hearing continued.

Attorney informed the Judge that Appellant had filed the case on "professional negligence against Dr. Khoury and against St. Francis hospital". "And she had not filed a professional negligence petition, and had not filed the affidavit to the notice of intent.

He told the Judge I had to jump through the hoops.<sup>142</sup> Judge agreed. (Attorney deliberately misconstrued the reason for the lawsuit again as was proven in the Civil Action Summons and Complaint.)

*See attached copy sent to attorneys*

The Judge asked if there had been mediation? The Attorney's answer, "None of that has occurred". The Judge then said, "Dismissal is appropriate", and asked attorney to prepare the order. The Dismissal Order was prepared and signed by Judge Diane S. Goodstein, Circuit Court Judge for Charleston County on July 25, 2018.

Proof of Filing!

~~INDEX~~

Re: **Thelma R. Garrick v Dr. George H. Khoury**  
**Appellant Case No. 2018-001842**


1. **Intent *To Harm***
2. **Reason for Filing**
3. **Injuries (harm done to appellant)**
4. **Expert Witness**
5. **Request for Continuance**

Respectfully submitted,

*Thelma R. Garrick*  
Thelma R. Garrick, pro se

/tg

Pages 1 of 34

11-17-18 

THE STATE OF SOUTH CAROLINA )  
IN THE COURT OF APPEALS )  
COLUMBIA, SOUTH CAROLINA )

Appeal from Charleston County  
Court of Common Pleas  
Case No. 2018-10-CP-1163

CASE NUMBER: 2018-001842

Thelma R. Garrick ) Appellant

vs

Dr. George H. Khoury and  
Bon Secours St. Francis  
West Ashley ) Respondents  
Represented by Joseph J.  
Tierney, Jr., Esquire

**NOTICE THAT TRANSCRIPT HAS BEEN TIMELY RECEIVED**

Attention: Ms. V. Claire Allen, Deputy Clerk

A copy of the Transcript of July 12, 2018 in the Lower Court of Common Pleas has been enclosed. A copy of this transcript and this letter has been forwarded also to the attorney for the Respondents on this date, November 17, 2018.

Appellant proposes the following Designation of Matter be included in the Record of Appeal:

Response to page 2, column #1 through 23

1. Notice of Motion Scheduling from the Court
2. Appellant's request for continuance, from SCCA233
3. Motion to Extend Time
4. Proof of delivery according to timeframe

Copies had been forwarded to both Clerk of Court and Attorney for the Respondants. They knew why I was not in court that morning, and knew that I was awaiting a response from the court as to acceptance or to be in court on the 12<sup>th</sup>. To this date I have not had a response from the Clerk of Court's office regarding my request. Their attitude as to why I was not in court was a ruse to dismiss the case. This case has so many legal aspects that were broken but my case today is that a doctor lied and with the hospital experimented on my spine without my knowledge or permission. There was never any negligence on the part of the doctor or hospital because it was a premeditated well thought out plan and executed in that operating room on August 20, 2015 with my body being turned over to

two representatives from the Medtronic company, and others (?), and as a result altered not only my entire spine but also my life.

Response to page 3, line 6 and 7

The reference in the transcript referring to my supposedly "cervical surgery" under the neurosurgeon needs clarification because I never had such a surgery "that I know of". Or is this once again the attorney trying to deflect attention from the case? He does not want to attack my reputation! Slander is also a terrible thing!

*at this point  
still did not  
know every  
thing they did*

On the Operative Report from the Neurosurgeon he gave the (I will quote) "Risks, benefits, complications and alternatives were outlined. The risks of general anesthesia, bleeding, infection, risk of nerve root injury, spinal cord injury, paralysis, loss of bowel, bladder and sexual function were explained". Then he continues "The possibility of reoperation, intraspinal or intraabdominal hemorrhage, lumbar instability, recurrent disk rupture was noted. Long term complications." These risks were not on the release I signed under sedation (according to the copy I have). However, this is par for the course because HE NEVER mentioned this type of operation to me or the results thereof. However, from the Appellant's last try to get some kind of relief, the neurosurgeon has confirmed many of this predicted risks are coming true but more than three doctor's have advised not to do anything at this time because it is life threatening.

The operation I thought was scheduled was to relieve the pressure on the left sciatica nerve. I had no other pain or complications, just the nerve pain from sciatic going down the left leg. The neurosurgeon, when he called my home, said he had only put in a rod and two screws. So who or whom did the surgery?

I have been advised that my only alternative or safest alternative is treatment by pain medication.

Appellant's notice of intent. Page 3, line 7 through 24

Appellant searched the Internet but could not find information needed on advising the Respondents of her intentions. Appellant's notice of intent was issued verbally, personally in the Hospital Director's office, and the surgeon's office. They were informed, verbally. This would have been explained to the Judge if the Attorney and Clerk of Court had informed the Judge that I indeed had not been notified.

*because of request for extension. (Judge approved)*  
The Director was replaced shortly thereafter; and I later learned that the Doctor's agreements with the hospital had been changed also. (

*(See SCCA 401)  
attached*

The Summons, Form SCCA 401, and Complaint were forwarded to the Respondents.

Mediation, page 4, line 1

Appellant learned from the Clerk of Court that there had to be mediation but the attorney, even though I contacted them, never got back to her. *(See attached forwarded to attorneys) As they would speak to me,*

Dismissal of case, page 4, line 10 through 17

This was very neatly done. The attorney for the Respondents never spoke one word or contacted me in any way. The attitude of the Attorney and Clerk of Court's actions in and around July 12<sup>th</sup> was a breach of the law or are they exempt? Their ethics left much to be desired. They deliberately deceived the Judge when she asked of my not being in attendance because both knew that I was waiting on an answer from the Clerk of Court regarding my continuance. Both, when Appellant filed, had been advised, but read page 2, line 1 through 13 of the transcript they had no idea why I was not in court.

*John my husband  
I knew the  
Judge ~~to~~  
was ~~not~~ well  
aware ~~and~~  
she was ~~not~~  
to dismiss  
the case.  
All things  
pointed to  
a meeting  
before the  
Court  
convened*

The severity of this suit speaks for itself if it is read in its entirety. The Appellant has presented the truth. Looking at it in a common sense perspective there could not possibly have been negligence on the surgeon's part due to the complexity of the operation and the materials needed to perform such surgery. The surgery was not necessary and there is no way he could say there was such a need, especially when it was a miracle that I did not die. I know of no one, if they had known, would have agreed to the operation because of the risks involved. This journey I am on is not one I would have chosen but I know the One who leads me.

I thank the Court for your acceptance of my Appeal.

Thelma R. Garrick, Appellant Pro Se  
195 Crescent Oaks Ct.  
Orangeburg, South Carolina 29115  
803-534-9912

Copy to:

Mr. Joseph J. Tierney, Jr., Esquire  
Attorney for the Defendants

/tg

Enclosed: Document One – Notice of Motion Scheduling  
Document Two – Transcript

*Continuance Request sent to Judge via Clerk of Court*

1 STATE OF SOUTH CAROLINA )

2 COUNTY OF CHARLESTON )

) Court of Common Pleas  
) Case No. 2018-CP-10-1163

3 \_\_\_\_\_ )  
4 THELMA R. GARRICK, )

5 Plaintiff, )

6 vs. )

) Transcript of Record

7 DR. GEORGE H. KHOURY and )  
8 BON SECOURS ROPER ST. FRANCIS, )

9 Defendant. )

) DATE: July 12, 2018

10 B E F O R E:

11 THE HONORABLE DIANE S. GOODSTEIN

12 A P P E A R A N C E:

13 JOSEPH J. TIERNEY, JR.  
14 Attorney for the Defendants

15 Karen V. Andersen, RMR, CRR  
16 Circuit Court Reporter

17 *About Continuance*  
18 *request, and date*  
19 *from Court.*

20 *When I received the Court*  
21 *date I had just learned I*  
22 *had another implant in the*  
23 *critical spine. A form for a*  
24 *continuance was sent with*  
25 *the Court date. In order to*  
*complete the case of this*  
*new development I*  
*returned the request to the*  
*Clerk and Judges.*  
*Everyone knew why I was*  
*not in Court because I was waiting*  
*to hear from the Court. The*  
*Court made a mistake (2)*  
*not I!*

**ORIGINAL**

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MR. TIERNEY: Good morning, Your Honor.

