

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

**RECEIVED**  
NOV 20 2018  
SC Court of Appeals

**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!

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.

The Director was replaced shortly thereafter; and I later learned that the Doctor’s agreements with the hospital had been changed also.

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.

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.

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

Common Pleas  
Charleston County Judicial Center  
100 Broad Street - Suite 106  
Charleston, SC 29401-9401

STATE OF  
SOUTH CAROLINA



*The State of South Carolina  
in the Court of Appeals  
Case No. 2018-001842*

Thelma R Garrick  
195 Crescent Oaks Court

Orangeburg, SC 29115

### NOTICE OF MOTION SCHEDULING

June 13, 2018

**Motion "MDISMS - Pltffs Rebuttal Motion to Dismiss" for Case: 2018CF1001163 - Thelma R Garrick VS Dr George H Khoury , defendant, et al has been added to the following Motions Roster:  
285 - MOTIONS ROSTER - JUDGE GOODSTEIN**

**This hearing of this motion has been scheduled for 7/12/2018 at 10:00 AM.**

HEARINGS WILL BE BEFORE JUDGE GOODSTEIN IN COURTROOM 3E  
PLEASE SUBMIT ALL MEMOS THREE DAYS PRIOR TO THE HEARING.  
- THE DEADLINE FOR CONTINUANCE REQUESTS IS TUESDAY, JULY  
3rd at 5PM

PLEASE CONTACT CAROLINE LEONARD, NON JURY DOCKET COORDINATOR AT  
cleonard@charlestoncounty.org IF YOU HAVE QUESTIONS.

*if the hearing call is  
7-17-18 10 AM*

Mail Notice To:

Thelma R Garrick  
195 Crescent Oaks Court  
Orangeburg, SC 29115

Court Info:

Common Pleas  
Charleston County Judicial Center  
100 Broad Street - Suite 106  
Charleston, SC 29401-9401

**If you have any questions regarding the scheduling of this motion, please contact the courts at:**

**(843)958-5000**

Respectfully,

Julie Armstrong  
Clerk of Court

STATE OF SOUTH CAROLINA )  
COUNTY OF Charleston )

IN THE COURT OF COMMON PLEAS  
9th JUDICIAL CIRCUIT

CASE NO.: 2018-CP-10-1163

Thelma R. Garrick )  
Plaintiff, )

**MOTION AND ORDER INFORMATION  
FORM AND COVERSHEET**

vs. )

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

|   |   |
|---|---|
| Plaintiff's Attorney: <u>(David Takia)</u><br><u>Pro SE</u> , Bar No. <u>on Goliath</u><br>Address: <u>195 Crescent Oaks Ct.</u><br><u>Orangeburg, S.C. 29115</u><br>Phone: <u>803-534-9912</u> Fax _____<br>E-mail: _____ Other: _____ | Defendant's Attorney: <u>Joseph T. Tierney, IV, Esquire</u><br><u>MS Christine K Toporek Esquire</u> Bar No _____<br>Address: <u>Young Clement Rivers LLC, P.O. Box 993,</u><br><u>Charleston, S.C. 29403</u><br>Phone: <u>843-720-5406</u> Fax <u>843-379-1318</u><br>E-mail: _____ Other: _____ |
|---|---|

- 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, Date submitted, 20 18

**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, SCRPC)  
 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: Motion To Extend Time of hearing 7-12-18

**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: \$ \_\_\_\_\_

Copy

MOTION TO EXTEND TIME

June 29, 2018

Honorable Julie J. Armstrong  
Court of Common Pleas  
Charleston County Judicial Center  
100 Broad Street – Suite 106  
Charleston, South Carolina 29401-9401

Regarding: Notice of Motion Scheduling, #285 – MOTIONS ROSTER – JUDGE  
GOODSTEIN

Date of Hearing: July 12, 2018 at 10 AM

Reference: Thelma R. Garrick vs  
Dr. George H. Khoury and Bon Secours St. Francis  
West Ashley

Case No.: 2018-CP-10-1163

YCR File: 3810-20180252

Dear Ms. Armstrong:

Attached you will find form #SCCA 233 for a Motion to extend time of hearing.

