

20115 THE STATE OF SOUTH CAROLINA

In The Court of Appeals

Appeal from Horry County
Benjamin H. Culbertson, Judge

Case No. 2012-212373

RECEIVED

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Jane RM Doe, Respondent

v.

Omar Jaraki, Halla Jaraki, Cardiology & Arrhythmia Consultants,
Cardiology and Arrhythmias Consultant, Institute of
Electrophysiology, P.C.

Of whom Omar Jaraki and Halla Jaraki are the Appellants

RECORD ON APPEAL

William Isaac Diggs
LAW OFFICES OF WILLIAM ISAAC DIGGS
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
(843)-626-4243
(843)-626-5123

ATTORNEY FOR APPELLANTS

THE STATE OF SOUTH CAROLINA
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Myrtle Beach, SC 29577
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ATTORNEYS FOR RESPONDENT

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STATE OF SOUTH CAROLINA
COUNTY OF HORRY

JUDGMENT IN A CIVIL CASE

IN THE COURT OF COMMON PLEAS

FILED
HORRY COUNTY

CASE NO. 2010- CP-26-0659

Jane RM Doe

Omar Jaraki et al

12 MAY 29 AM 10: 59

PLAINTIFF(S)

MELANIE HUGHES-WARD

DEFENDANT(S)

CLERK OF COURT

Submitted by: *Clerk of Court*Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Defendant's Motion to be relieved from Default Judgment is denied.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	\$ N/A
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

M. J. Armstrong / Cultarson

Circuit Court Judge

2148

Judge Code

May 21st, 2012

Date

0000004

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

O. Fayrell Furr

William Isacc Diggs

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Grace Hurley

000002

FORM 4

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS

FILED
HORRY COUNTY

CASE NO. 2010-CP-26-659

Jane RM Doe

PLAINTIFF(S)

10 NOV -3 AM 7:59

Omar Jaraki, et al.

DEFENDANT(S)

CHECK ONE:

MELANIE HUGGINS-WARD
CLERK OF COURT

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other
 NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED:

- ☐ See attached order. (Formal order to follow)
☒ Statement of Judgment by the Court:

Damages Hearing:

Judgment granted in favor of the plaintiff against the defendants for \$100,000.00 actual damages and \$100,000.00 punitive damages. Total judgment = \$200,000.00.

Dated at Conway, South Carolina, this 2nd day of November, 2010.



Benjamin H. Culbertson
PRESIDING JUDGE

This judgment was entered on the _____ day of _____, 20____, and a copy mailed first class this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

O. Fayrell Furr

ATTORNEY(S) FOR THE PLAINTIFF(S)

Omar Jaraki (*pro se*)

Halla Jaraki (*pro se*)

Other defendants - none

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

000003

CIVIL ACTION COVERSHEET

Plaintiff(s)

2010-CP 26-659

vs.

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT,
INSTITUTE OF ELECTROPHYSIOLOGY, P.C.

Defendant(s)

(Please Print)

Submitted By: O. FAYRELL FURR, JR., ESQUIRE

Address: P.O. BOX 2909 (1900 OAK STREET)

MYRTLE BEACH, SC 29578 (29577)

SC Bar #: 002246

Telephone #: 843/626-7621

Fax #: 843/448-6445

Other:

E-mail: fho@sc.rr.com

FILED
HORRY COUNTY
2010 JAN 27 AM 8:43
KIMBERLY HUGGINS-WARD
CLERK OF COURT

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

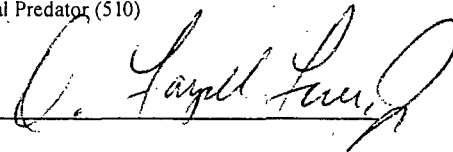
- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|--|---|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☒ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture—Consent Order (850)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600) ☐ Pharmaceuticals (630)
☐ Automobile Arb. (610) ☐ Unfair Trade Practices (640) | | | |

- | | |
|--|---|
| ☐ Medical (620) | ☐ Out-of State Depositions (650) |
| ☐ Other (699) | ☐ Motion to Quash Subpoena in
an Out-of-County Action (660) |
| | ☐ Sexual Predator (510) |

Submitting Party Signature:



Date: 1/26/2010

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY
Allendale, Anderson, Beaufort, Colleton, Florence, Greenville,
Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE
DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

JANE RM DOE,)

Plaintiff,)

v.)

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT,
INSTITUTE OF
ELECTROPHYSIOLOGY, P.C.)

Defendants.)

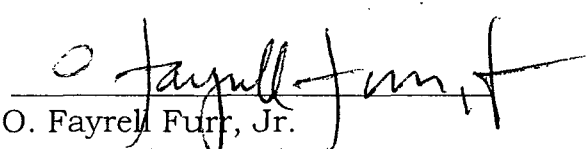
IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. _____

**SUMMONS
(JURY TRIAL)**

FILED
HORRY COUNTY
2010 JAN 27 AM 8:43
MELANIE HUGGINS-WARD
CLERK OF COURT

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber at his office at 1900 Oak Street, P.O. Box 2909, Myrtle Beach, South Carolina 29578 within thirty (30) days after the service hereof, exclusive of the day of such service; and, if you fail to appear and defend by filing an Answer to the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


O. Fayrell Furr, Jr.

Attorney for the Plaintiff

FURR HENSHAW & OHANESIAN

1900 Oak Street, P.O. Box 2909

Myrtle Beach, SC 29578

(843) 626-7621

Myrtle Beach, South Carolina

1/22, 2010

JURY TRIAL DEMANDED

000007

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

JANE RM DOE,)

Plaintiff,)

v.)

OMAR JARAKI, HALLA JARAKI,)
CARDIOLOGY & ARRHYTHMIA)
CONSULTANTS, CARDIOLOGY &)
ARRHYTHMIAS CONSULTANT,)
INSTITUTE OF)
ELECTROPHYSIOLOGY, P.C.)

Defendants.)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.

**COMPLAINT
(JURY TRIAL)**

FILED
HORRY COUNTY
2010 JAN 27 AM 8:43
MELANIE HUGGINS-WARD
CLERK OF COURT

The Plaintiff would respectfully show unto this Court that:

1. The Plaintiff is a citizen and resident of the State of South Carolina, County of Horry and she brings this action under a pseudonym because of the private and sensitive nature of her injuries; her real name is available to the parties and the Court upon request to Plaintiff's counsel.
2. The Defendant, Omar Jaraki is a resident of the State of South Carolina, County of Horry.
3. The Defendant, Halla Jaraki is a resident of the State of South Carolina, County of Horry.
4. Upon information and belief, Defendant Cardiology & Arrhythmia Consultants (hereinafter referred to as "Defendant Cardiology") at all times relevant herein, was organized and existing under the laws of the State of South Carolina, and doing business in the County of Horry by and through its agents, servants, or employees.
5. Upon information and belief, Defendant Cardiology & Arrhythmias Consultant (hereinafter referred to as "Defendant Consultant") at all times relevant herein, was organized and existing under the laws of the State of South Carolina, and doing business in the County of Horry by and through its agents, servants, or employees.

000008

6. Upon information and belief, Defendant Institute of Electrophysiology, P.C. (hereinafter referred to as "Defendant Institute") at all times relevant herein, was a professional corporation organized and existing under the laws of the State of South Carolina, and doing business in the County of Horry by and through its agents, servants, or employees.

7. Upon information and belief, Defendants Omar Jaraki and Halla Jaraki were agents, contractors or employees of Defendants Cardiology, Consultant and Institute, and at all times relevant herein, were acting within the scope of their employment as agents, contractors or employees of Defendants Cardiology, Consultant and Institute and therefore Defendants Cardiology, Consultant and Institute are liable for the acts and omissions of Defendants Omar Jaraki and Halla Jaraki and its other agents, contractors and employees.

8. That at all times mentioned herein, Defendants' conduct was under the guise of and in the course of medical treatment and, thus, constitutes negligent and reckless professional services. Plaintiff's damages resulted over a period of time and would not have occurred but for the professional services rendered during that time, when other services should have been rendered and were not. This tortious sexual misconduct was intertwined with and inseparable from the professional services provided by the Defendant.

9. Plaintiff presented to Defendants upon referral for chest pain, shortness of breath and an abnormal EKG beginning February 8, 2007.

10. On or about February 8, 2007, Defendant Omar Jaraki had the Plaintiff remove her clothing from the waist up to perform an EKG on her at which time he cupped her breasts and ran his thumbs across her nipples in an inappropriate manner.

11. Upon information and belief, the inappropriate touching continued during the next two visits on February 14, 2007 and February 20, 2007. During the February 20, 2007 stress test, the Plaintiff said something to Defendant Omar Jaraki about the inappropriate touching, upon information and belief, Defendant Omar Jaraki then stopped this behavior for the duration of the visit.

12. Upon information and belief, Defendant Omar Jaraki billed Plaintiff's insurance company for surgical tumor removal performed on Plaintiff on February 14, 2007 although Plaintiff had not complained of any tumor and no surgical services were performed.

13. Upon information and belief, Defendants falsified Plaintiff's medical records and improperly billed the Plaintiff and her insurance company for services not performed.

14. Plaintiff requested her medical records from the Defendants so that her new physician could render proper treatment, but Defendant Omar Jaraki and his office repeatedly refused to give her medical records to her.

15. After the Plaintiff reported Defendant Omar Jaraki's activities to the police and the South Carolina Medical Board, Plaintiff is informed and believes that Defendant Omar Jaraki falsified her records.

16. At all times, Defendant Omar Jaraki acted as if the inappropriate touching against Plaintiff was a necessary and proper part of medical diagnosis and treatment.

**FOR A FIRST CAUSE OF ACTION
(Assault)**

17. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

18. That Defendant Omar Jaraki engaged in inappropriate sexual touching without the consent of Plaintiff;

19. That the conduct of the Defendants, jointly and severally, put the Plaintiff in reasonable apprehension of being touched in a sexual and offensive manner;

20. That Defendant Omar Jaraki intended to commit this sexual and offensive touching.

21. That the injuries and damages suffered by the Plaintiff were directly and proximately caused by the above acts of the Defendants.

**FOR A SECOND CAUSE OF ACTION
(Battery)**

22. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

23. The fondling of Plaintiff's breasts was harmful and offensive touching without Plaintiff's consent.

24. That these acts were done intentionally, recklessly, willfully, and wantonly and Defendant Jaraki should have known that such conduct was harmful and offensive to the Plaintiff.

25. That the injuries and damages suffered by Plaintiff were directly and proximately caused by the battery committed upon her person by Defendant Omar Jaraki and condoned by Defendant Halla Jaraki.

**FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

26. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

27. The Defendants intentionally, recklessly, willfully inflicted severe emotional distress and was certain or substantially certain that such distress would result from their treatment of Plaintiff.

28. The sexual misconduct was so extreme and outrageous that it exceeds all possible bounds of decency and is regarded as atrocious and utterly intolerable in today's society.

29. That the actions of the Defendants were the sole and proximate cause of the Plaintiff's emotional distress.

30. That the emotional distress suffered by the Plaintiff as a result of Defendants actions was so severe that no reasonable person could be expected to endure it.

31. Plaintiff is entitled to actual and punitive damages as a result of Defendants conduct.

**FOR A FOURTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)**

32. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

33. The Defendants negligently, wantonly, recklessly, and carelessly inflicted severe emotional distress upon Plaintiff by their negligent conduct towards her, manifested by offensive physical contact, thus causing her serious injury.

34. That this emotional distress has manifested itself by physical symptoms capable of objective diagnosis.

35. That the actions of the Defendants were the sole and proximate cause of the Plaintiff's emotional distress.

36. Plaintiff is entitled to actual and punitive damages as a result of Defendant's conduct.

**FOR A FIFTH CAUSE OF ACTION
(Invasion of Privacy)**

37. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

38. That Defendants conduct invaded the privacy of the Plaintiff and, such conduct would be embarrassing or humiliating to a person of ordinary sensibilities.

39. That Defendants conduct was intentional and of such a nature that would cause mental harm to persons of ordinary feeling and intelligence in the same circumstances; and said conduct was in blatant and shocking disregard of Plaintiff's rights.

40. Plaintiff has been seriously injured and humiliated as a result of this breach of privacy and is entitled to damages therefrom.

**FOR A SIXTH CAUSE OF ACTION
(Breach of Contract)**

41. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

42. Defendants offered proper medical treatment to Plaintiff, Plaintiff accepted, and Plaintiff's promise to pay for said treatment constituted valid consideration to support a contract of good faith and fair dealing.

43. Defendants' breached their contract with Plaintiff by failing to employ proper treatment which an ordinary practitioner in the same circumstances would.

44. Defendants' breach of contract has resulted in proximately caused damages, which were the natural consequences of Defendants breach and which was foreseeable.

**FOR AN SEVENTH CAUSE OF ACTION
(Breach of Fiduciary Duty/Good Faith and Fair Dealing)**

45. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

46. Defendants' and Plaintiff were associated such that the parties did not deal on equal terms, and Defendant Omar Jaraki, as a clothed male physician, was in a position of overmastering influence, while Plaintiff, as a female patient, was in a position of weakness, dependence, and trust, justifiably reposed, creating a fiduciary relationship with corresponding duties.

47. Plaintiff reposed confidence in Defendants' and relied and acted upon the representations of the Defendants. Plaintiff is guilty of no derelictions on her own part.

48. Defendants' breached this fiduciary duty by engaging in the acts complained of above, causing severe injury to Plaintiff.