THE COURT: Good morning. Give me one second. All right. Now, you are here alone?

MR. TIERNEY: I apparently am here alone.

THE COURT: All right. And this is No. 59; is that right?

Okay. All right. And this is a pro se plaintiff, Ms. Garrick. Do we know that Ms. Garrick received notice of today's hearing?

THE CLERK: She did.

THE COURT: Ms. Garrick, are you present? I'm looking for Thelma R. Garrick. Okay. She did receive notice?

THE CLERK: She did. No mention of continuance.

THE COURT: Listening to you.

MR. TIERNEY: Thank you, Your Honor. First of all, by way of introduction, my name is Joe Tierney. I represent Dr. George Khoury, who is a neurosurgeon here in town. And I also represent St. Francis Hospital in this matter filed by Thelma Garrick.

In addition to notice being provided to Ms. Garrick, she also filed several responsive pleadings in this matter and was aware of the fact that a motion hearing was going to take place today.

The issue of the case is as follows. Ms. Garrick has alleged professional negligence, medical malpractice against  
No criminal intent

1 Dr. Khoury and against St. Francis Hospital. She actually  
 2 filed complaint in this matter. Rather than file an answer on  
 3 behalf of the hospital and Dr. Khoury, we filed a 12(b)(1)  
 4 motion to dismiss because Mrs. Garrick has alleged in her  
 5 complaint some highly technical issues that had to do with  
 6 neurosurgery, in particular, cervical surgery that Dr. Khoury  
 7 performed. We filed a motion to dismiss based on the Medical  
 8 Malpractice Reform Act, or Section 15-79-125 of the South  
 9 Carolina Code, which states that if you are going to file a  
 10 professional negligence action, you have to do the affidavit.  
 11 You have to do the notice of intent. You have to jump through  
 all the hoops.

*There was no negligence. It was pre-medical. This was the lawyers.*

*Proves interpretation*

THE COURT: She did not do that?

MR. TIERNEY: She did not do that. I sent her a copy of the statute and told her this is the reason for the argument. Because in her rebuttal filings -- I understand she's a layperson -- she states, well, there is negligence, and she goes A, B and C. And I told her, no, but you have to follow the statute and then you can make all those arguments.

So that's why I'm here today seeking a dismissal of the case for lack of jurisdiction for her failure to follow the statute. ? *I have never had the pleasure of speaking to him, never met him or seen him*

THE COURT: Very well. The statute is not optional. It is mandatory. You must have an affidavit. You must file your notice of intent. And you must have that initial

*I did file a notice of intent*

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mediation. And I gather none of that has occurred.

MR. TIERNEY: None of that has occurred, Your Honor.

THE COURT: Very well. Then dismissal is then appropriate. If you will prepare an order for me.

MR. TIERNEY: I will. Thank you, Your Honor.

THE COURT: And be sure you put in there for me, Mr. Tierney, that the plaintiff was notified and did not appear.

*The lie continued*

MR. TIERNEY: Yes, Your Honor.

THE COURT: And that despite that, that this matter was not dismissed on the basis of her failure to appear, but you went forward and argued your motion and merits of that motion, so that it is clear that this matter has been dismissed on the merits. *No - Courts error*

MR. TIERNEY: Yes, I will do that.

THE COURT: Merits meaning the procedural --

MR. TIERNEY: Procedural requirements of the statute, yes. Thank you, Your Honor.

THE COURT: Thank you.

(Whereupon, proceedings are adjourned.)

*Note*<sup>24</sup>  
25

*Proof of everything the judge, clerk and attorney said I did not do is attached.*

*Helena Garrick*

14

II



**RULE 212  
SUPPLEMENTAL RECORD**

(a) **By the Court.** The appellate court may require copies of all or any part of the transcript of proceedings or other matter which was before the lower court or administrative tribunal to be sent up for its inspection and consideration. It may likewise require a report of the trial or hearing, or of any matter relative thereto, to be made by the trial judge or administrative tribunal. These matters shall become part of the Record on Appeal.

*done*

(b) **By a Party.** With the written consent of all attorneys of record, a party may supplement the Record on Appeal at any time before argument commences. Without such consent or after argument commences, a party desiring to supplement the Record on Appeal must move the appellate court for leave to do so. In response to that motion, the other party(s) shall designate any supplemental materials which that party desires to add if the Court grants the motion.

(c) **Appendix.** Supplemental materials filed under Rule 212(b) shall be included in an Appendix to the Record on Appeal. Unless otherwise agreed by the parties or ordered by the Court, the Appendix shall be compiled, served and filed by the party initially proposing it.

Last amended by Order dated May 3, 2007.

*Attorneys for Respondents filed one of my documents without asking or even telling Appellant? Found out after he sent their paperwork, and Clerk filed. Yet they denied Appellant the same Privilege.*

Note Attorneys received copies of every document Appellant sent to Court as documented. Never once have they ever replied even to direct correspondence to them. I took this as intimidation, and lack of business decorum. Not once did I receive an objection from them or the Court who later in the case mentioned rule 212 and I denied the recording of my Supplemental records.

STATE OF SOUTH CAROLINA

COUNTY OF Charleston

Thelma R. Garrick

Plaintiff(s)

vs.

Dr. George H. Khouy, Ben Secours St. Francis  
West Ashley

Defendant(s)

Check box above indicating submitting party



Did not receive attachments!

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-10-1163

MOTION AND ORDER INFORMATION  
FORM AND COVER SHEET

*And dismissed due  
from attorney's  
I did  
my*

Name, SC Bar No. and Address of Plaintiff's Attorney

Telephone:  
fax:  
e-mail:  
other:

Name, SC Bar No. and Address of Defendant's Attorney

Joseph J. Tierney, Jr. SC Bar #:  
Address: Young Chestnut Rivers, LLP  
Post Office Box 903  
Charleston, SC 29402-0903  
Telephone: (843) 720-5406  
fax: (843) 575-1318  
e-mail: jtierney@yours.com

*Never  
Contacted  
2008*

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (COMPLETE SECTIONS II and III)

SECTION I: HEARING INFORMATION

Nature of Motion: Motion to Dismiss  
Estimated Time Needed: 30 minutes

Court Reporter Needed:  YES  NO

SECTION II: MOTION TYPE

- Written Motion Attached
- Form Motion -

I hereby move for relief or action by the Court as set forth in the attached proposed order.

*[Handwritten signature]*

Signature of Attorney for  Plaintiff(s)  Defendant(s)

Date: 3/20/18

SECTION III: MOTION FEE

PAID - AMOUNT \$

- EXEMPT: (check reason)
  - Rule to Show Cause in Child or Spousal Support
  - Domestic Abuse or Abuse and Neglect
  - Indigent Status  State Agency w. Indigent Party
  - Sexually Violent Predator Act
  - Post-Conviction Relief
  - Motion for Stay Bankruptcy
  - Motion for Publication
  - Motion for Execution (Rule 69, SERCP)
  - Proposed order submitted at request of the Court; or, reduced to writing from motion made in open court per judge's instructions
- Name of Court Reporter: \_\_\_\_\_
- Other: \_\_\_\_\_

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order
- Other: \_\_\_\_\_

JUDGE: \_\_\_\_\_

CODE: \_\_\_\_\_ DATE: \_\_\_\_\_

CLERK'S VERIFICATION

Collected by: \_\_\_\_\_ (print name) Date Filed: \_\_\_\_\_

- MOTION FEE COLLECTED: \_\_\_\_\_
- CONTESTED - AMOUNT DUE: \_\_\_\_\_

2

Proof of Dr. K. was  
Compensated

Mr. Carlson,

I am writing to you for my Aunt Thelma Garrick in Orangeburg, S.C. who had a Medtronic devise put in her back during back surgery and has suffered with much pain ever since.