I appreciate your consideration.

The reason for this action or request is as follows. This case has become much more complicated. I have proof on tape, in Dr. Khoury's own words, that I did not know of the implants or surgery he performed. The simple fusion to relieve the pressure on the left sciatica nerve was changed to a massive surgery of experimentation that has altered my entire life: to a life of unmitigated pain. Dr. Khoury and the hospital did this with greed, malice of thought, intent to harm, without my knowledge and without my permission. Dr. Khoury has only his word, without evidence that I signed willingly and knowingly. The release I signed for the nurse was after being drugged on the way to the

operating room at 7:05 AM on August 20, 2015. She held my hand and guided my signature and I insisted that I put the time on even after she told me that I did not have to put the time or date. I have asked for a copy of the contract that he and I would have had to sign with Medtronic in order to do this type surgery to no avail.

I have proof that the first knowledge of the implant in the lumbar spine was six months after the surgery. Dr. Khoury never told me about any other implants or surgery to my spine. I learned from Dr. Khoury's records to Medicare for billing purposes that he had indeed severed my spine. No mention in their records of any named implants or that it was an experimental surgery. Then from Duke Health in North Carolina I found out about the cage surrounding this area. In January of 2018 I learned from the Medical Records of two Medtronic Representatives that were in the operating room, and they trained Dr. Khoury and operating staff how to use their new Navigation System (Robotic Arm) by doing most of the operation implants. (Medical Battery!) Then Ms. Garnet of Medtronic finally informed me that they had used the "Infuse" medication on my spine. During and immediately after surgery.

With the pain level accelerating I made an appointment with a Neurosurgeon for a fourth opinion. This appointment was with the Brain and Spine Clinic of Lexington. I went back yesterday for the results from the two CT scans and MRI with and without contrast.

The neurosurgeon showed one part of the MRI (lumbar spine) where the Medtronic Distribution Port was implanted. It was very evident that the rod securing this port has broken into indicating to me that this experimental device is defective.

The spine was so damaged with the implementation of this port that it bent the

spine causing damage to other vertebrae, that the spine would have to be lifted and spacers inserted, everything removed to repair spine. There are no guarantees, and the surgery would take 6-7 hours. The risks are much worse than implanting this thing.

This neurosurgeon told my niece and I that I had broken the rod on the Distribution Port. He made it known that he is a strong supporter of the Medtronic Company having worked for them seven or more years. He instructed the nurse to send my information over to a Medtronic representative. He then said very proudly that he spent five hours in court defending the "Infuse" bone growth medication that has been in litigation in five States. (And has caused over 8,000 people to be permanently disabled so far. Since he and Dr. Khoury admit to using the medicine all of the time it will not be known about in SC area until people are notified that this can be the cause of their pain.) The reason they severed my spine was to test this medication, and also to test the cage placed around the area.

Who cares who broke the rod, the implant has to be defective. The only possibility I could have done so is the time I was restless with pain one night and turned over in the bed, felt something shift in my back and heard a loud pop causing knife like stabbing.

However, Dr. Khoury called my house wanting me to come in and talk to him (just before my filing). In that heated conversation he indicated that he could remove three screws and relieve some of my pain. I mentioned this to the neurosurgeon and he showed us the three screws just below where the rod is broken. I believe Dr. Khoury broke the rod right after my operation twisting my body trying to test the device (see medical records). This now makes sense to me. This port had to be heated making it

pliable to insert. It is not titanium as this doctor yesterday and Dr. Khoury tries to make me believe. You cannot bend titanium. Dr. Khoury told me on March 7, 2016 that my body was rejecting the material he put in me. (I had a fusion on the right side with titanium four years earlier and was not allergic to the material.) This material had to be more pliable to insert massive dosages of medicine that would trickle down to the other screws over time, and thus would possibly be easier to break. (I also told this doctor that if I had the operation that the port was mine, this was not well received.)