Defendants' breach of fiduciary duty has resulted in proximately caused damages, which were the natural consequences of Defendants breach and which was foreseeable

**FOR A EIGHTH CAUSE OF ACTION
(Unfair Trade Practices Act)**

49. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

50. That Defendants' committed unfair and deceptive acts or practices by informing Plaintiff he was treating her injuries with proper medical procedures, when in

in fact he was not.

51. That Defendant's committed unfair and deceptive acts or practices in the distribution of his medical services by charging for medical treatment never rendered to Plaintiff.

52. That Defendants' committed unfair and deceptive acts or practices by charging Plaintiff and her insurance company for medical treatment when he was not rendering the services he charged.

53. That said unfair and deceptive acts or practices of the Defendants' have an impact upon the public interest and such acts or practices have the potential for repetition and, in fact, have been repeated with others.

**FOR A NINTH CAUSE OF ACTION
(Negligent Supervision)**

54. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

55. That Defendant Halla Jaraki, Defendant Cardiology, Defendant Consultants and Defendant Institute were aware of the improper, negligent, reckless, and intentional acts of Defendant Omar Jaraki and failed to take action to prevent further such actions and its resulting damage to Plaintiff.

**FOR AN TENTH CAUSE OF ACTION
(Spoliation of Evidence)**

56. That Defendants failed to properly guard and maintain Plaintiff's medical records.

AS TO ALL CAUSES OF ACTION

As a direct result of the acts of the Defendants, jointly and severally, Plaintiff suffered greatly, resulting in improper medical bills and severe emotional distress and will continue to suffer emotional distress as a result of the acts of the Defendants. The Plaintiff also failed to get proper treatment for her injuries which caused her a prolonged recovery time for the injuries received in the motor vehicle accident.

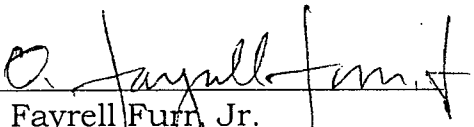
As a direct and proximate result of the negligent and careless acts and omissions of the Defendants, jointly and severally; medical and other expenses; mental anguish; loss of enjoyment of life; embarrassment and humiliation; all of which she will continue to suffer

from in the future.

The Plaintiff is informed and believes that she is entitled to judgment against the Defendants, jointly and severally, in a sum sufficient to adequately compensate her for actual damages and since such conduct was willful and reckless, she is entitled to punitive damages and three times the actual damages sustained, attorneys fees and costs, and other relief the Court deems just and proper.

The Plaintiff demands a jury trial.

WHEREFORE, the Plaintiff demands a jury trial and prays for judgment against the Defendants, jointly and severally, for damages in an amount in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), for such punitive damages as may be assessed by the jury, for the costs of this action, and for such other and further relief as the Court and jury may deem just and proper.


O. Fayrell Furr, Jr.
Attorney for the Plaintiff
FURR HENSHAW & OHANESIAN
1900 Oak Street, P.O. Box 2909
Myrtle Beach, SC 29578
(843)448-4357

Myrtle Beach, South Carolina
1/22, 2010
JURY TRIAL DEMANDED

246111-2 DE-101
JAN 23 2010 10:00 AM
CLERK OF COURT

000015

STATE OF SOUTH CAROLINA)

COUNTY OF HORRY)

JANE RM DOE)

Plaintiff,)

vs.)

Omar Jaraki, Halla Jaraki, Cardiology &)
Arrhythmia Consultants, Cardiology &)
Arrhythmias Cunsultant, and Institute of)
Electrophysiology, P.C.)

Defendant.)

IN THE COURT OF COMMON PLEAS
15TH JUDICIAL CIRCUIT

CASE NO.: 2010-CP-26-659

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

HORRY COUNTY
10 NOV 30 PM 2:08
CLERK OF COURT
JESSIE S. WARD

Plaintiff's Attorney:

O. Fayrell Furr, Jr., Bar No. 2246

Address:

1900 Oak Street/P.O. Box 2909

Myrtle Beach, SC 29578

Phone: 843.626.7621 Fax 843.448.6445

E-mail: _____ Other: _____

Defendant's Attorney:

William Isaac Diggs, Bar No. 1689

Address:

1700 Oak Street, Suite D

Myrtle Beach, SC 29577

Phone: 843.626.4243 Fax 843.626.5123

E-mail: william.diggs@myrtlebeachlaw.com 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: Amended Motion to be relief from default

Estimated Time Needed: 30 minutes

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.

Signature of Attorney for ☐ Plaintiff / ☒ Defendant

November 30, 2010

Date submitted

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 v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCF)

☐ 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: _____

000016
16

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE 15TH JUDICIAL CIRCUIT
Case No.: 2010-CP-26-659

Jane RM Doe,)
)
Plaintiff,)
v.)

AMENDED
MOTION TO BE RELIEVED FROM
DEFAULT JUDGMENT
(Rule 60(b)(1))

Omar Jaraki, Halla Jaraki,)
Cardiology & Arrhythmia)
Consultants, Cardiology and)
Arrhythmias Consultant, Institute)
of Electrophysiology, P.C.)
)
Defendants.)

HORRY COUNTY
10 NOV 30 PM 2:08
CLERK OF COURT

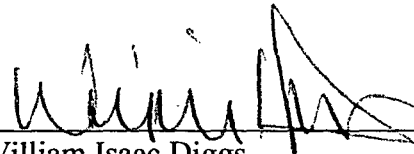
TO: O. FAYRELL FURR, JR., ATTORNEY FOR THE PLAINTIFF AND THE PLAINTIFF

YOU WILL PLEASE TAKE NOTICE, that ten (10) days hence or as soon thereafter as counsel may be heard, defendants will move before the presiding judge for the Fifteenth Judicial Circuit for relief from default judgment rendered in this matter. Said motion is based on the grounds enumerated in S.C.R.C.P. 60(b)(1) including mistake, inadvertence, surprise, or excusable neglect.

BE SO NOTIFIED!

Respectfully submitted,

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
843-626-4243
Tele: 843-626-4243

Fax: 843-626-5123

ATTORNEYS FOR THE DEFENDANTS

This 30th day of November, 2010
Myrtle Beach, South Carolina

HORRY COUNTY
10 NOV 30 PM 2:08
CLERK OF COURT
JELANE JESSIE-WARD

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE 15TH JUDICIAL CIRCUIT
Case No.: 2010-CP-26-659

Jane RM Doe,

Plaintiff,

v.

Omar Jaraki, Halla Jaraki,
Cardiology & Arrhythmia
Consultants, Cardiology and
Arrhythmias Consultant, Institute
of Electrophysiology, P.C.

Defendants.

**OMAR JARAKI'S
AFFIDAVIT IN SUPPORT OF
MOTION FOR RELIEF FROM
DEFAULT JUDGMENT**

HORRY COUNTY
10 NOV 30 PM 2:08
CLERK OF COURT

COMES NOW THE UNDERSIGNED, who, upon being duly sworn, deposes
and says as follows:

1 My name is Omar Jaraki, M.D. I am a named defendant in the above
captioned action.

2 I was served with a copy of the summons and complaint in this action on
or about February 26, 2010.

3 In 2008 I was sued by a party being represented by Russell Long, Esquire.
In that action, the plaintiff used her real name. Therefore, in this case, I did not recognize
the name of "Jane RM Doe" and did not understand that plaintiff's counsel was using this
designation as a means of trying to avoid disclosing publicly the identity of the plaintiff.

4 The plaintiff's use of a name other than her real name caused confusion
on my part and it misled me in this instance. I did not know the identity of the person
who was supposedly suing me.

5 Because I knew that I had not treated an individual named "Jane RM Doe"

I did not understand the importance of nevertheless responding to the complaint. Neither did I understand that an individual other than "Jane RM Doe" could get a judgment against me and my wife.

6. Even so, I wrote a letter to plaintiff's counsel on March 24, 2010 which was within the 30 day period of time following my receipt of the summons and complaint. A copy of that letter is attached to this affidavit as Exhibit A. I filed a copy of the letter with the clerk of court on April 1, 2010 at 4:00 p.m.

7. In that letter I stated that I did not know of any patient by the name of the plaintiff "Jane RM Doe" and that I needed additional information about that person. I was concerned about the patient's potential privacy under federal law.

8. Plaintiff's counsel did not respond to that letter. I mailed the letter to him at the following address: O Faryl Furr, Jr., P.O. Box 2909, 1900 Oak Street, Myrtle Beach, SC 25977. This mailing was made on March 24, 2010.

9. Mr. Furr states that he never received the letter, but I state under oath that the letter to him was mailed at the foregoing address on March 24, 2010. My wife and I both signed the letter and mailed it to him at the above stated address on the above stated date.

10. After Mr. Furr claimed that I had failed to respond to the complaint, I checked the case file in the courthouse in Horry County, South Carolina. My letter was not in that file even though I had received a clocked copy of that letter from the clerk's office on the date when the letter was filed.

11. In Mr. Furr's affidavit which he filed with the Court on April 30, 2010, he states, "[N]o Answer, Motion or Notice of Appearance has been made therein; and that

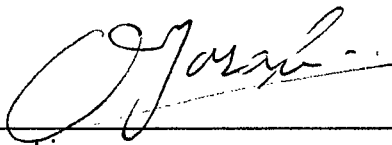
said defendants are now in default.”

12. Contrary to Mr. Furr’s statement, however, I did mail “Exhibit A” to him on March 24, 2010, and I filed a copy of the letter it with the Clerk’s office on April 1, 2010. I believe that my letter should be treated as both an answer and notice of appearance. The letter generally denies that I treated “Jane RM Doe” and therefore denies the allegations made in the complaint.

13. Even now, knowing of the true identity of the plaintiff, I deny that I committed any inappropriate conduct and I deny all of the allegations contained within the complaint which allege misconduct or errors on my part, or on the part of any of the defendants.

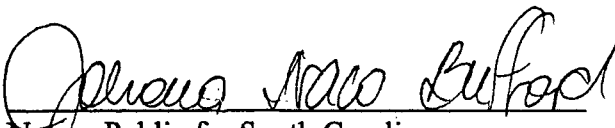
14. The named defendants *Cardiology & Arrhythmia Consultants* and *Cardiology and Arrhythmias Consultant*, are not legal entities and lack the capacity to sue or be sued.

FURTHER I SAITH NOT!



Omar Jaraki

Sworn to before me this 29th day of
November, 2010



Notary Public for South Carolina
My Commission Expires
April 7, 2015

Omar Jaraki MD

P O Box 810

North Myrtle Beach, SC 29597

March 24, 2010

This is in response to the civil action: 2010-26-659

O Faryl Furr Jr.

P O Box 2909

1900 Oak Street

Myrtle Beach, SC 29577

HORRY COUNTY
10 APR - 1 PM 4:00
CLERK OF COURT

Mr. Furr;

I have to have the following to identify your plaintiff correctly if he or she existed in our records. I do not find anybody by name JaneRM Doe. I need the following and every item of the following:

Name

Address

Date of Birth

Social security Number

A copy of the driver license

To positively identify your plaintiff due to the sensitive nature of medical records. Until I receive all the above information about this matter I cannot answer any further question.

Omar Jaraki MD

000022

EXHIBIT A

2010 CP-26 659

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE 15TH JUDICIAL CIRCUIT
Case No.: 2010-CP-26-659

Jane RM Doe,

Plaintiff,

v.

Omar Jaraki, Halla Jaraki,
Cardiology & Arrhythmia
Consultants, Cardiology and
Arrhythmias Consultant, Institute
of Electrophysiology, P.C.

Defendants.

**HALLA JARAKI'S
AFFIDAVIT IN SUPPORT OF
MOTION FOR RELIEF FROM
DEFAULT JUDGMENT**

HORRY COUNTY
10 NOV 30 PM 2:08
MELANIE J. BROWN-SWARD
CLERK OF COURT

COMES NOW THE UNDERSIGNED, who, upon being duly sworn, deposes
and says as follows:

1 My name is Halla Jaraki. I am a named defendant in the above captioned
action.

2 I was served with a copy of the summons and complaint in this action on
or about March 5, 2010.

3 I wrote a letter to plaintiff's counsel on March 24, 2010, with my husband,
which was done within the 30 day period of time following my receipt of the summons
and complaint. A copy of that letter is attached to this affidavit as Exhibit A. My husband
and I filed a copy of this letter with the clerk of court on April 1, 2010 at 4:00 p.m.

7 In that letter my husband and I stated that we did not know of any patient
by the name of the plaintiff "Jane RM Doe" and that we needed additional information
about that person. I know that my husband was concerned about the patient's potential
privacy under federal law.

8. Plaintiff's counsel did not respond to that letter. We mailed the letter to him at the following address: O-Faryl Furr, Jr., P.O. Box 2909, 1900 Oak Street, Myrtle Beach, SC 25977. This mailing was made on March 24, 2010.

9. Mr. Furr states that he never received the letter, but I state under oath that the letter to him was mailed at the foregoing address on March 24, 2010. My husband and I both added our names to the letter and mailed it to him at the above stated address on the above stated date.

10. After Mr. Furr claimed that we had failed to respond to the complaint, my husband and I checked the case file in the courthouse in Horry County, South Carolina. My letter was not in that file even though I had received a clocked copy of that letter from the clerk's office on the date when the letter was filed.

11. In Mr. Furr's affidavit which he filed with the Court on April 30, 2010, he states, "[N]o Answer, Motion or Notice of Appearance has been made therein; and that said defendants are now in default."

12. Contrary to Mr. Furr's statement, however, my husband and I did mail "Exhibit A" to him on March 24, 2010, and we filed a copy of the letter with the Clerk's office on April 1, 2010. I believe that my letter should be treated as both an answer and notice of appearance. The letter generally denies that my husband treated "Jane RM Doe" and therefore denies the allegations made in the complaint.