Our question to you is in your research can you find out for us if any royalties or payments to use these devises were paid to Dr. George H. Khoury in Charleston, S.C. and/or Roper St. Francis Hospital West Ashley also in Charleston, S.C.

Thank you for any help you can give us in this matter.

Sincerely,

Jessica Moore

Sent from my iPad

Over

~~Page 1 of 5~~

#Page 12

ba  
pages 1-11

From: **Carlson, Joe** Joe.Carlson@startribune.com  
Subject: **RE: Medtronic devise**  
Date: **Nov 16, 2017, 10:23:58 AM**  
To: **Jessica Moore** juaprmom@windstream.net

**Hello Jessica. I'm sorry to hear about your Aunt Thelma's situation. I'd be interested in learning more if you'd ever want to talk by phone. My direct line here in the office is 612-673-4779.**

**Regarding your question -- The public portal for anyone to find payments from manufacturers to doctors is here: https://openpaymentsdata.cms.gov/**

**I took the liberty of searching for the doctor's name you provided, and yes, Dr. Khoury received payments from Medtronic in each of the four years available for searching. Here's the 2016 data:**  
**https://openpaymentsdata.cms.gov/physician/8356/payment-information** (Note that you can only see one year of data at a time. Since there are four years of data available currently, you have to make sure to click on 2016, 2015, 2014, and 2013 to see all the payments.)

**Hope this helps,**  
**-Joe**

**Joe Carlson**  
**Star Tribune**  
**612-673-4779**

**-----Original Message-----**

**From: Jessica Moore [mailto:juaprmom@windstream.net]**  
**Sent: Wednesday, November 15, 2017 7:12 PM**  
**To: Carlson, Joe <Joe.Carlson@startribune.com>**  
**Subject: Medtronic devise**

*Proof of Payments to Dr. Khoury*

*Just sending few for proof*

# GEORGE H KHOURY

Allopathic & Osteopathic Physicians|Neurological Surgery

2145 HENRY TECKLENBURG DR  
 SUITE 220  
 CHARLESTON, SC 29414-5893

Address shown may reflect one of the following: practice location, hospital affiliation, or third party billing assignment. Additional addresses may be found in the [NPI Registry](#).

Summary Payment Information

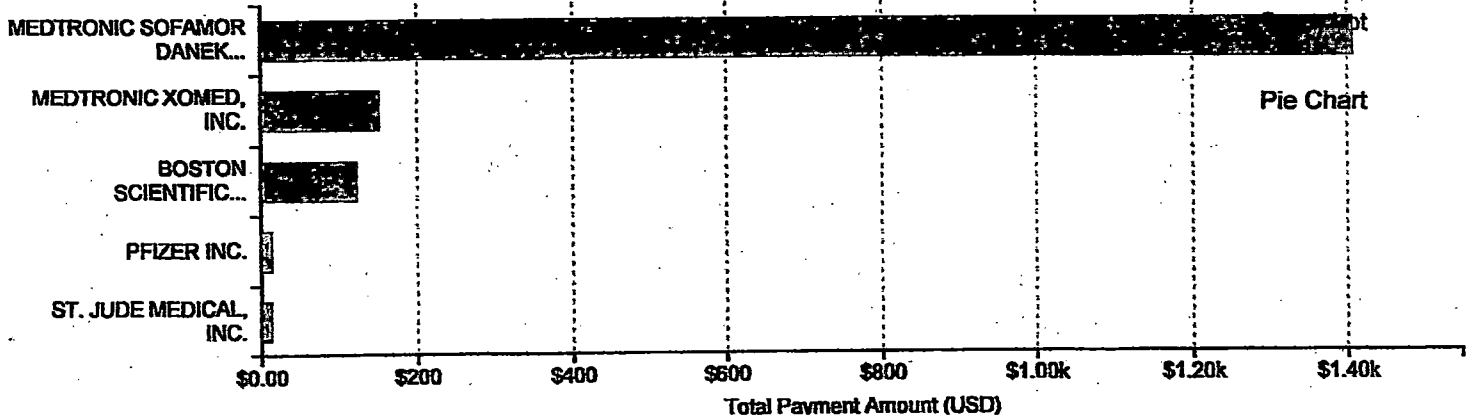
[Review or dispute your reported data](#)

Year: 2015  Payment Type: General

What are the different payment types?

## Top Companies Making General Payments

[Collapse this section](#)



## 5 Companies Making General Payments

[Collapse this section](#)

Filter Records

[Open Filters](#)

Company Making Payments	Total Payments	Total Amount	Total Amount (%)
<u>MEDTRONIC SOFAMOR DANEK USA, INC.</u>	12	\$1,408.26	82.3%
<u>MEDTRONIC XOMED, INC.</u>	1	\$152.96	8.9%
<u>BOSTON SCIENTIFIC CORPORATION</u>	1	\$124.30	7.3%

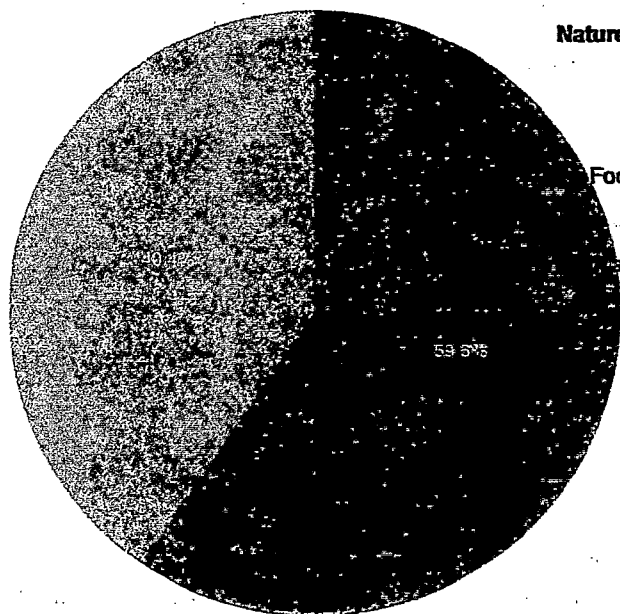
Company Making Payments	Total Payments	Total Amount	Total Amount (%)
<u>PFIZER INC.</u>	1	\$13.70	0.8%
<u>ST. JUDE MEDICAL, INC.</u>	1	\$12.55	0.7%

Displaying records 1-5 of 5.

Records per page: 5

### Summary by Nature of Payment

[Collapse this section](#)



Nature of Payment	Total Payments	Total Amount	Total Amount (%)
Food and Beverage	13	\$1,020.04	59.6%
Travel and Lodging	3	\$691.73	40.4%

What are the different natures of payment?