The fact is – the distribution port is defective and needs to go back to the engineers.

After all I learned yesterday I ask the Court to extend this hearing for at least three months for me to do more research. I apologize to the Court for any inconvenience, and thank you for the extension.

Yours truly,

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

cc: Mr. Joseph J. Tierney, Jr., Attorney  
Young Clement Rivers, LLP  
P. O. Box 993  
Charleston, South Carolina 29402-0993  
843-720-5406

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PS Form 3800, April 2015 PSN 7530-02-000-9077 See Reverse for Instructions

Case No. 2018-001842

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STATE OF SOUTH CAROLINA )  
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COUNTY OF CHARLESTON )  
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\_\_\_\_\_)  
THELMA R. GARRICK, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
DR. GEORGE H. KHOURY and )  
BON SECOURS ROPER ST. FRANCIS, )  
 )  
Defendant. )  
\_\_\_\_\_)

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

Transcript of Record

DATE: July 12, 2018

B E F O R E:

THE HONORABLE DIANE S. GOODSTEIN

A P P E A R A N C E:

JOSEPH J. TIERNEY, JR.  
Attorney for the Defendants

Karen V. Andersen, RMR, CRR  
Circuit Court Reporter

**ORIGINAL**

1 MR. TIERNEY: Good morning, Your Honor.

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

4 MR. TIERNEY: I apparently am here alone.

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

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

10 THE CLERK: She did.

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

13 THE CLERK: She did.

14 THE COURT: Listening to you.

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

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

24 The issue of the case is as follows. Ms. Garrick has  
25 alleged professional negligence, medical malpractice against

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  
12 all the hoops.

13 THE COURT: She did not do that?

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

20 So that's why I'm here today seeking a dismissal of  
21 the case for lack of jurisdiction for her failure to follow the  
22 statute.

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

1 mediation. And I gather none of that has occurred.

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

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

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

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

9 MR. TIERNEY: Yes, Your Honor.

10 THE COURT: And that despite that, that this matter  
11 was not dismissed on the basis of her failure to appear, but  
12 you went forward and argued your motion and merits of that  
13 motion, so that it is clear that this matter has been dismissed  
14 on the merits.

15 MR. TIERNEY: Yes, I will do that.

16 THE COURT: Merits meaning the procedural --

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

19 THE COURT: Thank you.

20 (Whereupon, proceedings are adjourned.)

21

22

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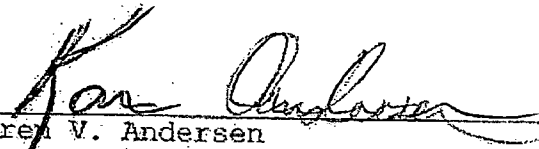
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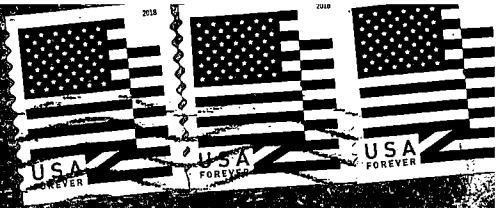
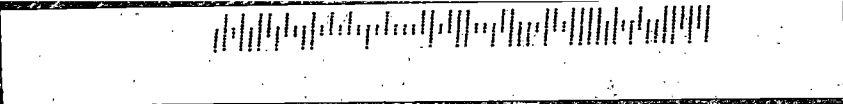
I, Karen V. Andersen, Registered Merit Reporter,  
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Large, do hereby certify that the foregoing transcript is a  
true, accurate and complete Transcript of Record of the  
proceedings.

I further certify that I am neither related to nor  
counsel for any party to the cause pending or interested in the  
events thereof.

  
Karen V. Andersen  
Registered Merit Reporter  
Certified Realtime Reporter

19

*Cherry Hill, N.C.*



*Mr. V. Charles Allen, Deputy Clerk  
of the South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, South Carolina 29211*