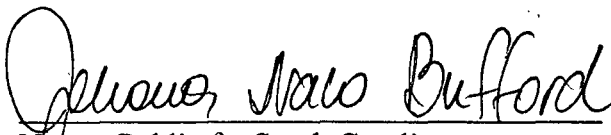
13. Even now, knowing of the true identity of the plaintiff, I deny that I committed any inappropriate conduct and I deny all of the allegations contained within the complaint which allege misconduct or errors on my part, or on the part of any of the defendants.

14. The named defendants *Cardiology & Arrhythmia Consultants* and *Cardiology and Arrhythmias Consultant*, are not legal entities and lack the capacity to sue or be sued.

FURTHER I SAITH NOT!


Halla Jaraki

Sworn to before me this 29th day of
November, 2010


Notary Public for South Carolina
My Commission Expires
April 7, 2015

Omar Jaraki MD & Halla Jaraki

P O Box 810

North Myrtle Beach, SC 29597

March 24, 2010

This is in response to the civil action: 2010-26-659

O Faryl Furr Jr.

P O Box 2909

1900 Oak Street

Myrtle Beach, SC 29577

HORRY COUNTY
10 APR - 1 PM 4:00
CLERK OF COURT
JENNIFER WARD

Mr. Furr;

I have to have the following to identify your plaintiff correctly if he or she existed in our records. I do not find anybody by name JanERM Doe. I need the following and every item of the following:

Name

Address

Date of Birth

Social security Number

A copy of the driver license

To positively identify your plaintiff due to the sensitive nature of medical records. Until I receive all the above information about this matter I cannot answer any further question.


Omar Jaraki MD

843-602-6262

Halla Jaraki

 843-602-2882

000026

EXHIBIT A
2010 CP-26-659

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE 15TH JUDICIAL CIRCUIT
Case No.: 2010-CP-26-659

Jane RM Doe,)

Plaintiff,)

v.)

Omar Jaraki, Halla Jaraki,)
Cardiology & Arrhythmia)
Consultants, Cardiology and)
Arrhythmias Consultant,)
Institute of)
Electrophysiology, P.C.)

Defendants.)

ANSWER TO COMPLAINT

HORRY COUNTY
10 NOV 30 PM 2:02
CLERK OF COURT

COME NOW THE DEFENDANTS, Omar Jaraki, Halla Jaraki, Cardiology & Arrhythmia Consultants, Cardiology and Arrhythmias Consultant, Institute of Electrophysiology, P.C., by and through their undersigned counsel, who would responding to the Plaintiff's complaint, show unto this Court as follows:

FOR A FIRST DEFENSE

Plaintiff's complaint violates S.C.R.C.P. 17 because it fails to include the name of the real party in interest. Defendant was prejudiced by this error because the rule violation caused confusion on defendants' part

FOR A DEFENSE

1. Each and every allegation of the Plaintiff's complaint which is not hereinafter specifically admitted, qualified or otherwise explained is denied and strict proof demanded thereof.

2 Defendants do not have sufficient information to form a response as to the allegations contained in Paragraph 1, and therefore deny the same.

3. The defendants admit paragraph 2.
4. The defendants admit paragraph 3.
5. Denied.
6. Denied.
7. Denied.
8. Denied.
9. Defendants lack sufficient information to for a response to this paragraph
and would therefore deny the same.
10. Denied
11. Denied.
12. Denied.
13. Denied.
14. Denied.
15. Denied.
16. Denied.
17. Defendants repeat the foregoing answers as if the same were set out herein
verbatim.
18. Denied.
19. Denied.
20. Denied.
21. Denied.
22. Defendants repeat the foregoing answers as if the same were set out herein
verbatim.

23. Denied.

24. Denied.

25. Denied.

26. Defendants repeat the foregoing answers as if the same were set out herein
verbatim.

27. Denied.

28. Denied.

29. Denied.

30. Denied.

31. Denied.

32. Defendants repeat the foregoing answers as if the same were set out herein
verbatim.

33. Denied.

34. Denied.

35. Denied. Defendants would further show that Defendants caused on
amount of harm to plaintiff to any extent or degree.

36. Denied.

37. Defendants repeat the foregoing answers as if the same were set out herein
verbatim.

38. Denied.

39. Denied.

40. Denied.

41. Defendants repeat the foregoing answers as if the same were set out herein verbatim.

42. Defendants would show that at all times they provided proper medical treatment and breached no terms of any contract.

43. Denied.

44. Denied.

45. Defendants repeat the foregoing answers as if the same were set out herein verbatim.

46. Denied.

47. Defendants lack sufficient information to for a response to this paragraph and would therefore deny the same.

48. Denied.

49. Defendants repeat the foregoing answers as if the same were set out herein verbatim.

50. Denied.

51. Denied.

52. Denied.

53. Denied.

54. Defendants repeat the foregoing answers as if the same were set out herein verbatim.

55. Denied.

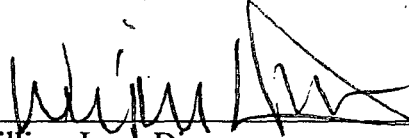
56. Denied

WHEREFORE, having fully responded to plaintiff's complaint defendants would request that

- a. the complaint be dismissed in its entirety and plaintiff take nothing;
- b. defendants be awarded attorneys fees in accordance with the plaintiff's cause of action alleging unfair trade practice
- c. defendants be given trial by jury; and
- d. Any other and further relief deemed just and proper by this Court.

Respectfully submitted,

LAW OFFICES OF WILLIAM ISAAC DIGGS



William Isaac Diggs
1700 Oak Street, Suite D
Myrtle Beach, SC 25977
Tele: 843-626-4243
Fax: 843-626-5123

ATTORNEY FOR THE DEFENDANTS

This 29th day of November, 2010
Myrtle Beach, South Carolina

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) 2010-CP-26-659

Jane RM Doe,)
)
 Plaintiff,) Transcript of Record
)
 vs.) Hearing
)
 Omar Jaraki, et al.,) November 2, 2010
)
 Defendants.)

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

O. Fayrell Furr, Esquire
Attorney for Plaintiff

Defendants Appearing Pro Se:
Omar Jaraki, Halla Jaraki

Grace L. Hurley, CVR-CM
Circuit Court Reporter

000032

1	E X H I B I T S	ID	EVD
2			
3	P-1 Charges		15
4	P-2 10-28-10 Letter to Jaraki		16
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000033

1 (On the record, November 2, 2010.)

2 THE COURT: All right, this is case number 2010-CP-26-
3 659, the case of Jane RM Doe v. Omar Jaraki, Halla Jaraki,
4 Cardiology and Arrhythmia Consultants, Cardiology and
5 Arrhythmia Consultants Institute of Electrophysiology PC, and
6 I've got the matter is before the Court, according to my
7 roster, this is a motion for default judgment; is that
8 correct?

9 MR. FURR: Yes, sir.

10 THE COURT: All right, all right, Mr. Furr, you
11 represent the Plaintiffs?

12 MR. FURR: Yes, sir.

13 THE COURT: All right, and you are ---

14 MR. JARAKI: I'm Omar Jaraki, Dr. Jaraki, my wife,
15 Halla.

16 THE COURT: Okay, all right. All right, Mr. Furr,
17 this is your motion. Let me hear from you.

18 MR. FURR: Yes, sir, we filed a lawsuit against Dr.
19 Jaraki and never got an answer. We filed a motion for an
20 entry of default. The Clerk of Court, Melanie Huggins-Ward,
21 signed that on April 30th, 2010. That should be in your file
22 there, but you may - I've got a copy if you need a copy of it.

23 THE COURT: All right, that's what I'm looking for
24 right here. Let me see. It was filed when? Yeah, got it
25 right here.

000034

1 MR. FURR: You got it, okay.

2 THE COURT: Okay, thank you.

3 MR. FURR: We never heard from Dr. Jaraki and on - we
4 checked with the clerk's office. On September 20th, 2010, Dr.
5 Jaraki sent a letter to the Clerk's Office requesting
6 identification of the patient. We had filed this because of
7 the nature of the charges, we filed this under the name, under
8 the name of Jane, Jane RM Doe, and we never got a copy of the
9 letter he sent to the Clerk's Office, but when we found it on
10 October 28th I sent him a letter telling him who the, who the
11 patient, who the patient was and gave him the record number,
12 I'm sorry, his record number and to make sure he knew about
13 the hearing today.

14 THE COURT: All right, thank you. All right, now,
15 this is a damages hearing?

16 MR. FURR: Yes, sir.

17 THE COURT: Okay, all right. Do you want to go ahead
18 and call your witness?

19 MR. FURR: Yes, sir.

20 THE COURT: All right.

21 Whereupon, Roseann Miller was called to the stand, duly
22 sworn by the clerk and testified as follows:

23 THE CLERK: You may be seated. Please state your name
24 for the Court, please.

25 MS. MILLER: Roseann Miller.

000035

DIRECT EXAMINATION

1
2 BY MR. FURR:

3 Q Ms. Miller, you are the Plaintiff in a case that we filed
4 against Dr. Jaraki, his wife and his practice?

5 A Yes.

6 Q And you were a patient of his ---

7 MR. FURR: Is it okay if I lead the witness ---

8 THE COURT: Yeah, that'll be fine.

9 MR. FURR: --- since this is a default hearing?

10 THE COURT: Right, that'll be fine.

11 BY MR. FURR:

12 Q You filed a cause of action against Dr. Jaraki; is that
13 correct?

14 A Yes.

15 Q And in that cause of action you allege that he took
16 inappropriate actions against you?

17 A Yes.

18 Q And tell the jury, tell the Judge just briefly because of
19 the, because of the nature of what he did to you, he cupped
20 your breasts and played with your nipples, as I understand; is
21 that correct?

22 A Yes.

23 Q And you reported that to the medical board?

24 A Yes.

25 Q You reported that to the police?

000036

1 A Yes.

2 Q And you - as a result of these actions did you suffer
3 some mental anguish?

4 A Yes.

5 Q Can you tell the Judge what, what you went through
6 because of this?

7 A Well, I felt stupid for letting him do it and not saying
8 anything at first and, and I, I felt, I trusted this man to do
9 the right thing. He was my doctor and I was afraid to make
10 waves because he told me I was very sick and I didn't know any
11 other doctor in the area because I just moved here recently at
12 that time and people told me that there was no good
13 cardiologist in the area and when they picked him for me they
14 told me he was the best and I didn't want to make waves so
15 that I, you know, if I was that sick and he would, you know,
16 wouldn't see me anymore that I would have trouble finding a
17 cardiologist that I trusted.

18 Q And did you - how long did you go to see him?

19 A About a year.

20 Q About a year and after you finally decided things weren't
21 going right, things were not right you changed doctors?

22 A Yes.

23 Q And who did you go to then, Dr. Lieberman?

24 A Dr. Lieberman.

25 Q Who is another cardiologist?

000037

1 A Yes.

2 Q And did she tell you that you didn't have the things
3 that Dr. Jaraki was treating you for?

4 A Nothing, I had nothing that he told me.

5 Q She stop all the medications he had you on?

6 A Well, no, he only - well, he took me off my, my high
7 blood pressure, but the medications he had me on were the two,
8 the Librium and the Xanax, that was fine, but he also put me
9 on a diet pill which knocked me, just changed me totally and
10 she said I should've never been on those pills.

11 Q Okay, and did he bill you for all this work he was doing
12 for you?

13 A He billed my insurance company. I never got a bill.

14 Q Did he bill you for a surgery on your shoulder?

15 A On my back. He billed my insurance company for a tumor
16 he removed on my back.

17 Q Is that correct?

18 A No.

19 Q Did he, did he ever do surgery on your back?

20 A No, just my finger.

21 Q Okay, and did you - you call your insurance company and
22 tell them?

23 A I reported fraud but they didn't take a, you know ---

24 Q They didn't do anything?

25 A --- individual, yeah.

000038

- 1 Q And I have a list of the medical bills he submitted to
2 your insurance company over the year for 2000, February 2007
3 till the time you left him in September 2007 and the - at one
4 time you had Blue Cross Blue Shield and he billed them 7,950;
5 is that correct?
- 6 A No, 70.
- 7 Q \$7,950?
- 8 A 79, is that what you have?
- 9 Q 7,959.
- 10 A I thought it was way more.
- 11 Q No, that's what it is.
- 12 A Okay.
- 13 Q Okay, and how much did they pay, they paid \$3,444.80?
- 14 A Okay, and I paid the rest.
- 15 Q Okay.
- 16 A Excuse me.
- 17 Q Okay, and you then changed, had United Healthcare?
- 18 A Yes.
- 19 Q And he billed them a total of \$32,015?
- 20 A Uh-huh.
- 21 Q And they only paid 2,173.81.
- 22 A Right.
- 23 Q And for the - did he, every, every time you went to see
24 him did he do an EKG on you?
- 25 A Every time.

000039

1 Q And he billed the insurance company for that?

2 A (Indicates affirmatively.)

3 Q Okay, and did your ---

4 THE COURT: Excuse me, you need to give a verbal
5 response.

6 A Yes, I'm sorry, yes.

7 THE COURT: Okay, thank you.

8 Q And did your other doctor tell you those things were
9 totally unnecessary?

10 A Yes.

11 Q And did he get - when you were going to him did he tell
12 you that you had a condition that could cause you to die?