### General Payments Received

[Collapse this section](#)

Filter Records

[Open Filters](#)

[Download Data](#)

Company Making Payment	Nature of Payment	Date	Amount	Third Party Payment	Disputed?	Comment
<u>BOSTON SCIENTIFIC CORPORATION</u>	Food and Beverage	09/08/2015	\$124.30	No Third Party Payment	No	
<u>MEDTRONIC SOFAMOR DANEK USA, INC.</u>	Travel and Lodging	01/24/2015	\$51.85	No Third Party Payment	No	

Page 4 of 5

Company Making Payment	Nature of Payment	Date	Amount	Third Party Payment	Disputed?	Comment
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Food and Beverage	01/23/2015	\$11.93	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Travel and Lodging	01/22/2015	\$211.68	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Food and Beverage	01/22/2015	\$114.04	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Food and Beverage	01/06/2015	\$19.48	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Travel and Lodging	01/22/2015	\$428.20	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Food and Beverage	01/23/2015	\$42.99	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Food and Beverage	05/04/2015	\$55.00	No Third Party Payment	No	
<u>MEDTRONIC</u> <u>SOFAMOR DANEK</u> <u>USA, INC.</u>	Food and Beverage	09/29/2015	\$145.53	No Third Party Payment	No	

Displaying records 1-10 of 16.

1	2
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Records per page: 10

**OpenPaymentsData.CMS.gov** A federal government website managed by the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244

- SIGN UP FOR EMAIL UPDATES
- [Data.CMS.gov](#)
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Resignation of Walter pp 203  
alt. 8, pp 87

3-20-15  
Infuse bone graft  
device - a definite  
from Medtronic personnel  
per Barnett 1-4-18

BUSINESS

# Medtronic says it's close to resolving Infuse lawsuits

Medtronic did not release figures for the confidential settlements. The company reported that it set aside \$300 million for all of its legal settlements in the fiscal year that ended in April, according to the Securities and Exchange Commission filing.

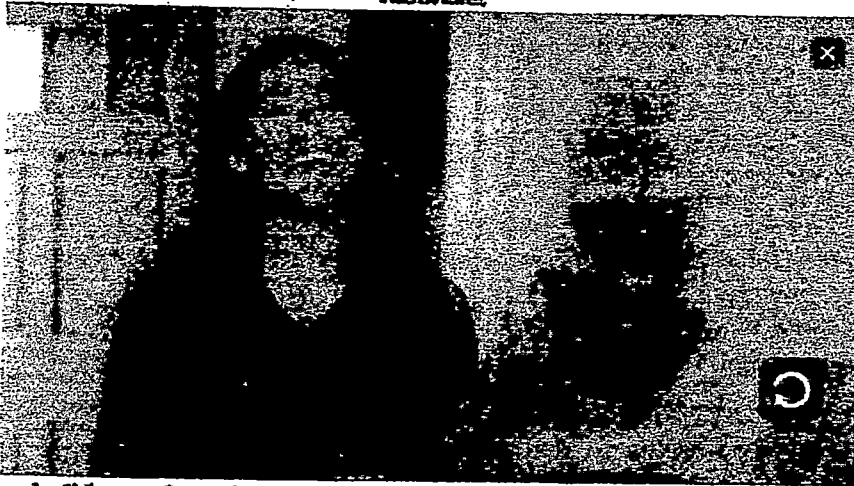
By Joe Carlson (<http://www.startribune.com/joe-carlson/2182672/>) and Jim Spencer (<http://www.startribune.com/jim-spencer/2182672/>) Star Tribune staff writers

JUNE 28, 2017 -- 9:07PM

Medical device giant Medtronic PLC has told investors that the company is ready to close the book on one of its biggest and longest-running legal headaches, involving the controversial back-surgery product Infuse.

Infuse includes a genetically engineered protein that causes bones to fuse rapidly after lower back pain surgery. Thousands of patients claim the chemical was used inappropriately, causing permanent, debilitating injuries. In a securities filing Tuesday, Minnesota-run Medtronic revealed that it has reached agreements to settle "substantially all" of the 6,000 actual and threatened Infuse lawsuits.

Ads by ZEE

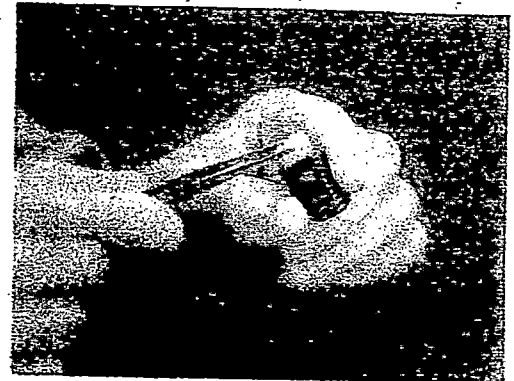


Medtronic did not release figures for the confidential settlements. The company reported that it set aside \$300 million for all of its legal settlements in the fiscal year that ended in April, according to the Securities and Exchange Commission filing.

The company said it is cooperating with attorneys general in five states that have sent subpoenas and document requests for information on how Medtronic studied, marketed and sold Infuse. Late last year Medtronic set aside an undisclosed amount of money "in connection with" the inquiries from attorneys general in California, Illinois, Massachusetts, Oregon and Washington, the Tuesday SEC filing said.

"We continue to cooperate in the State AG inquiries and are hopeful an acceptable solution can be reached," Medtronic spokesman Eric Epperson said via e-mail Wednesday. Spokespeople with each of the state offices declined to comment.

Medtronic had previously disclosed reaching settlements in more than 4,000 Infuse patient lawsuits. In December, a judge in St. Louis cleared the way for the first jury trial involving personal injuries allegedly caused by Infuse. Such a trial could have revealed



(<http://smedia.startribune.com/images/infuse1.JPG>)  
MIKE NELSON, HANDOUT

Medtronic Inc.'s "Infuse" device

7  
Did Dr. Khoury  
implant this when  
spine was cut  
into and grafted  
back together?  
Nelly, conversation  
yep, per Vicki Barnett  
Medtronic 3-4-18

thousands of pages of sealed internal documents that other plaintiffs could have used in their cases.

Medtronic has always denied the allegations in lawsuits from patients, investors and employees-turned-whistleblowers who claimed over the years that Medtronic promoted sales of Infuse for surgeries that were never proven to be safe and effective uses of the chemical. The company says it strictly follows the law on promotion of medical devices, and it cannot control when doctors use it in unapproved ways, like in pediatric surgery.

The so-called "off-label" use of medical devices is legal because the U.S. Food and Drug Administration regulates only products, not the practice of medicine. Many of the injured patients allege in their lawsuits that they found out about the use of Infuse only after their surgery ended with complications. Some say Medtronic sales reps were present in the operating rooms during their surgeries.

Infuse was approved in 2002 by the FDA for use in adults getting a relatively uncommon type of back surgery. Almost immediately after approval, doctors began widely using the product in ways that the FDA never evaluated for safety, according to statistics published in peer-reviewed journals.

In 2007, Medtronic compiled a database of more than 3,600 Infuse surgeries, the vast majority of which were off-label. The Star Tribune reported last year that more than 1,000 of the surgeries resulted in adverse events, which Medtronic did not report to the FDA for more than five years. The data included a pattern of injuries from a particularly risky off-label use of Infuse in neck surgery—a surgery that later prompted an FDA public warning.

Medtronic paid a \$40 million settlement to the Justice Department in 2006 to resolve whistleblower allegations that it paid "kickbacks" to induce doctors to use its spine products. The company paid at least \$85 million in a settlement to shareholders in 2012 to resolve allegations that it failed to reveal that most sales of Infuse were for off-label surgeries. In 2014, Medtronic said it paid \$22 million to 950 injured Infuse patients. The company denied wrongdoing in each settlement.

The SEC filing on Tuesday did not reveal the exact amount of money Medtronic has agreed to pay for its remaining 6,000 Infuse patient cases. The filing says the company wrote off \$300 million for "certain litigation charges" including the Infuse settlements in the fiscal year ended in April. That was up from \$26 million in litigation charges booked in 2016.

Earlier Infuse settlements broke awards into tiers depending on the severity of the injury, with those who were most badly hurt collecting the largest amounts. The individual amounts received in personal injury cases are reduced by attorneys' contingencies that often range from 33 to 40 percent of the award, as well as insurance company "clawbacks" of money paid to cover surgeries.