13 A Yes.

14 Q How did this affect you?

15 A It affected me terribly. I was scared.

16 Q Okay, and what - as a result of him telling you that
17 what did you and your boyfriend do?

18 A He sold his house and he moved in with me to take care
19 of me because we thought I could die at any time and that
20 wasn't what we were - planned on doing.

21 Q Is your boyfriend in court here with you?

22 A He's sitting right over there.

23 Q What's his name?

24 A Dennis Thomas.

25 Q Okay, are you all still living together?

000040

- 1 A No.
- 2 Q Okay, and as a result of all this inappropriate medical
- 3 care, inappropriate touching, did you suffer embarrassment?
- 4 A Yes.
- 5 Q Did you suffer from severe emotional distress?
- 6 A I did. My personality changed throughout this whole
- 7 ordeal. I was agitated a lot and, you know, I just - my
- 8 whole, my whole personality changed. I just - I was a
- 9 different person. The diet pills that he put me on were a big
- 10 part of it and, you know, and plus what he told me. So, the
- 11 combination of everything I wanted to just - knocked me
- 12 different, you know.
- 13 Q At that time were you working?
- 14 A Yes, I was.
- 15 Q Where were you working?
- 16 A I was working for East Coast Honda.
- 17 Q And what were you doing for them?
- 18 A I was doing warranties.
- 19 Q Warranties?
- 20 A Yes.
- 21 Q How long did you work for them?
- 22 A Three years.
- 23 Q Three years, okay, and you're now disabled; is that
- 24 correct?
- 25 A Yes.

0000041

1 Q But nothing to do with what Dr. Jaraki did?

2 A No, nothing to do.

3 Q Okay.

4 A Excuse me.

5 Q When you, when you, when you decided to change doctors
6 did you try to get your medical records from them?

7 A Oh, yes.

8 Q Tell us about that.

9 A I - it started with the insurance. I needed an out
10 because I knew that they were - things weren't right. So, it
11 was time for me to get out of there. So, I used the fact that
12 they told me that they belonged to United Healthcare.

13 Q They being who, Dr. Jaraki?

14 A Halla told me that she - that they belonged to United
15 Healthcare at first and I said because we're switching and she
16 said, "Yeah, we belong to them," and then I said, "Well, you
17 better bill them right away so that we know because if they
18 don't pay I can't afford it." Well, it took her six months to
19 bill and all this stuff kicked out.

20 Q What do you mean it kicked out?

21 A It just kicked out where they wouldn't pay it, they
22 wouldn't pay it and they wouldn't pay it. So, I kept calling
23 her and I kept calling the insurance company and we - and the
24 comptroller at work helped me out. He said, "Just tell her to
25 re-bill them," and blah, blah, blah, and she just wouldn't do

1 it. I had to go, "Halla, please, just re-bill them, just re-
2 bill them," and it was up thousands and thousands of dollars.
3 I said, "I can't afford this." So, I - and then I said, I
4 couldn't take it anymore. I said just - "I got a new doctor."
5 I said - oh, she, and she had told me that, called me up and
6 told me, "We can't take you anymore because your insurance
7 doesn't cover you and you need to find another doctor." I
8 said, "Fine, give me my records and I'll go." I was already
9 in the process. I already had another doctor, and then she
10 called me a couple of days later and said, "No, we like you,
11 we'll - don't tell anybody but we'll, we'll keep you," and I
12 said, "No, just give me my records. I'm going to go." It
13 took - well, they never gave me my records. So, I called the
14 state to report them and the state tried to get the records.
15 It took them over six months. So, I had no records, and my
16 new cardiologist, my insurance company only paid for a nuclear
17 stress test once a year and I couldn't have one because it
18 wasn't a year and without my records she couldn't see
19 anything. So, she couldn't do anything without, I mean, she
20 took EKG.

21 Q Your new doctor, your new doctor.

22 A I needed that test to prove what I had. She wanted to
23 see. EKG, an EKG, all an EKG is going to tell me, tell them
24 is that I have an irregular heartbeat and I have an abnormal
25 EKG. I have sarcoid in my chest and it has gone into my

1 heart, which will always tell me I have an abnormal EKG. So,
2 to take an EKG, I mean, is a waste.

3 Q Did Dr. - was Dr. Lieberman able to get you ---

4 A So, Dr. Lieberman ---

5 Q Was Dr. Lieberman able to get your records?

6 A No. He - I was there one day when they - when her
7 manager called like the 50th time or so, and I heard the whole
8 conversation and Halla was very nasty to him and she kept
9 saying, "You're bothering me I'm busy. I don't have time.
10 You're harassing me," and he says, "I'm not harassing you."
11 He says, "I'm looking for other sets of records from your
12 patients that have left you that have come here and you are
13 not giving us the records and we can't perform the test and we
14 cannot take care of these people because you're not giving us
15 what we need and these people are not getting the proper
16 care," and she said, "You're harassing me. Don't bother me
17 anymore," and she slammed the phone down.

18 Q Okay, the medical, the medical board finally got the
19 records about six months later.

20 A Finally, he asked for an extension and they finally got
21 them.

22 Q And did you have a chance to review those records?

23 A Yes, they sent me the records. They e-mailed them to
24 me.

25 Q Did those records, were they accurate or inaccurate?

1 A They were horrible. I e-mailed the-- Joe Griggs back
2 and I told him that he made me sound like a ---

3 Q You're talking about from the medical board?

4 A --- a sarcastic, a psychotic whore and he had said to me,
5 he sent me an e-mail back, he said, "Don't go by those
6 records." He says, "He altered, we think he altered most of
7 your records because he knows who complained about him and
8 most of those records were altered." So ---

9 Q Okay, several other women had filed complaints against
10 him that did not ---

11 A Yeah, everybody, everybody he said who called him said
12 the records were very, very, very wrong.

13 Q Did you, did you know any of those other women that's
14 filed cases against him?

15 A I didn't know anybody.

16 Q Okay, and we understand that he pled guilty to assault?
17 Do you know if that was your case or not?

18 A I don't know.

19 Q I couldn't find that either.

20 A I don't know.

21 Q Okay, and this is a copy of a -

22 MR. FURR: I'm going to make this a part of the
23 record, Your Honor. This is a copy of the medical bills he
24 submitted to her.

25 THE COURT: All right, any objection?

1 MR. JARAKI: I'd like to see what he has.

2 THE COURT: All right, let him take a look at them.

3 MR. JARAKI: I do object, Your Honor. These are
4 copies. They are not original. I don't know if they are
5 correct or not.

6 A We have them.

7 THE COURT: All right, are those the ones you had her
8 identify earlier?

9 MR. FURR: Yes, sir.

10 THE COURT: All right, all right, that is Plaintiff's
11 Exhibit?

12 MR. FURR: One.

13 THE COURT: One, Plaintiff's Exhibit One we'll admit
14 into evidence over Defendant's objection.

15 (Whereupon, Plaintiff's Exhibit Number One [Medical
16 Bills] admitted into evidence and appropriately marked.)

17 MR. FURR: I think I need to make that letter I gave
18 you a copy for the record, too.

19 THE COURT: All right, all right, that's Plaintiff's
20 Exhibit Two?

21 MR. FURR: Yes, sir.

22 THE COURT: All right, Plaintiff's Exhibit Two we'll
23 admit into evidence over Defendant's objection.

24 (Whereupon, Plaintiff's Exhibit Number Two [10-28-10
25 Letter to Jaraki] admitted into evidence and appropriately

1 - marked.)-

2 MR. FURR: That's all we have, Your Honor ---

3 THE COURT: All right.

4 MR. FURR: --- from this witness.

5 THE COURT: All right, since both of you are named as
6 Defendants you are granted the opportunity, even though you're
7 in default, under the law you have the right to cross examine
8 the witness. You cannot testify. You cannot put up any
9 evidence. You cannot put up any defenses, but you can cross
10 examine the witness if you choose to do so. Do you have any
11 questions?

12 MR. JARAKI: Before I do cross when I answer - we did
13 response to him, we put our response in the file and I have a
14 copy, it's dated, a clocked copy.

15 THE COURT: Okay, and I saw that. That's not a,
16 that's not a proper answer to this complaint and you have been
17 held in default and there is an order of default holding you
18 in. We're here for a damages hearing today. So, you can
19 cross-examine the witness if you wish to.

20 MR. JARAKI: Judge, I don't even know who was RM. He
21 never told us who is RM. We don't have the record of RM.

22 THE COURT: All right.

23 MR. JARAKI: I need to have, to know who is RM so I
24 could review the record.

25 THE COURT: All right.

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1 MR. JARAKI: We don't even know who is RM.

2 THE COURT: All right, I understand you don't have any
3 questions. You have any questions you want to ask the
4 witness?

5 MR. JARAKI: Yes, we, we - I ---

6 THE COURT: I've already given you an opportunity and
7 you didn't ask any questions. Do you have any questions?

8 MR. JARAKI: Yes, I do.

9 THE COURT: All right, well, ask your questions then.

10 MR. JARAKI: I, I only know and I would like to have a
11 lawyer. I don't even know who's the, the, the, the Defendant
12 - I don't who is the Plaintiff RM, I don't know who's RM.
13 I've never had the chance to see the file. I need to have a
14 lawyer to, I mean, representing her and then he is, Furr,
15 Fayrell Furr company used to consult me on their medical
16 cases. I think there's a conflict of interest here. They
17 were in my office many times consulting me on medical cases.

18 THE COURT: All right, that's not a question. Do you
19 have any questions you want to ask the witness?

20 MR. JARAKI: Okay, I would like to ask ---

21 THE COURT: No, sir, be seated. Be seated. I've
22 given you an opportunity. Be seated. Do you have any
23 questions?

24 MR. JARAKI: Judge, I would like to ask her my
25 questions.

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1 THE COURT: It's too late. I've already given you an
2 opportunity, sir.

3 MR. JARAKI: I'm just - and I just say ---

4 THE COURT: I'm going to give you one more
5 opportunity. Ask your questions.

6 MR. JARAKI: That's fine.

7 CROSS EXAMINATION

8 BY MR. JARAKI:

9 Q Can you say your full name, please?

10 A Roseann Miller.

11 Q Roseann Miler, what days do you remember you came to my
12 office?

13 A February 7th, 2007.

14 Q Roseann, why did you come to my office?

15 A Because I had gone to family doctors and, or what was
16 it, family doctor.

17 Q And then you came here?

18 A And they had done an EKG because I needed a refill of my
19 blood pressure pills and when my EKG came back abnormal they
20 wanted me to see a cardiologist.

21 Q Who's the doctor you went to? What's his name?

22 A He's not there anymore.

23 Q Who is the office, facility, what's that name?

24 A It was a nurse. I don't know who it was.

25 Q Which office you went to?

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1 A The one on Main Street in Conway.

2 Q What their name, the office, you don't remember?

3 A Doctors Care.

4 Q Doctors Care, so, you went to Doctors Care?

5 A Right.

6 Q And Doctors Care referred you to me?

7 A Referred you - to you.

8 Q Is that right? And they put - they took for EKGs, you

9 said that the EKG was abnormal?

10 A Yes, and they wanted me to go see a cardiologist.

11 Q And, and they referred you - Doctors Care told you there

12 is no other cardiologist in town?

13 A No, I asked for a good one because I didn't know anybody

14 and they said, "Well, we always refer our patients to Dr.

15 Jaraki." So, I said, "Is he good?" She says, "I don't know

16 but we refer our patients to him." So, that's all I had.

17 Q So, they didn't tell you what's good, I mean, just come;

18 right?

19 A Well, if I wanted to see what was wrong with me, yeah.

20 Q I understand. Just answer me. Did they tell you I'm

21 good or they didn't tell you?

22 A No, they just said they referred their patients to Dr.

23 Jaraki.

24 Q And a minute ago you said that they told you I was ---

25 REPORTER: I need you to get to that microphone.

1 THE COURT: Yeah, speak in the microphone.

2 Q A minute ago you said that our - they told you he's
3 good doctor.

4 A I asked for a good doctor.

5 Q You asked.

6 A And they said, "We don't know if he's good. We just
7 refer our patients to him."

8 Q And they didn't tell you about ---

9 A Obviously ---

10 REPORTER: I can't hear but one at the time either.

11 THE COURT: Yeah.

12 A I'm sorry.

13 Q And they didn't tell you about any other cardiologist to
14 go to; right?

15 A No, I needed somebody in the area.

16 Q So, you came in January 2007. Which office was that?

17 What - do you remember where's the office?

18 A Oleander.

19 Q Oleander Drive and how often you came?

20 A I was there all the time.

21 Q Like, like what all the time, every day, every week?

22 A You started me at two or three times a week.

23 Q Two, three times a week and you were following the
24 instructions, taking the medicine? What was the EKG about?

25 What's the abnormality about the EKG?

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1 A You told me I had diastolic dysfunction, that I had
2 elevated pulmonary pressure, that I had calcium deposits in my
3 aorta and in my carotid artery, and when I asked you if that
4 was dangerous and I could die and you hesitated and I said to
5 you, "Don't hesitate, tell me the truth," and you said, "Yes."

6 Q And you remember all this; right?

7 A Yeah.

8 Q Okay, and you kept coming every week at least.

9 A Because I wanted you to get me all right.

10 Q Right, I understand, just ---

11 THE COURT: Hold it, hold it, hold it, you all are
12 speaking at the same time.

13 A Sorry.

14 THE COURT: Once you ask a question then don't talk
15 anymore until she finishes answering. Don't answer until he
16 stops talking completely; okay? All right, now you can ask
17 your question.

18 Q So, you're coming every week; right?

19 A It was more than a week and then after a while it
20 knocked down to probably once a week.

21 Q Once a week. During this visit what was the test
22 perform that every week you coming or every other week?

23 A You did an EKG every week.

24 Q Okay, and you were convinced that this was necessary?

25 A Well, you were the doctor. You were supposed to do the

1 right thing, so, yeah.

2 Q I understand. Were you convinced or you were doing
3 against your will?

4 A Yeah, I was convinced you were doing an EKG to see if it
5 changed. You never explained anything to me.

6 Q And, and you kept coming for how long?

7 A A year.

8 Q When the last day your visit was?

9 A A year, February.

10 Q February what year?

11 A 2008.

12 Q 2008, why did you leave February 2008?

13 A Because things were getting weird and I didn't like what
14 was going on and it was time to go. I wanted to go sooner but
15 I was investigating new cardiologists, and like I said, I
16 didn't know any - the people I knew didn't know any
17 cardiologists. So, it took me a while to find one.

18 Q Did you have high blood pressure in the past?

19 A Yes.

20 Q Who was treating your high blood pressure?

21 A I was treated in Connecticut before I moved down here
22 and then I went to Doctors Care.

23 Q Who was treating it, a cardiologist or an internist?

24 A In Connecticut?

25 Q Yes.

1 A A cardiologist.

2 Q A cardiologist and you are - how old are you now?

3 A 55.

4 Q How old were you when you came to my office?

5 A 52.

6 Q So, at age 53 you can tell if you can find another

7 cardiologist; right; and you're not happy at age 53 you don't

8 know.

9 A That makes no sense. I have to, I have to do research.

10 Q I understand. Just answer my question.

11 THE COURT: Hold it, you all are talking at the same

12 time again.

13 A Well, he, he interrupted.

14 THE COURT: Well, let's ---

15 Q At age 53 ---

16 THE COURT: I'll tell you when to talk. All right,

17 ask your question.

18 Q At age 53 you're still not, could not tell whether to

19 find another cardiologist or not; right?

20 THE COURT: All right, quit talking. Answer your

21 question.

22 A That makes no sense. At age 53 I couldn't tell if I

23 could find another cardiologist or not?

24 Q Okay.

25 A Is that what he said?

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1 Q-- You, you kept coming to my office from January to '07 to
2 February to '08.

3 A Right.

4 Q That's almost a year and a month and during this time
5 you kept coming at least once a week; right?

6 A Right.

7 Q And you did not feel the need to see another
8 cardiologist till February to '08; correct?

9 A No, I had you. I trusted you at the time.

10 Q I understand.

11 A Right.

12 Q Correct, okay, so, you came because you had a bad EKG.

13 A Right.

14 Q And they did not tell, the doctor in Doctors Care didn't
15 know what the problem.

16 A Exactly.

17 Q Okay, and you came to me.

18 MR. FURR: I'm not sure of the relevance of these
19 line of questioning.

20 A Yeah, I don't ---

21 Q Excuse me, let me ---

22 THE COURT: Let him - let your attorney place the
23 objection on the record, ma'am. All right, sir, what's the
24 relevance of the questioning?

25 Q Did you ever pay your office ---

1 THE COURT: Excuse me, excuse me, we've got an
2 objection. What is - I'm, I'm going to cut off the
3 questioning because you're asking questions that aren't
4 relevant to the issue. The issue here is whether or not there
5 was some inappropriate touching, whether or not you charged
6 her for services that were never rendered and whether or not
7 you falsified her medical records.

8 MR. JARAKI: That's what I'm coming to, Judge.

9 THE COURT: So, let's keep your questions geared
10 towards those issues; okay?

11 MR. JARAKI: I understand.

12 MR. FURR: May I just be ---

13 THE COURT: Yes, sir.

14 MR. FURR: I think that really - the issue really is
15 is damages that she sustained as a result of that. Since he's
16 in default those issues are not relevant.

17 THE COURT: All right.

18 MR. FURR: If you see what I'm saying.

19 THE COURT: All right, I understand that. So, the -
20 let's question her on her damages. Go ahead.

21 MR. JARAKI: Can I ---

22 MS. JARAKI: Excuse me, can I help him?

23 THE COURT: No, ma'am. All right, go ahead.

24 BY MR. JARAKI:

25 Q Okay, how much did you weigh when you first came to the

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1 office?

2 MR. FURR: Objection, Your Honor. I don't think
3 that's relevant.

4 THE COURT: Sustained.

5 MR. JARAKI: It is, that has to do with it.

6 THE COURT: It's irrelevant.

7 MR. JARAKI: It ---

8 THE COURT: We're - we're here on the damages she
9 sustained as a result of the inappropriate touching, the -
10 over the charges for medical treatment that was not rendered
11 and for falsifying her medical records. Let's confine your
12 questions to those issues.

13 MR. JARAKI: Can I - how can I defend this if I don't
14 show what she was and what she end up to be?

15 THE COURT: Because that's irrelevant to this lawsuit
16 at this point in time.

17 BY MR. JARAKI:

18 Q Have you paid any money to my office?

19 A Yes.

20 Q What did you pay?

21 A About a thousand dollars.

22 Q How much?

23 A About a thousand.

24 Q A thousand and United Healthcare did not pay money for
25 your visit; is that correct?

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1 A Yes.

2 Q Why did it not pay to my office?

3 A Because you were not part of United Healthcare.

4 Q When did you know that I was not part in that?

5 A Six months after we had changed over.

6 Q So, for eight month you kept coming to my office knowing
7 that United Health is not going to pay for you.

8 A But I didn't know that because Halla did not submit the
9 bills.

10 Q How many times you call United Health office, how many
11 times you call them and you try to get them to pay?

12 A Constantly.

13 Q Constantly, and they did refuse to pay and you continued
14 to come to my office.

15 A They refused to pay because they said they had nothing to
16 pay.

17 Q Isn't that correct that we asked you to go to another
18 doctor because United Health refused to pay your bill for over
19 a year?

20 A Yes.

21 Q Okay.

22 A And then she ---

23 Q Isn't that correct, I ask you that you have no ---

24 A You didn't.

25 Q --- that you had no medical problem anymore in terms of

1 cardiac, that I fix your heart-beat, arrhythmia and you'll be
2 fine and you need to go see another doctor?

3 A No, you never said that.

4 Q I never said that. When you went to Dr. Lieberman and
5 she examine you what did she say about your heart, you just
6 stated before.

7 A She said, she said ---

8 Q She said that there is no problem?

9 A --- I had nothing what you told me.

10 Q So, you didn't have arrhythmia?

11 A No.

12 Q So, when they send you from Doctor Care with your EKG has
13 abnormal arrhythmia Dr. Lieberman did not see that on the EKG;
14 is that correct?

15 A She saw the abnormal rhythm.

16 Q I saw the record, but when you went to Dr. Lieberman and
17 she told you your EKG is fine and normal; is that correct?

18 A She didn't. She ---

19 Q What did she say that your heart condition is?

20 A She said that I had right branch bundle block.

21 Q That's it?

22 A That's it.

23 Q Nothing about the arrhythmia?

24 A No.

25 Q Nothing about abnormal rhythm in your heart?

1 A Abnormal, it came out abnormal.

2 Q Came back normal.

3 A It's always going to come back abnormal.

4 Q Okay, and when you went to Dr. Lieberman you were about
5 155 pounds, healthy and you were walking and you told her, you
6 told your people at work that that's the best you ever felt;
7 is that correct?

8 MR. FURR: I don't see the, I don't see the relevancy
9 of this either, Your Honor.

10 MR. JARAKI: That's the damages.

11 BY MR. JARAKI:

12 Q Isn't correct when you left my office ---

13 THE COURT: I'll allow that question.

14 Q --- you had no medical problem that require significant
15 treatment?

16 A No.

17 Q No?

18 A You didn't - wait a minute. Okay, let me sit down and
19 think about it.

20 Q What is it that I touch you improperly, can you explain
21 what was the improper touching for you?

22 A When you put the leads on me, first of all when I had my
23 EKGs done we - I was naked. Every time I came in your office
24 I had to take all my clothes off except my underwear and she
25 walked in. So, she'll verify it, and you would take my

1- breast, cup it, lift it up and put all the leads, pick my
2 breast up and, okay, you did that several times. At first I
3 was kind of taken aback, but then I thought, "Well, that's
4 maybe what he's doing." You weren't squeezing, you weren't -
5 so, I let it go at first, but when you made me get on the
6 treadmill naked to take, to take that stress test, I asked for
7 a robe. When you still ---

8 Q When did you ---

9 A --- did this and put the leads under you always cupped my
10 breast. Then one day when you fixed the - my finger, the
11 infection, I was laying down, we were waiting for the shot to
12 take effect to numb and you were sitting there looking at all
13 my little freckles and you said I had a lot on my breast and
14 we should remove them and you took your finger and you just
15 kept going like this on my nipple. You did it once, but you
16 did it. I smacked your hand, but you stopped.

17 Q When, when was that? Can you say the date that this
18 happened?

19 A The date, the date that you did my surgery on my finger.

20 Q When was that?

21 A I don't know.

22 Q Like what month?

23 A I don't remember.

24 Q You don't. Then do you go to the police and you made a
25 report to the police station?

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1 A No.

2 Q No?

3 A I went to the ---

4 Q Did you go to the medical board say that was in January
5 to '07, did you say that to medical board or not?

6 A Can I talk now?

7 Q Yes.

8 A I went to ---

9 Q How about January to '07 that's your statement; is that
10 correct to the board or not?

11 A I went to the police. I went to the board. You hadn't
12 gotten arrested yet. I went to the board to get my medical
13 records. You got arrested two weeks after that. Then I went
14 to the police to help them because you had touched me also and
15 I wanted to help the girls that you had, that complained about
16 you. So, I went to the, to the Myrtle Beach police and I went
17 to the Conway police and I made statements in both police
18 departments. This was after the fact.

19 Q Did you tell the police that you came to my office
20 because - for a breast surgery reduction?

21 A No.

22 Q Did you tell the police that?

23 A I, I asked you to give me the name of a good plastic
24 surgeon.

25 Q Did you tell the police, it's written in the police

1 report, did you tell the police that you -- the reason you came
2 to my office because you wanted a breast reduction ---

3 A No.

4 Q --- surgery?

5 A No.

6 Q So, the police made up the case?

7 A No.

8 Q Okay.

9 A But you did take pictures of me stark naked for the, for
10 the, the, the plastic surgery. You said you would help me,
11 "And let me take pictures," you said.

12 Q And you told the police that this happened in January to
13 '07; is that correct?

14 A Yes.

15 Q The medical board?

16 A Told them what?

17 Q That the incident you're claiming that I touch you
18 improperly that was January to '07 and since then I didn't do
19 it because you snapped on me; is that correct?

20 A No, you did it periodically. Then you stopped when my -
21 I brought my boyfriend and my mother in because I wanted - I
22 didn't want to go alone.

23 Q Did you feel - how did you feel? That was abnormal to
24 you that I touch you that way?

25 A At first but then I thought well that may be your way.

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1 Q What makes you keep coming to my office every week once
2 or twice for over a year and a month if I'm doing this to you?

3 A Because you told me I could die and I was scared and you
4 were going to make me better. You promised me and I didn't
5 know any other cardiologist and I didn't want to stop and go
6 look for one because I needed help constantly.

7 Q Have you discussed, okay, have you discussed this with
8 anybody?

9 A Discussed what?

10 Q That I'm touching you, improper touching with anybody?

11 A At that time?

12 Q At any time.

13 MR. FURR: Again, again, Your Honor, I object. The
14 fact that he had touched this lady inappropriately is because
15 his answer is already proven. The only issue here is what
16 damages she sustained as a result of that.

17 THE COURT: All right.

18 MR. FURR: His questioning should be, should be
19 confined to that issue, what damages does she have because of
20 that.

21 MR. JARAKI: Your Honor ---

22 THE COURT: All right.

23 MR. JARAKI: --- I need to know who she discuss it
24 with.

25 THE COURT: Why? How is that relevant?

1 A What's the difference?

2 THE COURT: Ma'am.

3 A Sorry.

4 THE COURT: How is that relevant?

5 MR. JARAKI: I need to find the date that she discussed
6 it with and what did she say because that case was not true.

7 THE COURT: Okay, no, that's, that's irrelevant. I'll
8 sustain the objection.

9 BY MR. JARAKI:

10 Q What did the medical board - who informed you that I
11 falsified your record?

12 MR. FURR: Objection, Your Honor. That's irrelevant.

13 MR. JARAKI: What you mean irrelevant? Everything is
14 relevant.

15 THE COURT: You're seeking damages for it. I'll allow
16 that question. Go ahead.

17 BY MR. JARAKI:

18 Q Who informed you that your record has been falsified?

19 A The insurance record?

20 Q The insurance?

21 A Well, you had that you removed a tumor from my back and
22 charged my insurance company. You did not remove a tumor from
23 my back.

24 Q I understand. Just answer my question. The insurance
25 agent, what's his name? Do you know?

1 A No, I - when I got my records - you got to remember, I
2 didn't have any - you, you gave me no bills. You, you, you
3 didn't put anything to the insurance company.

4 Q So, nobody specifically told you that I falsified your
5 record?

6 A Yes.

7 Q Is that correct? Who, who is it?

8 A The state.

9 Q The state, who's in the state? What you mean the state?

10 A Joel Griggs, Joel Griggs told me.

11 Q Joel Griggs, he told you that I falsified the record.

12 Where, where is Joel Griggs work?

13 A He works for the state.

14 Q In the state where?

15 A Of licensing.

16 Q In the licensing bureau. Do you remember what date or
17 what month he say that to you?

18 A I think it was April when I got my records and we went
19 through them and he, and he asked me to check.

20 Q April of what year?

21 A April 2009 or '08. I can't remember.

22 Q April 2009 you got your records from Joel Griggs?

23 A I left you February 2009, April 2009 because it took a
24 while by the time you got arrested and I got - I waited for my
25 records. I ---

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1 Q So, Joel Griggs give you your record; right?