Pat Beaudry of Apple Valley was left with chronic pain on his left side after getting Infuse during back surgery. Today he uses a cane and often cannot move his left leg. He says his left hand is numb. He still takes opioids daily. He will never be able to work again.

"My settlement was based on \$27,000," Beaudry said Wednesday by phone. "By the time it was done, I got \$2,200. ... I am so disappointed in the medical system, but also in the legal system."

*BC. Legislative  
a ceiling to  
malpractice*

*Extreme pain*

*Ability to  
recreational,  
sexual acts  
See page*

~~The patient's witness~~ Judge continued to deny I had sent record. 7-8-2018

8039358404

GARRICK, Thelma R (MRN # M000460300) UOB: 01/12/1937

04:36:29 p.m. 07-05-2018 2/4  
ENCOUNTER DATE: 06/27/2018

*Fetch  
Opinion  
No more trying to  
get help! Refused to  
wait until it  
threatens!*

**LEXINGTON  
Brain and Spine  
INSTITUTE**

Lexington Brain and Spine Institute  
155 N. Hospital Dr,  
Ste 200  
West Columbia SC  
29169-4800  
Outpatient

Garrick, Thelma R  
MRN: M000460300, DOB: 1/12/1937,  
Sex: F  
Encounter date: 6/27/2018

**Garrick, Thelma R**

MRN: M000460300  
Description: 81 year old female

Office Visit 6/27/2018  
Lexington Brain and Spine Institute

Provider: Gunter, Brett C, MD (Neurosurgery)  
Primary diagnosis: Stenosis of lateral recess of lumbar spine  
Reason for Visit: Follow-up

**Progress Notes**

Gunter, Brett C, MD (Physician) - Neurosurgery

**LEXINGTON BRAIN AND SPINE INSTITUTE FOLLOW UP VISIT**

**DATE OF SURGERY/PROCEDURE:**  
Lumbar Laminectomy 2011  
Lumbar Fusion 8/2015 Dr. Khoury Charleston

**Chief Complaint**  
Patient presents with:  
• Follow-up  
• MRI and CT review

**SUBJECTIVE:**  
Thelma R Garrick is a 81 y.o. female seen today in follow up for evaluation of back and leg pain.

**Low back: 60%.** The patient describes diffuse axial back pain throughout her lower lumbar spine. Her symptoms generally present in worsening fashion with prolonged standing and walking. Mechanical activities such as bending, twisting, lifting, and basic housework also worsen her syndrome. She describes intermittent spasm of her back particularly with leaning forward. She is able to find some relief with sitting, although it takes a while for her pain ease off.

**Bilateral legs: 40%.** The patient describes LEFT greater than RIGHT pain and spasm. She describes about 90% of the pain in the LEFT, 10% on the RIGHT. She has a sensation of dysesthesias into her RIGHT thigh, however this is relatively manageable. She describes very reproducible radiating pain into her LEFT buttock into the LEFT lateral thigh to the anterior thigh to about the knee. Her symptoms are present primarily with standing and walking as well as mechanical type activities.

**HPI**  
Review of Systems:

**OBJECTIVE:**

**Vitals:**

*My effort witness,  
a medronic surgeon,  
on how he would help  
me. (Knowing this  
would keep me)  
What better effort  
witness can you  
get than this?  
One who knows  
everything then  
did!*

*Thelma's opinion  
surgeon after  
studying all  
X-rays and  
made from  
1-15 through  
13-20 said  
it was a waste  
of time because  
he could not  
help me.*

*[Handwritten signature]*

06/27/18 1050  
BP: 153/82  
Pulse: 62

PHYSICAL EXAM:

Vitals:  
06/27/18 1050  
BP: 153/82  
Pulse: 62

GAIT: Ambulates without external stabilization  
GENERAL: appropriate for age  
HEAD: normocephalic  
EYES: pupils equal and reactive, extraocular movements intact  
EARS: external anatomy unremarkable  
THROAT: oropharynx clear to visual inspection  
LUNGS: clear to auscultation bilaterally  
HEART: regular rate and rhythm  
ABDOMEN: soft non-distended, nontender  
EXTREMITIES: warm, moist, pulses present  
BACK: unable to flex or extend

NEUROLOGICAL EXAM:

MENTAL STATUS: awake alert and oriented to person, place and time  
SPEECH: fluent and conversant

POWER EXAM:

LOWER EXTREMITIES:  
HIP FLEXORS: power 5/5 bilaterally  
QUADRICEPS: power 5/5 bilaterally  
HAMSTRINGS: power 5/5 bilaterally  
ANTERIOR TIBIALIS: power 5/5 bilaterally  
EXTENSOR HALLICUS LONGUS: power 5/5 bilaterally  
GASTROSOLEUS: power 5/5 bilaterally

SENSORY EXAM:

LOWER EXTREMITIES: sensation intact to light touch  
REFLEXES: lower extremity reflexes symmetric and intact

IMAGING:

CT scan of the lumbar spine demonstrates what appears to be fractured instrumentation at L2-3 where there is some sort of the construct connection. There is a presumed nonunion at L1-2 and L2-3. There is an apparent solid bony union at L2-3 and L3-4.  
MRI of the lumbar spine demonstrates lateral recess stenosis at L2-3 and degenerative changes consistent with nonunion at this level. There are advanced degenerative changes at L5-S1.

ASSESSMENT:

Complex patient with advanced degenerative changes and instrumentation failure with a pseudoarthrosis.

I have reviewed in detail the risks, benefits, and alternatives. I have informed the patient and family of the fact that not all medical procedures and techniques have been studied for FDA "approval", and by necessity some procedures and devices may be used in a manner that has

2/1

Page 20

Page 20

*did not*

not been studied (considered "off label"). I have specifically discussed with the patient and family the risks of worsening neurologic function, even death, infection, significant bleeding including injury to surrounding structures. These injuries may lead to the need for additional surgery or treatment. I have informed them that artificial devices or products from animal, human, or inanimate origin may be used. I have instructed them that the devices that may be used are subject to mechanical failure and may need to be replaced or revised. I have fully described the expected procedure and some possible deviations that may occur by necessity. After this discussion they have instructed me to proceed. I have given them opportunity to ask questions. They have voiced an understanding of the risks, benefits, and alternatives.

*Pain Clinic  
Cola*

**PLAN:**

Revision thoracolumbar fusion with removal of previous instrumentation, LEFT sided transforaminal lumbar interbody fusion L2-3 possible L1-2 thoracolumbar fusion T11-S1 right sided transforaminal lumbar interbody fusion L5-S1 specifically with the use of infuse bone morphogenic protein and other levels and procedures as indicated

**Gunter, Brett C**

This note was created with voice recognition software. Typographical and grammatical errors, as well as errors of content are related to the software capture, and every attempt is made to correct these prior to note submission.

**Instructions**

Return if symptoms worsen or fail to improve.

After Visit Summary (Automatic SnapShot taken 6/27/2018)

**Additional Documentation:**

Vitals: BP 153/82 Pulse 62  
Flowsheets: Custom Formula Data  
Encounter Info: Billing, Info, History, Allergies, Detailed Report, Reviewed This Encounter, Patient Report

**Orders Placed**

None

**Medication Changes**

As of 6/27/2018 11:56 AM

None

**Visit Diagnoses**

Stenosis of lateral recess of lumbar spine M48.061

*You could not have gotten a better witness as he knew me as soon as I walked in his office. Never, as he said I would meet him in two years. 12-21 11-10-22*

*It was supposed to die! I do not say this lightly! Went to a surgeon in December after neck started swelling. He like all others told me nothing, and when I asked about other patients and continued with my question to ask other patients he got angry and said they all died! Making me the only living patient at that time.*

*My witness but a reluctant one*

# DUKE NEUROSURGERY

Allan H. Friedman, M.D.

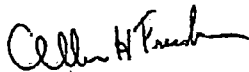
July 19, 2016

Ms. Thelma Garrick  
1913 Francis Street NE  
Orangeburg, SC 29118

Dear Ms. Garrick,

Thanks for your note. It looks to me as if your spine situation is extremely complicated. My strong suggestion is that you see one of our spine experts here at Duke. Dr. Richardson certainly falls in that category. Two other names would be Dr. Isaac Karikari and Dr. Robert Isaacs. These folks do nothing but spine surgery and would probably be the best to figure out what's going on. From looking at your scans, I cannot tell you whether further intervention will be of any benefit to you.

Be well,



Allan H. Friedman, M.D.  
The Guy L. Odom Professor of Neurological Surgery  
Department of Neurosurgery  
Duke University Health System  
Durham, NC 27710

AHF/npc

**SETTLEMENT OFFER**

Mr. Joseph J. Tierney, Jr., Esquire  
Ms. Christine K. Toporek, Esquire  
Young Clement Rivers, LLP  
Attorneys at Law  
P. O. Box 993  
Charleston, South Carolina 29402  
Attorneys for Defendants Dr. George H. Khoury  
and Bon Secours St. Francis West Ashley  
803-720-5406

YCR File No. 15499-20180314

**CASE No. 2018-CP-10-1163**

Thelma R. Garrick vs Dr. George H. Khoury, Bon Secours St. Francis, West Ashley

1. \$1,500.00 monthly for the rest of Plaintiff's life.
2. Retroactive to August 20, 2015 to current date payable in a lump sum.
3. Thereafter \$1,500.00 monthly deposited to Plaintiff's bank account on the 20<sup>th</sup> of each month.
4. Pay Medicare and Blue Cross Blue Shield for all hospital and medical expenses related to the surgery of August 20, 2015.
5. Pay for any and all future medical expenses related to the surgery of August 20, 2015.
6. Pay all legal expenses pertaining to this case.
7. Pain and suffering, within reason, to be determined by Defendants and discussed with Plaintiff.

Thelma R. Garrick, Plaintiff

Thelma R. Garrick

/tg

*When I found out there had to be mediation I called and finally sent this offer to get them to acknowledge or speak to me. Throughout the four years they never did. This was not a final settlement offer.*

*The article attached was sent to me by ? which I assume the doctor, Medtronic and hospital agreed. Why was this never presented to me? Did the Judge, Clerk and attorney get a cut for "crowding" about how they won the case over the Probe attorneys?*

21

**MEDCAL MALPRACTICE IN SOUTH CAROLINA**

**South Carolina Code of Laws Title 15, Chapter 32, ARTICLE 3**

**TYPES OF DAMAGES:**

- o **COST OF PAST & FUTURE MEDICAL TREATMENTS**
- o **REIMBURSEMENT FOR LOST INCOME/EARNING POTENTIAL.** *Full time lost. Worked part-time*
- o **PAIN & SUFFERING (ECONOMIC DAMAGES)** *Not enough money in the world. chronic pain after surgery*
- o **PUNITIVE DAMAGES (CASES INVOLVING EGREGIOUS MISCONDUCT)** *Could not hold a job, got behind. In debt after 50 years. This is for the Court to answer since I was not given the Appellant, her due process of Law.*

**NON-ECONOMIC IMPACT:**

- o **\$350,000 CAP ON NON-ECONOMIC DAMAGES**
- o **\$1.05 MILLION MAX FOR A JUDGEMENT AGAINST MORE THAN 1 DEFENDANT; NO MORE THAN \$350,000 AGAINST ANY INDIVIDUAL**

**AUGUST, 2015**

**DR. KHOUREY,**

**MEDTRONICS**

18

Article 2

Case # 2018-001842

Find a Law Firm: Type Any word(s) City, State or Country SEARCH

### Dangers of the Medtronic Infuse Bone Graft

The Medtronic Infuse Bone Graft has been used off label in a number of procedures and has caused serious complications including cancer, neck swelling, airway compression, difficulty breathing, nerve damage, and other life threatening complications.



Infuse Side Effects: Difficulty Breathing, airway compression, neck swelling, respiratory depression, nerve damage, cancer, male sterility, death

Numerous publications have recently reported that the use of the Medtronic Infuse Bone Graft has been associated with major injuries and damages. Bone growth can become rapid and uncontrolled. This bone graft has also been associated with many types of cancer. Off-label use can also result in severe neck swelling, difficulty breath, swallowing and speaking because of airway compression. The bone growth may cause nerve injuries or severe pain in the extremities. Some patients have reported infertility as a result of the implant. 1,2

Recent investigations have discovered that these bone grafts have been used for off-label use and serious complications have resulted. The off-label use involves implantation in the lumbar or cervical spine. Further, surgeons with significant financial ties to Medtronic allegedly failed to disclose these complications in clinical trials and studies. 1,2

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Both congressional subcommittees of Congress and the US Department of Justice have issued subpoenas to Medtronic relating to off-label use of the Medtronic Infuse Bone Graft. Chairman of The Senate Finance Committee, Senator Baucus and Senator Grassley wrote a letter to Medtronic in June 2011 stating:

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\*Last year, the Milwaukee Journal Sentinel reported that a Medtronic-funded study published in 2004

Page 1 of 2

# of Pages 6

found that 75% of bone morphogenetic protein 2 (BMP-2) patients experienced ectopic bone growth, where potentially harmful bone growth occurs outside of the fusion area. The authors, who had financial ties to Medtronic, 'concluded that although not desirable,' the ectopic bone growth 'did not appear to have an ill effect on the patients.' However, in a separate 2008 study conducted by physicians without financial ties to Medtronic, "neurological impairment occurred" in five patients who had the same ectopic bone formation.

According to the New York Times, a recent study found that men treated with Infuse developed a condition that causes temporary or permanent sterility at a far higher rate than men who received a bone graft.' This link to sterility was not reported in the original Medtronic-funded study. In addition, the Milwaukee Sentinel Journal reports that one author of the original study, Thomas A Zdeblick, an orthopedic surgeon at the University of Wisconsin School of Medicine and Public Health, received 'more than \$23 million in various royalty payments from Medtronic since 2002.' In addition, Zdeblick also is the editor of the journal where two of the Infuse papers that failed to mention the link [to sterility] were published.'

We are also concerned that other severe side-effects of Infuse and similar bone-growth products developed by Medtronic may have been unreported or under-reported in clinical literature. Reports have linked Infuse to potentially fatal swelling in the neck and throat, and radiating leg pain. ✓ Concerns have also been expressed about a potential link to cancer." 2.3

The Committee went on to request a score of documents and payment records. Rudolph F.X. Migliore, P.C. is investigating cases of patients who received a Medtronic Infuse Bone Graft off-label and have suffered serious side-effects including neck swelling, airway compression, many types of cancer, uncontrolled bone growth, arm and leg pain and male infertility. If you or a loved one have had a bone graft and suffered complications contact our office today for a free case evaluation at 631-543-3663 and visit [migliorelaw.com/dangerous-medical/medtronic-infuse-bone-graph](http://migliorelaw.com/dangerous-medical/medtronic-infuse-bone-graph).

With over three decades of experience, the law firm of Rudolph F.X. Migliore, P.C. is well positioned to help victims of Medtronic Infuse Bone Graft. The firm has handled over 1,200 product liability cases and works with co-counsel to obtain major verdicts.