2 A I'm sorry?

3 Q Joel Griggs gave you your - the record?

4 A Yes, he e-mailed me my records.

5 Q And he told you that this ---

6 REPORTER: I cannot hear more than one at the time.

7 THE COURT: Yes, you all are talking at the same time
8 again. You all are just going to ---

9 Q Okay.

10 A As I'm answering and he's giving me another question.

11 THE COURT: All right, ask your question, then quit
12 talking until she answers completely.

13 Q Joel ---

14 THE COURT: Then don't say anything until he asks the
15 next question. Go ahead.

16 Q Joel Griggs gave you your record in April 2009?

17 A Right.

18 Q When did you ask for your records from Joel Griggs?

19 A When I left you in February of - yeah, February of 2008,
20 I asked you for my records.

21 Q So, you asked for your record from February 2008 and the
22 state gave it to you in April 2009.

23 A Right, when they got your - when they got them from you
24 guys.

25 Q Joel Griggs told you that the record had are falsified.

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1 A Right.

2 Q Has he ever say anything to you after that?

3 A No, I have not spoken to him.

4 Q Have you called him back to see what happened with the
5 investigation?

6 A No. Yes, I did. I'm sorry, I did. He didn't, he didn't
7 know what was going on at that point.

8 Q He did not know what was going on but he know the
9 records, falsified record in your case? I mean, he didn't
10 know what's going on after this. Did you call anybody else to
11 find out what, what - if the record is being falsified?

12 A I called the lawyer and I went to see him and he checked
13 on it.

14 Q As far as you know did your lawyer call anybody to find
15 if the record has been falsified?

16 A I'm trying to think. We called - I think he called the
17 state.

18 Q What did the state said?

19 A I don't remember, honestly.

20 Q It's a big issue like this and your lawsuit ---

21 A I don't remember.

22 Q --- you don't know what the state, what the state ---

23 A Because ---

24 Q --- said to your lawyer about the falsified record?

25 A Because after that, after I called the police and after I

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1 - called the lawyer, I called the state and after I got my
2 lawyer I didn't call anybody. I - nobody knew anything. The
3 police didn't know anything that was going on. We didn't know
4 when your case was coming up. Nobody knew anything. So, I'm
5 not going to chase it if it's a dead end.

6 Q I understand but as far as you know you don't know
7 anything happened after this and you don't know if your lawyer
8 called this - you know your lawyer called the state but you
9 don't know what the state said to him; right? You just said
10 that. Is that correct?

11 A Right, what's the difference? What does that have to do
12 with anything?

13 Q Doesn't matter, just is that correct or not?

14 A Yeah.

15 Q Okay, so, as far as you know there is - there's nothing
16 came out of that claim that the record are false and the state
17 has your record. Okay, is that correct?

18 A Yes.

19 Q They had all your record, all right. When, when you ask
20 for your record when did Dr. Ariane Lieberman received your
21 record?

22 A When I gave them to her.

23 Q In April 2009?

24 A In April.

25 Q They never received any record from us before?

1 A No, because you wouldn't give them to them. I can't do
2 this anymore.

3 Q They didn't tell you that we sent a copy of your record
4 on the fax about at least 20 pages to their office?

5 A No.

6 Q We have our records for that.

7 A They don't have them.

8 Q It's in the file. It's in the file the statement.

9 THE COURT: All right, sir, you can't testify.

10 MR. JARAKI: Okay.

11 THE COURT: You can only ask questions.

12 MR. JARAKI: Okay.

13 BY MR. JARAKI:

14 Q Now ---

15 A Excuse me. Is there water in here?

16 THE COURT: I think so, yes. Any other questions?

17 MR. JARAKI: I just need take some water, please.

18 THE COURT: All right.

19 BY MR. JARAKI:

20 Q You used to live by yourself and your boyfriend lives by
21 himself; is that correct?

22 A Yes.

23 Q Your boyfriend have some medical problem; right?

24 A Yes.

25 Q Your boyfriend goes to doctor; right?

- 1 A Yes.
- 2 Q And he came to my office several time; correct?
- 3 A Yes, with me.
- 4 Q Have you ever discussed with him the touching issues?
- 5 A Yes.
- 6 Q What did he say?
- 7 A He didn't like it.
- 8 Q He didn't like it but he kept coming with you to my
- 9 office?
- 10 A He wanted me to leave but I just at that point felt -
- 11 didn't feel comfortable to leave yet while I felt that bad and
- 12 you had me believing that you could help me and I felt if I
- 13 left I wasn't going to get the same care. You told me I could
- 14 die. You don't know what does to a person. So, you're my
- 15 doctor. I have to believe you.
- 16 Q When did you stop believing me?
- 17 A I never stopped believing that I had a problem. I
- 18 stopped believing you guys with the insurance problem and then
- 19 just things went haywire with that.
- 20 Q That's when you stop believing me.
- 21 A That's when I decided I needed to go somewhere else
- 22 because Halla was, was calling me up and yelling for this and
- 23 things were just not right, and I felt it was time to move on,
- 24 but I was also a year here more and I was starting to make
- 25 friends and starting to learn who was here and who wasn't and

1 I - some - I got myself a family doctor and that's how I got a
2 good cardiologist.

3 Q How many times you came to my office without appointment?

4 A Once.

5 Q Only once?

6 A Twice.

7 Q Twice?

8 A Twice.

9 Q Only twice?

10 A Twice when I didn't feel good that day that you gave me
11 the, the - I was dehydrating and that day in May that I
12 stopped seeing you, that day in May that I came.

13 Q You were, you were dehydrated why?

14 A I don't know.

15 Q Why did you come to a cardiologist ---

16 A I came to you because you were my ---

17 Q --- rather than going to Doctors Care?

18 A I'm sorry?

19 Q Why did you come to a cardiologist rather than going to
20 your primary physician or Doctors Care for your medical
21 problem?

22 A Because you told me you would take care of me.

23 Q Because what?

24 A You told me you would, you would take care of me and you
25 did everything and I could come to you for anything.

1 Q Did you believe me ---

2 A Yes.

3 Q --- or you did not believe me? You believed me.

4 A Of course I did.

5 Q For over a year and a month you were believing me that
6 I'm taking good care of you and when the United Health stop
7 paying or refused to pay your bill then you did - you start to
8 believe that I don't take care of you; is that correct?

9 A No, well because everything went crazy. She started
10 yelling at me that I couldn't come here anymore because they
11 weren't paying. I said, "Fine, I'll go find another doctor."
12 I've never been treated that way.

13 Q That's correct because she told you not to come here and
14 yell at you not to come here ---

15 A Right.

16 Q --- because you were coming without appointment so many
17 times breaking the schedule of the office for your medical
18 problem you're claiming and she told you - you said - you just
19 said she told you to go see another doctor.

20 A Right.

21 Q Is that correct?

22 A Yes.

23 Q And then you decide to go see another physician; is that
24 correct?

25 A But two days later she called me up and told me to come

1 back because she apologized and said that, that you guys
2 really like me and you'll see me, just don't tell anybody,
3 that I'm - that United Healthcare is - that I'm with United
4 Healthcare because you're not taking any other patients, but
5 by that time it was too late. That's what she did. She
6 called me two days later. Why would I lie?

7 Q When you called the medical board asking for your medical
8 record what did the medical board told you?

9 A They told me they didn't have your records.

10 Q That I did not have it, that's what they say? Did you
11 send a letter to the medical board saying that you would never
12 pay for your medical record, you refused to pay?

13 A For my medical records? No, that I told - I wasn't
14 paying the bill.

15 Q And the medical record when they asked that the medical
16 board told you that you have to pay 15 to 25 cents a page and
17 you refused to pay. Didn't you say that to the medical board?
18 We have it on the record.

19 A Not, not the \$20.

20 Q Whatever ---

21 A I would have paid that.

22 Q --- you refused to pay for your medical record; right?

23 A No, I refused to pay the bill.

24 Q Okay.

25 MR. FURR: Your Honor, again, not sure of the

1 relevance of all those kind of questions.

2 Q All right, going back to your surgery ---

3 THE COURT: Hold for a second. He's raised an
4 objection. Go ahead.

5 MR. FURR: I don't see the relevance of this line of
6 questioning.

7 THE COURT: All right, sustained.

8 MR. FURR: The issue is damages.

9 THE COURT: Sustained, let's keep your questions
10 limited to damages.

11 Q Yeah, what, what condition were you when you left my
12 office?

13 THE COURT: That's been asked and answered. Let's
14 move on.

15 MR. JARAKI: Okay.

16 THE COURT: You've already asked that before and she's
17 already answered it. Let's go ahead and move on.

18 BY MR. JARAKI:

19 Q What, what exactly - when you went to the other
20 cardiologist in Connecticut how did they do the EKG for you?

21 A Once a year when I went for my physical.

22 Q How did they do it?

23 A What do you mean?

24 Q Where they put the lead and they stick at?

25 A Oh, I was fully dressed and he - and my - the nurse came

1 in and she put her hand under my shirt and put the leads on.

2 It was a woman.

3 Q I understand. How? Can you tell us how they did it?

4 A She lifted my shirt, put her hand under my shirt and she
5 put the leads underneath.

6 Q That's what she did.

7 A But she had to touch my breast.

8 Q She did not want to touch you; right?

9 A She lifted it with the side of her hand.

10 Q She lift it with the side of her hand without - so, she
11 lift your breast with the side of her hand to put the leads;
12 is that correct?

13 A Yes.

14 Q Okay, and how many times they done this?

15 A Once a year when I went for my physical.

16 Q Once a year and when I did the EKG for you what did I do?

17 A You cupped my breast ---

18 Q I cupped your breast.

19 A --- to lift it up ---

20 Q I lift your breast.

21 A --- to put the leads.

22 Q I lift your breast to put the leads; right, like the same
23 way that lady did, lift your breast to put the leads.

24 A And I had no clothes on.

25 Q Have you, have you ever questioned why she would not ask

1 you to take your shirt off?..

2 A There's no reason to.

3 Q Have you ever look into the medical guideline and to see
4 what is the proper way of doing the EKG?

5 A No.

6 Q No, have you ever questioned why I would have you take
7 your shirt off so I could put the EKG?

8 A I did. I asked you.

9 Q What, what did I say?

10 A It's easier for you to get the leads on, that clothes
11 just are in the way.

12 Q That's not correct.

13 A That's what you told me.

14 Q But go ahead, that's your answer.

15 THE COURT: All right, just keep - ask questions. You
16 can't testify. That's it.

17 Q Yeah, so, the - so, the same way that that lady did have
18 to lift your breast why, why do we have to raise your breast?
19 What was the issue with your breast?

20 A Because they're large.

21 Q They were large. So, they have to be to get the lead in
22 the proper position.

23 A Right.

24 Q Is it important to have the lead in the proper position
25 to get a good EKG?

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1 MR. FURR: That's irrelevant, Your Honor.

2 THE COURT: Sustained.

3 MR. JARAKI: I just ask her if she knows.

4 THE COURT: Sustained, don't ask that.

5 MR. JARAKI: Don't ask.

6 BY MR. JARAKI:

7 Q What do you think the proper way of doing the EKG if you
8 know?

9 MR. FURR: Objection, Your Honor, relevance,
10 irrelevant.

11 MR. JARAKI: What in her opinion.

12 THE COURT: Well, she's claiming that he did it
13 inappropriately. I'll allow that question. Go ahead.

14 BY MR. JARAKI:

15 Q What do you think the proper way of doing the EKG?

16 A The way I've always had it. They have just lifted and
17 put the - underneath.

18 Q So, they still have to lift your big breast and put it
19 underneath; right?

20 A Yeah.

21 Q Any other proper way to do it?

22 A No, that's the only way I've ever had it done.

23 Q Okay, and you felt that was uncomfortable; right?

24 A I'm sorry?

25 Q Did you feel that was inappropriate?

1 A At first when you did it I kind of thought that was
2 weird, but I thought, well, that's the way he does it.

3 Q Have you ever had ---

4 REPORTER: I cannot ---

5 MR. JARAKI: Okay.

6 REPORTER: You all have got to ---

7 THE COURT: Yeah.

8 MR. JARAKI: I'm sorry.

9 REPORTER: I can't get but one, I'm sorry. I
10 apologize.

11 BY MR. JARAKI:

12 Q Have you ever had a cardiologist do your EKG?

13 A Yes.

14 Q How did he do it?

15 A The same way. He lifted it with his hand.

16 Q And put the leads?

17 A Yes, with his, like that and put them underneath.

18 MR. FURR: For the record she's showing the hand
19 facing down and lifting the breast up with the back of the
20 hand.

21 THE COURT: All right.

22 Q If you felt that was uncomfortable what makes you keep
23 coming and get an EKG almost every week?

24 THE COURT: All right, that's been asked and answered.
25 Let's move on.

1 MR. JARAKI: I would like to see if she answer it
2 correctly.

3 THE COURT: Well, she's already answered it several
4 times. I've heard you ask the question several times. Let's
5 move on.

6 MR. JARAKI: Okay.

7 BY MR. JARAKI:

8 Q And, and go back to the falsified record. Did the board
9 or Joel Griggs specify which part of the record was falsified?