Rudolph F.X. Migliore, P.C.  
353 Veterans Memorial Highway  
Commack, NY 11725  
(631)-543-3663  
MiglioreLaw.com

1. [online.wsj.com/article/SB10001424052702303627104576413663395567784.html](http://online.wsj.com/article/SB10001424052702303627104576413663395567784.html)
2. [pharmalot.com/2011/06/spinal-tap-congress-investigates-medtronic/](http://pharmalot.com/2011/06/spinal-tap-congress-investigates-medtronic/)
3. [finance.senate.gov/newsroom/chairman/release/?id=a7e974b6-b4b6-4e2c-a738-edefac30fcb6](http://finance.senate.gov/newsroom/chairman/release/?id=a7e974b6-b4b6-4e2c-a738-edefac30fcb6)

<https://www.medtechdive.com/news/suit-alleging-medtronic-misled-fda-over-spine-fusion-can-proceed-appeals-c/597937/>

7 APR 2021

Author Susan Kelly / [SMKELLY@HOTMAIL.COM](mailto:SMKELLY@HOTMAIL.COM)

### Dive Brief:

- A whistleblower lawsuit accusing Medtronic of fraudulently obtaining FDA clearance for several spinal fusion devices can proceed, the U.S. 9th Circuit Court of Appeals has ruled. The plaintiffs — Dan Abrams Co., the U.S. and 28 states — appealed a California district court's 2019 dismissal of the False Claims Act lawsuit.
- The appeals court, however, affirmed the lower court's decision to dismiss additional allegations that Medtronic unlawfully marketed the spine devices for an off-label use.

The appeals court also dismissed accusations that Medtronic illegally compensated hospitals and physicians for use of the devices in violation of the Anti-Kickback Statute. *See evidence attached*

### Dan Abrams Co.

*This information has to be about a person seeking and finding to have a case dismissed, see attached evidence where you can see Respondents/Defendants did indeed receive compensation and used or unlawfully marketed spine devices for Shelma Garrick off label use.  
Won the case!*

emergency medical intervention. Patients who suffered these events needed respiratory support, or even a tracheotomy. The FDA reiterated that "safety and effectiveness" have not been demonstrated and "these products are not approved for this use."

## Medtronic Law suits

*Case*

*Common sense tells you this cannot be used if airway is closed!*

[https://i1.wp.com/thelyonfirm.com/wp-content/uploads/2015/08/shutterstock\\_282701687-e1447423230546.jpg](https://i1.wp.com/thelyonfirm.com/wp-content/uploads/2015/08/shutterstock_282701687-e1447423230546.jpg)

**If you or a loved one have suffered the side effects of a faulty InFuse system, and have questions about the legal remedies available to improve quality of life and medical care in Ohio, contact The Lyon Firm at (800) 513-2403. You will speak directly with Mr. Lyon, and he will help you answer these critical questions.**

*(too late)*

It is estimated that Medtronic's InFUSE system is used in about 25 percent of the 432,000 spinal fusion procedures a year in the United States. In 2010, they generated almost \$900 million in sales.

Medtronic has a horrific ethical track record. In fact, the US Department of Justice (DOJ) has investigated (<https://www.justice.gov/opa/pr/minnesota-based-medtronic-inc-pay-99-million-resolve-claims-company-paid-kickbacks-physicians>) Medtronic several times. In another incident, Medtronic paid \$40 million to settle a case where the DOJ accused the company of paying kickbacks to doctors as an incentive to use InFUSE and other similar products.

## **Unapproved Use of the InFUSE System**

The only InFUSE Bone Graft surgical technique that is FDA-approved is a procedure that operates through the abdomen. This procedure minimizes injury to the back muscles and nerves. Even so, Doctors have inadvisably used InFUSE in procedures not approved ("off-label") by the FDA. Complications (<http://www.ncbi.nlm.nih.gov/pubmed/21297932>) are so prevalent in some procedures, that many surgeons who once performed these operations no longer recommend it.

In 2008, the FDA issued a Public Health Notification to health care providers and surgeons regarding serious, even life-threatening complications arising from the unapproved ("off-label") use of InFUSE in cervical (upper-back) spinal fusion. The FDA received dozens of reports of

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serious complications, including swelling of neck and  
throat tissue, which resulted in compression of the airway,  
and neurological structures in the neck.

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## Medtronic Law suits

*Edwin*

*Common sense tells you these cannot be used if airway is closed!*

[https://i1.wp.com/thelyonfirm.com/wp-content/uploads/2015/08/shutterstock\\_282701687-e1447423230546.jpg](https://i1.wp.com/thelyonfirm.com/wp-content/uploads/2015/08/shutterstock_282701687-e1447423230546.jpg)

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serious complications, including swelling of neck and throat tissue, which resulted in compression of the airway, and neurological structures in the neck.

From a brief summary to Court



**TABLE OF CONTENTS**  
**(In the Case of Thelma R. Garrick vs**  
**Dr. George H. Khoury and Bon**  
**Secours St. Francis West Ashley)**

1. **Character References**
  
2. **Proof Dr. Khoury was compensated for the experimental operations of illegal use of off-line never been tested or tried devices: The four year contract with Medtronic was pulled from government records 2013, 2014, 2015 and 2016 (Probably much longer but this was the years Appellant needed. (It is impossible the Judge did not know of the tens of thousands being damaged by such actions while doctors and hospitals were compensated for doing illegal operations with out patients knowledge or consent. Appellant studied case after case, at the time five States were involved plus one that had hung in there approximately 15 years plus until they recently won their case)**
  
3. **Proof Appellant did not know, and it took almost three years to find out what the Hospital, Technicians that operated on Appellant from Medtronic with a Robotic Arm (also new untested, unapproved navigational system). The proof actually came from Dr. Khoury that Appellant did not know what had been done to her. He telephoned Appellant and left the following telephone message. I was away from home and he left the following message on my telephone: “Hey Ms Garrick. This is Dr. Khoury calling back regarding your surgery. The message is probably too long to leave on the phone but I can tell you the implants you have if you want to call me back. If you want you can get the reports from the hospital I think they are probably available. Just call me back and let me know what you want me to do.” (Not on the records I have and I have three sets of medical records from different times. Medicare does not have the information.) Also see statement of witness, Mrs. Cone.**

**The reason he called was because he wanted to operate and remove the implant, he told me my body was rejecting something he had put in me, and it had to come out, and wanted to set up the operation**

to remove it immediately. In fact, he gave me 24 hours to get back to him. (I have the hospital information "preparing for surgery".) That day he tried to cover-up what he had told me at the last appointment and showed me the previous month, it was a coveup, different MRI, different tools that were needed what he had explained to me the previous month; He had actually had the tools for a normal fusion. I started to question about not being able to put a needle in titanium. I have all the details of that meeting. God watching over me again led me out of that office to never see Dr. Khoury again.

4. **Proof of Attorneys ignoring Appellant's Case in every way; her contact with them introducing herself was because the attorneys did not follow protocol. Mediation was never done. So I gave them a ridiculous compensation package (that is no longer on the table). This Law Firm should be held responsible for their illegal actions that has caused much stress and more pain on the Victim who had been in a great deal of pain for seven years But what amazes Appellant everyone, the Court, the Clerk, the Judges, the Law Firm went along with this game they were all playing because Appellant filed Pro Se.**

**I am dying so you will have to forgive me when the anger of what all of you have done in destroying my life because I cannot get those years back. Just as the FDA advised (I sent copies to you), I have suspected for over a year that I was slowly dying but had it verified on December 16, 2021. As FDA told the medical field not to use the BMP Infuse bone graft device in the cervical spine and the consequences from it. They were also told that there was not an antidote or any other help if the risks happened. So with the airway closing Appellant nor anyone else can do anything about saving her life. When I die I hope my son will file charges for murder. I was lied to about needing surgery as you can see on the MRI. (Appellant has all x-rays, CT scans and MRIs from January 2, 2015 until December 16, 2021 that gives proof of everything I have given to the Court.**

5. **Judges Order of March 6, 2019, "After careful consideration and because Appellant's proof of service establishes Appellant's timely served Respondents with the notice of appeal, Appellant's motion to allow the late filing of the notice of appeal is granted". Enclosed a copy of the Order, the Summons and form SCCA 401 (5/02), and way Appellant filed her case.**

- 6. This evidence is very important. The notes were written to contradict and correct things that were not true. Example: After the operation the reports will tell you appellant was fine. This is not true as the Radiologist states when they were thinking of taking her back to the operating room. She was any thing but fine. Appellant screamed for three days in inhumane pain that took over the entire body and nothing they gave me helped at all. So after this massive experimental surgery the Operative report was that I was fine BUT according to Dr. John Steichen the reason for the CT scan was "uncontrolled pain, including weakness, ble, spasms from recent fusion. (The fusion was what I was originally supposed to have. Years later I was told by an attorney I did not need surgery at all.) The surgery was a fabrication of the doctors. The hospital records, or three sets I have were never changed or named the implants. When the hospital billed Medicare. They never were notified of the experimental surgery. In one of the reports I had trouble with my heart but they never called in a cardiologist.**

**Doctor lied when he said I had numerous steroid shots (deathly allergic) and had rehab before surgery. Not so!**

- 7. Evidence Operative report records false. When I studied this report I found many things wrong. Appellant remembered that she had only one shot (not many) at Anesthesia**

**Associates of Charleston PA at 125 Doughty and telephoned their office. Appellant asked for her records and she said, "I do not understand your name is listed on the roster for that day but I cannot find any record on you (see attached paperwork).**

**Please read notes on Pre-op and Operative Reports. I am sorry I cannot be with you to answer face to face any questions you may have. I can remember every tiny detail that happened to me. God has given me an exceptional memory and has served me well. The only time I do not remember are the three days I screamed with pain, not human but inhumane pain. I remember God's promise that he would put no more on us than we could stand. I called out to him and immediately was out of pain. Three days later I awakened when a gorgeous light entered my room, still in pain but pain I could handle.**

**I was not fine when they rushed me to into an ambulance to take Appellant to a Rehab facility. After ten days I realized that I should go home to heal and learn what I could do and not on my own. I realized this was going to be a long time recovery. Six months alone and doing my own rehab I began to walk without my walker.**

- 8. Signed release. I was drugged immediately upon arriving at hospital by Dr. Khoury's staff. The attendants taking me to the operating room awakened me and held my hand so I could sign the form. Drugged with Versed and Flexril as soon as I arrived at hospital. The PA tried to hide the hypodermic needle but I woke up just in time to see her trying to hold it behind her white coat. I asked her what she had, and before she could say something to calm you she inserted it into the IV port. I was out. It is well known if you have any common sense that you can die inserting versed quickly into a person. I mentioned this to you because I am never given any medication before they put me to sleep in the operating room.**

8. **The release as you can see is incomplete. After the nurse or attendant taking me to the operating room learned what I thought they were going to do to me (a fusion to relieve pressure on the left sciatic nerve they refused to witness my signature. They awakened me arguing which one was going to witness. Both refused to and "said MacDonald would have to because they were not going to have anything to do with this". As you can see the PA did witness my signature and was not even there. I insisted that I put actual time they were taking me to the operating room. If you check the time of 7:05 when I went into the operating room you will see different times but 7:05 is the true one.**

9. **Appellant signed this consent form while under Flexril and Versed. She has requested the medications assigned to Appellant that day but have been told there is not one. I even talked to the Hospital druggist but could not find any medication ordered for August 20, 2015. Medications are usually ordered the day before or two days before an operation. It is strange that versed was given to me in the room by PA's. I had mentioned to Dr. Khoury in the last appointment "that it was a pity I could not have Versed since it was the only thing that did not make me nauseas".**

**Dr. Khoury tried to cover up his mistake in telling about the Pain Distribution March 7<sup>th</sup>. The next month He had a different MRI this time and tools for a fusion operation that he had told me I needed to relieve sciatic pain on the left side. I kept telling him that this was not what he had told me on March 7<sup>th</sup>, I had taken explicit notes and drawn the port but while he telling me that he did not tell me this but showed me tools for a fusion. In fact he was trying so hard to make me believe the opposite of what he had told me on March 7<sup>th</sup> he got agitated with me and corrected my drawing and then continued to try to make me believe what he was telling me now. He snatched up the attached paper and drew it on the right side but forgot he was trying to**

**cover up what he was telling me now, he drew exactly what he had told me the month before. telling me an entire different operation while I kept saying this is not what you told me last month, the MRI is not the same, what you are telling me now did not happen. Appellant has the cover-up disk and the correct one.**

**When Appellant realized the April appointment was a big cover-up, she immediately went to Moncks Corner to get a copy but the only disk Appellant received again was the cover-up disk. This was a big mistake, This did not stop me, I remembered the CT Scan made right after the surgery and what the Radiologist said about reason for the order was uncontrollable pain that also told that the Operation report saying Appellant was fine was not true. I then went to Roper Moncks Corner and received the same cover-up disk. I realized I would not be believed without the correct disk. I went to the facility where I had the MRI, and told the Radiologist that it would be in their best interest to give me the correct disk. I have a copy of the cover-up disk and the correct one with instructions how to pull it up, not the normal way. They seemed very relieved when they gave me the correct disk and wished me luck.**

**Appellant found out that all people are not dishonest. Many people did not like what was done to me when they found out I did not know of the experimental operation or what their plans were for me the talk went over the hospital quickly.**

**The staff or team working with Dr. Khoury had to know I did not know what was coming or they would not have had to secretly drug me immediately upon my arrival at the hospital approximately 6:15 AM, this date is also questionable because they have me coming in later.**

9. **Consent Form signed under influence of drugs.**
10. **A rough draft copy of the speech I had intended to give on July 12<sup>th</sup> but Appellant requested an extension because she had just learned of another impant device and she had been trying to find out for almost three years what all they had done to her.**
11. **Motion to Request the Court's error to be corrected to how Case was actually filed. The Judge has Denied this request.**
12. **Proof of inhumane pain after surgery. Witnesses would like to testify. Jessica Moore, Major Todd Garrick and others if needed.**



**Appellant went to a place where she thought her surgeon was honest and thought she was in a safe place but her body was drugged to the point she was helpless, then kidnapped and knowing nothing of what had been planned for her in the operating room with people who wanted to test medical devices off-line untested and untried desecrated her body leaving her half dead. She would have to wait awhile before the end where a horrible death awaits her. Criminals (Men of statue, money, society) proceeded to change her whole life for monetary reasons. These men were no geneses because did not even have a back up plan if there devices could not be stopped. The abnormal bone growth is still growing inside Appellant's body, and the medicine in the device placed in the spine is closing her airway with nothing to stop it.**

13. **The Attorneys' for the Respondents cannot prove or produce anything they have said against the Appellant. For instance, the Judge Ordering and Granting Motion to Dismiss Case No.2018-CP-10-1163 was a criminal offense because all three knew why I was not in Court. Because of**

a legitimate reason **Everything in this Dismissal is a blatant lie. The attorney knew why I was not there, the Clerk of Court knew why I was not there and the Judge should have known because I sent the Request for extension directly to her through the Clerk of Court. And as far as the ex parte, my letter was typed but held until I made sure the Judge had already signed the Dismissal.**

14. **Rule 212**
15. **Medicare**
16. **Judge gave case to the Clerk of Court to Access Case.**
- ✓ 17. **FDA on Unapproved Use of the InFuse System .**
18. **Thelma Garrick's diagnosis of Airflow closing and other changes. No antidote, no back-up plan.**
19. **Proof of Pain Distribution Port broken at spine, Defective.**
20. **Finalizing Case**
21. *Damages*

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