10 A Your - you put that you removed a tumor from my back.
11 You charged my insurance company for a tumor you removed from
12 my back. It's on my records that you removed a tumor and
13 there was no tumor on my back to be removed.

14 Q How - I asked that question, I'll repeat again. Did Joel
15 Griggs specify which part of the record was falsified?

16 A We went through ---

17 MR. FURR: Objection, asked and answered, Your Honor,
18 and irrelevant.

19 THE COURT: Well, but I think, I think he's asking did
20 Joel Griggs give you that information.

21 A We went through them together after he sent them to me.

22 THE COURT: All right.

23 Q So, he specify and he said that tumor is falsified.

24 A Well, we looked at it together and when I got to that
25 part I told him that you didn't remove a tumor from my back.

1 Q I understand. Did he say that was falsified? ---

2 A I said it was falsified.

3 Q That's your, that's your statement, not Joel Griggs.

4 A Now, how would he know?

5 Q I understand. I just want to know. So, that's it you
6 who say that falsified ---

7 A I told him.

8 Q --- not Joel Griggs. So ---

9 THE COURT: All right, you all are speaking at the
10 same time again.

11 MR. JARAKI: I understand, Judge, please.

12 THE COURT: Well, no, quit talking at the same time
13 she's talking.

14 MR. JARAKI: Okay.

15 THE COURT: The court reporter cannot pick up two
16 people talking at the same time; okay?

17 BY MR. JARAKI:

18 Q So, which part - I would like to answer this question,
19 which part Joel Griggs said that the record was falsified?

20 THE COURT: All right, that's been asked and answered.
21 Move on. She said they went over the records together. Let's
22 move on.

23 MR. JARAKI: I would like to know specific part that he
24 said this is falsified.

25 THE COURT: He doesn't know. He told her what the

1 medical records said. She told him what was incorrect.

2 MR. JARAKI: That's all right. I understand. That's
3 what I would like to know.

4 THE COURT: She's already said that. She's already
5 said that. You're not picking up on it but she said it.
6 She's answered it. Now let's move on.

7 MR. JARAKI: Okay.

8 BY MR. JARAKI:

9 Q And what kind of damage that record falsification
10 supposedly caused you?

11 A What caused, mental anguish. You told me I had diseases
12 I didn't have. You did things to me unnecessarily. You took
13 medicine away from me that I needed. You gave me medicine
14 that caused me to become agitated and, and I had mood swings.
15 I was depressed. You changed my life that year. You told me
16 I could die. You don't think that has an effect on somebody?

17 Q And then you realized in February that this not correct?

18 A No, I didn't go to my cardiologist the second one and I
19 couldn't get in until the end of May and she did an EKG and
20 she says, "I hate to tell you," she says, "but I see no
21 diastolic dysfunction on this EKG," but she wanted to do a
22 stress test but because she didn't have my records she
23 couldn't see what was on the stress test you did and the
24 insurance company wouldn't pay for another one because they
25 only paid for one a year.

1 Q Which insurance paid for that one?

2 A Blue Cross.

3 Q How long ago?

4 A It was less than a year at that point.

5 Q And the United Health refused to pay for your new stress
6 test?

7 A No, because I never took it.

8 Q I understand they never received the bill, United Health,
9 is that what you're saying?

10 MR. FURR: Your Honor, this is irrelevant.

11 MR. JARAKI: No, it is, Your Honor, it's, it is
12 relevant. She said United Health never received the bill.

13 THE COURT: All right, I'll allow that question, go
14 ahead.

15 BY MR. JARAKI:

16 Q Is that correct, United Health, you said they never
17 received the bill?

18 A It's not correct. I told you - you did an - you did the,
19 the stress test under Blue Cross Blue Shield and it wasn't a
20 year and I couldn't have one done. So, you won't - you did it
21 through Blue Cross. Blue Cross paid it. So, it had nothing
22 to do with United Healthcare.

23 Q United Health, did they pay any of your bills?

24 A They paid you \$2000.

25 Q Just please answer me yes or no, did they pay any of your

1 bills?

2 A You done?

3 Q No.

4 A They paid \$2000.

5 Q If the stress test was done under Blue Cross Blue Shield
6 when did you switch to United Health?

7 A May 1st, 2007.

8 Q May 1st, 2007, and you went to see Dr. Ariane in May 2009;
9 is that correct?

10 A Eight.

11 Q 2008, so, it's a year when you went to see Dr. Ariane,
12 right, since United Health became your carrier, a year. So,
13 why would they refuse to pay for your stress test?

14 A By the time I went to see her, this is going to sound
15 bad, we had switched back to Blue Cross Blue Shield.

16 Q So, you switched back to Blue Cross Blue Shield in May;
17 right, and the test that I have done was in ---

18 MR. FURR: Give him a verbal answer.

19 THE COURT: You needed, excuse me, you've got to give
20 a verbal response.

21 A Oh, I'm sorry, yes.

22 THE COURT: The court reporter can't pick up a shaking
23 or a nodding.

24 A Yes.

25 THE COURT: All right.

1 Q ---- So, you switch - so, there was a year you were on United
2 Health?

3 A Yeah.

4 Q Right, and the test was done initially on Blue Cross Blue
5 Shield and then after the test a year on United Health and
6 then you switch back to Blue Cross Blue Shield and they still
7 refuse to pay for your test?

8 A Let me think for a minute. You didn't do the stress test
9 when I first came to see you. You did it - however you - it
10 worked it wasn't quite a year.

11 Q How come?

12 A I can't remember.

13 Q You just said that Blue Cross Blue Shield paid for my
14 stress test the first time you came.

15 A Yeah.

16 Q And then you went a year with United Health and then you
17 went back to Blue Cross Blue Shield. So, it's over a year.
18 How come they didn't pay for that test again?

19 A I don't remember. No, I'm sorry. I do remember. The
20 insurance company, she said it didn't matter what insurance
21 company. An insurance company will only pay once a year and
22 at that point it hadn't been a year. Even though I was on - I
23 know what you're saying. I'm trying to remember.

24 Q Isn't the reason you did not want to do the stress test
25 because they asked you to pay your co-payment that you refused

1 to pay?

2 A No.

3 Q Isn't the reason that they would not do another nuclear
4 test because you refused to pay your co-payment and you said,
5 "I'll get you the test that I have done with Dr. Jaraki," so I
6 didn't have to do and she asked and she - isn't that correct?

7 A No.

8 Q Isn't that correct that Lieberman office called me and
9 said, "We need the stress test because she refused to pay for
10 her new test?"

11 A No.

12 Q Isn't it correct that we send the record in fax and we
13 have it that's in your file with the medical board that we
14 sent your record to Lieberman by fax.

15 A No.

16 Q And your stress test and your nuclear stress test that
17 you did not pay a penny and your company, your insurance did
18 not pay a penny. Isn't that correct that you - that we asked
19 you after a year and a half to go and find another doctor
20 because your medical problem has been fixed and you did not
21 pay even your co-payment or your co-deductible or anything of
22 your United Health. Isn't correct that United Health has been
23 sued nationwide for not paying doctors if any? Isn't that
24 correct that you came to the office ---

25 MR. FURR: Objection, Your Honor. I think ---

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1 A... He's asking too many questions.

2 THE COURT: Yeah, let's ask your question and then let
3 her ---

4 Q Okay, you can just answer.

5 A Yes, yes, no, no, no, yes, yes, you're right. United
6 Healthcare didn't pay any doctors and I sent you the article
7 to prove because she was harassing me. I was trying to get it
8 paid and they weren't paying doctors. No, Dr. Lieberman did
9 not get my records, and no, I, I did pay all my - the doctor
10 bills and all my - you call any doctor in this town. I have -
11 I owe nobody anything. I pay my bills. Halla told me I
12 didn't have to pay any of it because it was her fault that she
13 did not send the bills in when I asked her to. She waited six
14 months. That was her fault and she told me I didn't have to
15 pay all that money and God is my witness that's the truth.

16 Q Did you submit a copy of your bills to United Health
17 Insurance? Did your lawyer submit this copy to the Court?

18 A I'm sorry?

19 Q Did your lawyer submit copy of the bills to the United
20 Health Insurance?

21 A My lawyer, no.

22 Q He didn't submit now?

23 A Why would he?

24 Q Have you seen what the exhibit one and can I have it,
25 please? Maybe she can see it.

1 A You didn't - you weren't on - in the network.

2 Q How long usually it takes as your knowledge since you
3 been to doctors before, how long usually it takes for the
4 insurance to pay their bill?

5 A About three weeks.

6 Q Three weeks.

7 A Three weeks give or take.

8 Q That's, that's your knowledge that they take three weeks
9 to pay their bill since - from the day they receive it? Why
10 didn't they pay your bill in three weeks?

11 A Because you were out of network.

12 Q Okay, so, that's the reason they refuse to pay because we
13 were out of network, not because we send it late.

14 A Let me - all right.

15 Q Is that correct?

16 A Wait a minute, Halla told me that you ---

17 Q Please answer my question. Is that correct the reason
18 they didn't ---

19 THE COURT: She's answering the question. Let her go
20 ahead and finish. Go ahead.

21 Q Okay, go ahead.

22 A Halla told me that you belonged to United Healthcare and
23 you had - you just putting in the final papers because you had
24 just gone - you - into United Healthcare because most of your
25 patients were now United Healthcare. So, you were joining

1 them. I said, "Fine and you're okay." I said, "But please
2 when you, when you do something in May submit it right away
3 because if they don't pay it then I can't come here anymore
4 because I can't afford it," and she said, "Fine." She didn't
5 submit bills for six months. So, I knew and I - every month,
6 "Halla, please submit the bills. Halla, please." "Well, we
7 don't have bills. My, my, my billing department'll do it."
8 "Well, they're not doing it. Somebody's not submitting these
9 bills." I would always - I would call her on the phone. I
10 would talk to her when I came to see her. You weren't there.
11 I would ask her to do this constantly. Well, it took her six
12 months to do it, and by the time six months came then she told
13 me that a piece of paper, there was something wrong with a
14 piece of paper and they, they denied you, but six months
15 later. So, it's my fault?

16 Q What's the billing period for United Health? Do you know?

17 A They're a little later. They're about six weeks or so.

18 Q So, if doctor submit after six weeks they will not pay?

19 Is that what you're saying?

20 A No, but they take six weeks to pay.

21 Q What is the period that a doctor can submit to your
22 insurance? Do you know?

23 A I don't know.

24 Q You don't know. So, you don't know what the period is.

25 THE COURT: She's already answered it.

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1 MR. JARAKI: I understand.

2 BY MR. JARAKI:

3 Q What the period for Blue Cross Blue Shield? Do you know?

4 A No.

5 Q No. Okay, and you switched to United. You said you
6 switched to United Healthcare in April.

7 A May.

8 Q In May 2007; right?

9 A Yeah.

10 Q Correct. Can you look at this that your lawyer put
11 exhibit, Exhibit One, and can you read this to the Court,
12 please, or this page here.

13 A This is an explanation of benefits.

14 Q From who?

15 A From United Healthcare.

16 Q What date that was, is the date on it, can you read it?

17 A 11-14-07.

18 Q 11-14-07, and that's their response to our bill; is that
19 correct?

20 A Yeah.

21 Q So, our bill has to be gone at least four to six weeks
22 before that.

23 A Well, it gives you a date. When does it - date of
24 service 5-2, okay.

25 Q I'm just asking, so, I just ask you we had to submit the

1 bill before that date.

2 A Before November?

3 Q Yeah, so, they can send us a response in November; is
4 that correct?

5 A Yeah, but not from May. She had just submitted it.

6 Q I understand. So, anyhow, so, in this, in this page that
7 the United Health response to our bill and their response was
8 on date 11-14-07; that's correct?

9 A Uh-huh.

10 Q So, they had our bill at least sometimes before November
11 '07.

12 A Right.

13 Q And you stayed coming back for two months to the clinic
14 till February '08 and that's when you realized that United
15 Health refused to pay; right? Did they pay any money here?
16 Could you look again and see if they paid any money, too.

17 A Nope, you got no money on that one.

18 Q So, from May to November how many months is that?

19 A Six months.

20 Q Six months, so, our bill has to be done before six months
21 so that their response come back in six months.

22 A Because she just put it in.

23 Q I understand.

24 A Do I have ---

25 Q So, so, can you specifically say what's your damages from

1 raising your breasts according to you the wrong way, what
2 damage that brought you? What damages did you have from
3 raising your breast with my hand the wrong way?

4 A I don't, I don't understand what you're saying.

5 THE COURT: He's asking what are your damages from it,
6 the improper touching.

7 A I feel violated. Nobody's ever done that to me before.
8 I feel kind of stupid, embarrassed because ---

9 Q When did you start feeling that stupid and - I'm sorry.

10 MR. FURR: She's not through with her answer.

11 MR. JARAKI: I thought she stopped, okay

12 THE COURT: Yeah, she's not through answering. Let
13 her finish answering. Go ahead.

14 Q You finished?

15 A Yeah, I'm finished.

16 Q When did you start feeling stupid and embarrassed?

17 A Shortly after I came to you because - no, no, that's not
18 true. You had stopped for a while because I smacked your hand
19 and then when you moved to Conway and you started again and
20 then I stopped it I started feeling really stupid that I, I, a
21 person who, who doesn't let people get away with anything let
22 you really get away with that even though I knew you were my
23 doctor and I was supposed to trust you and you were supposed
24 to be there for me I felt that you were taking advantage of me
25 and using your medical knowledge to cop a feel, to be honest.

1 Q So, you feel that after you came to my office in Conway?---

2 A Yes, because you got to remember, I had - you had told me
3 all this stuff and my mind was, "Oh, my God, I'm going to die.
4 I'm going to die," and then things started settling in and I
5 started calming down and I, you know, then I started thinking
6 about it and that's when I started wanting to get away from
7 you.

8 Q I understand. I'm trying to get a date out of you. When
9 did you start coming back to my office in Conway? I move from
10 Oleander Drive ---

11 A October.

12 Q --- to Conway; is that correct?

13 A Uh-huh, yes.

14 Q Okay, how long were you out of the office for a period of
15 time when I moved?

16 A Well, you were - you closed, you opened the office in or
17 you moved in October. I can't remember but you closed the
18 office for like a month because you were, you were ---

19 Q So, you came back around November?

20 A Probably.

21 Q And they start feeling whatever you feeling bad and
22 embarrassed was after November?

23 A No, I felt it before. I just didn't say anything.

24 Q You felt it before. Why did you come back to the office?

25 A Because I needed you.

1 Q Why do you think you needed me?

2 A Because you were supposed to make me better. You were my
3 doctor. I was always dizzy. I was always not feeling well.
4 Nobody else knew me. You knew me. If I went to a strange
5 doctor I'd have to do all that all over again and you -
6 honestly, I don't feel it anymore. I was always dizzy. I was
7 always nauseous. I was always dehydrated. Remember? I'm
8 going to go to a stranger?

9 Q But you came because of that medical problem.

10 A Yes.

11 Q And dizzy, nauseous, dehydrated, you did not want to go
12 see another doctor?

13 A Not that I didn't want to go see one, but all I knew was
14 you.

15 Q Isn't that your, why your friend came with you many times
16 to the office and he asked if I can see him, too?

17 A No.

18 Q He never asked if I can see him?

19 A No, we talked about his leg, but we ---

20 Q He talked to me about his leg?

21 A --- we had, but we didn't ---

22 Q What did he tell me about his leg?

23 MR. FURR: May she finish her answer, Your Honor?

24 MR. JARAKI: Excuse me, I - this is part of the damage.

25 THE COURT: No, you got to let her finish answering

1 the question.

2 BY MR. JARAKI:

3 Q Okay, go ahead. I'm sorry.

4 THE COURT: You're cutting her off.

5 Q Okay. All right, go ahead.

6 A My boyfriend had a problem with his leg and I showed it
7 to him because according to you you could have fixed it and I
8 thought, "That's a delicate operation." He had vein problems
9 that you said that you were an expert at, that you could do
10 that. "Not many people can do this," that's what you told
11 him, "Not many people can do this."

12 Q I'm the cardiologist and how did I tell you that I will
13 fix your boyfriend knee? How did I know that he had knee
14 problem?

15 A He didn't have a knee problem. It was the back of his
16 leg.

17 Q He did not have any problem.

18 A It was the back of his leg.

19 Q Then why did he come to me and talk to me about his knee?

20 A He came with me.

21 Q Okay.

22 A I brought it up.

23 Q You brought it up.

24 A Because he was stubborn and he didn't want to go to the
25 doctor. So, I had you look at it to get in his head that he

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1 needed to go to the doctor and you told him it was not good.

2 Q Because he had any problem in your opinion?

3 A The back of his leg.

4 Q What about it is, back of his leg? Right? He had a
5 problem he wanted to take my opinion; right?

6 THE COURT: Excuse, hold it for a second. Sir?

7 MR. FURR: I don't see the relevancy of all of this.

8 THE COURT: I sustain the objection.

9 MR. JARAKI: Okay.

10 THE COURT: Irrelevant, let's move on.

11 MR. JARAKI: That's fine.

12 BY MR. JARAKI:

13 Q So, you trusted me to check your boyfriend; is that
14 correct?

15 A Yes.

16 MR. FURR: Objection.

17 THE COURT: He's already objected, irrelevant, move
18 on.

19 MR. JARAKI: I'm just talking about how ---

20 THE COURT: I'm telling you you can't ask that.

21 MR. JARAKI: All right.

22 BY MR. JARAKI:

23 Q So, after you came back to, again, to my office in Conway
24 you were fine. You didn't feel embarrassed, you didn't feel
25 anguish, you didn't feel anything bad? That why you said you

1 start feeling it after you came to Conway?

2 A No, I felt funny the whole time but funny I let go.

3 Q Your funny you let go.

4 A I let it go because you were a good, supposedly a good
5 doctor and I didn't want to get into a fight with you about
6 this so that I would be left out in the cold with this illness
7 and I would have to go searching for a new doctor. I didn't
8 want to take that chance. So, I just sucked it up and I let
9 you, you know, I stayed with you. I still trusted you. I
10 figured that's just - that was your way.

11 Q Did you feel that you were making any progress in my
12 clinic ---

13 A No.

14 Q --- from the day you came to the day you left?

15 A No.

16 Q I'm asking did you feel you had any progress in my ---

17 THE COURT: She answered no. Let's move on.

18 MR. JARAKI: I didn't hear that ---

19 THE COURT: Yeah, she said no.

20 MR. JARAKI: --- no.

21 BY MR. JARAKI:

22 Q So, you didn't feel any progress.

23 THE COURT: She said no.

24 MR. JARAKI: I understand.

25 THE COURT: All right.

1 BY MR. JARAKI:

2 Q And you went - did you used to - you to have a cane with
3 you when you came to my office?

4 A No.

5 Q When did you start using the cane?

6 A About a year ago.

7 Q A year ago. What happened?

8 A I have six bulging discs.

9 Q How did you get them?

10 A I have ---

11 MR. FURR: Objection, Your Honor. That's not
12 relevant.

13 A --- degenerative disc disease. It has nothing to do with
14 you.

15 Q It's not an accident?

16 THE COURT: Irrelevant, all right, sustain the
17 objection.

18 MR. FURR: We admitted that her current condition was
19 not caused by what he did.

20 THE COURT: Sustained.

21 MR. JARAKI: Your Honor, I need to know what her
22 condition was when she left me.

23 THE COURT: You've already asked that. Irrelevant.
24 Go ahead. Any other questions?

25 MR. JARAKI: Just one second, Your Honor.

1 BY MR. JARAKI:

2 Q In terms of Halla, my wife, what did she - what do you
3 think she did wrong to you?

4 A At first she ---

5 Q What did my wife did wrong to you?

6 A At first she was fine.

7 Q When did she start doing wrong to you?

8 A With the United Healthcare when they didn't pay after the
9 six months that it took her to submit the bills.

10 Q And what did she do wrong?

11 A What did she do wrong? She didn't submit the bills and
12 then she got nasty with me like it was my fault.

13 Q And what did you do about it?

14 A What did I do about it? I helped her. I, I was on the
15 phone with them with her. I faxed them, the comptroller, I
16 told you all this. The comptroller of the company helped. We
17 all tried to get you money but they didn't have the right
18 paperwork. It wasn't coded correctly and then we found out
19 you weren't a member and then you got nothing.

20 Q Isn't that - okay, didn't you just say that Halla told
21 you that she doesn't know anything about the billing? It's
22 the billing office who send the bills.

23 A And she said she would get on it.

24 Q Okay, she said she would get on it. Does Halla do any
25 billing as far as you know?

1 A I don't know.

2 Q You don't know, all right. What did Halla do in the
3 office for you? Except for that billing issue that supposedly
4 she got nasty with you, what other thing she done, anything
5 else?

6 A She made my appointments.

7 Q Anything bad she did to you?

8 A No.

9 Q Okay, anything she touch you or she harass you or
10 anything?

11 A No.

12 Q No.

13 A But she walked in on me without knocking when I was
14 laying naked on the table all the time.

15 Q She did what?

16 A She used to walk in the door while you were examining me
17 all the time without knocking.

18 Q She, she, she've seen you. She walk into the room. She
19 see you in the room? She - when you were tested and examined
20 and all time and you were doing the same thing every visit you
21 come all time.

22 A She'd open the door and ---

23 Q I understand, but I mean, you - we were doing the same
24 tests, you know, EKGs and stuff every time and she would walk
25 in and see you and she don't mind it. Have you ever talked to

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1 her to see why she didn't mind it?

2 A No, never brought it up.

3 Q No, have you ever talked to her and explain your concern
4 about me touching you or whatever it is you say that I did
5 wrong?

6 A I thought about it but then I ---

7 Q You thought, but you never talked to her about it. Have
8 you talked to anybody in my office about it?

9 A No.

10 Q Have you talked to the volunteers in my office ever?

11 A Who?

12 Q The two ladies that were volunteering sometimes in my
13 office?

14 A Oh, no.

15 Q You never talk to any.

16 A No.

17 Q Have you talked to any other patient about it?

18 A No.

19 Q And then when, when the other women went to the police
20 station how did you find out about my, the, the complaint?
21 What makes you go to the police station? When did you decide,
22 "Yeah, I want to go to the police station now and make a
23 report?"

24 A Your face was plastered all over the newspaper.

25 Q That's when you decide, "I will go," and you said the

1 reason you went because you want to help the other women. Do
2 you know the other women?

3 REPORTER: Is that a no?

4 Q How did you find out ---

5 THE COURT: You've got to give a ---

6 MR. FURR: You need to give a verbal answer.

7 A I'm sorry, no.

8 Q No. How did you find out about them?

9 A I read it in the newspaper.

10 Q Okay, but how, how do you - have you met any of them?

11 A No.

12 Q Have you talked to any of them?

13 A No.

14 Q On the phone or on the internet?

15 A No.

16 Q No, when you went to the police station and you report
17 that your damages, where have you report about the false
18 whatever surgery that you said, false surgery? Have you told
19 the police about it? Have done, have you told the police that
20 I falsified your record?

21 A I didn't know at the time.

22 Q Okay, I understand but you did not say to police that I
23 falsified. Have you told the police that I promise you
24 surgery or anything that you went for surgery for your breast?
25 Did you tell the police that?

1 A For my what?

2 Q That you came to my office because you want to have
3 breast reduction?

4 A Yes.

5 Q Did you tell the police? Okay, what did the police say
6 to you?

7 A Nothing.

8 Q Nothing. Why did the police did not take your case and
9 arrest me?

10 MR. FURR: Objection, Your Honor, she wouldn't know that.

11 MR. JARAKI: I'm just asking her knowledge.

12 THE COURT: Sustained, sustained. You can't ask it.
13 Go ahead.

14 BY MR. JARAKI:

15 Q What did you do when the police refused to take your
16 case?

17 A They didn't.

18 Q What did you do when they said, "No, we're not going to
19 prosecute your case?"

20 A They didn't tell me that.

21 Q They didn't tell you. What, what happened to your report?
22 Do you know what happened to your report and the police?

23 A Huh-uh, no.

24 Q No, do you know what happened with the allegation against
25 me in, in, in sexual allegation? Do you know anything what

1 happened?

2 A Well ---

3 Q No?

4 A No. He's just ---

5 Q I'm just asking do you know what happened with the
6 allegation that you made against me sexually?

7 A No, you're asking me questions I don't know.

8 Q Okay, do you know what happened with the allegation that
9 you went to the police and asked the police sexual allegation
10 against me? Do you know what happened to this allegation?

11 A No.

12 Q You didn't follow up with the police to find out what
13 happened?

14 A No, they called me a couple of times.

15 Q What did they say?

16 A Told me that other women had come forward.

17 Q After this, what, what the result, what the outcome of
18 all this allegation?

19 A I don't know.

20 Q You don't know. You didn't follow up this story on the
21 internet or the news?

22 A On the newspaper when I saw it.

23 Q What did you know - do you know had told what the
24 disposition ---

25 MR. FURR: I don't see, I don't see the relevance.

1 THE COURT: Hold it. Hold for a second. What's your
2 objection?

3 MR. FURR: I don't see any relevance to this either.

4 THE COURT: Sustained, irrelevant.

5 Q Okay, let me ask you this. Are you aware that all the
6 allegation has been dropped?

7 MR. FURR: Objection, it's irrelevant, Your Honor.

8 THE COURT: Sustained, irrelevant. Any other
9 questions?

10 MR. JARAKI: I would like to reserve my right to ask
11 more questions if I can.

12 THE COURT: No, if you have any other questions you
13 need to ask them.

14 MR. JARAKI: No thank you.

15 THE COURT: All right, ma'am, do you have any
16 questions?

17 REPORTER: Judge, I need that exhibit back, please.

18 THE COURT: Yeah, we need that exhibit. Sir, the
19 exhibit, Plaintiff's Exhibit needs to go back to the court
20 reporter. All right, you can come ask your questions.

21 MR. JARAKI: Can I talk with her for a second?

22 THE COURT: No, let's - we got to move this along.
23 This is ---

24 MS. JARAKI: I would like to ask you, Your Honor, if I
25 can be represented by a lawyer.

1 THE COURT: By a what?

2 MS. JARAKI: By a lawyer.

3 THE COURT: No.

4 MS. JARAKI: Since we already submitted papers.

5 THE COURT: Not at this stage. We're in a damages
6 hearing. If you've got any questions you can ask the witness.

7 MS. JARAKI: So, we could not because, you know, all I
8 know is like I'm, you know, I want my right to be represented
9 by a ---

10 THE COURT: All right, you don't have any questions?

11 MS. JARAKI: Yeah, I do have.

12 THE COURT: Okay, well, then ask them.

13 MS. JARAKI: Okay.

14 CROSS EXAMINATION

15 BY MS. JARAKI:

16 Q I would like to see, first of all, you know, what did I
17 do to you that you suing me now and hiring a lawyer against
18 me?

19 A Because you're involved in this. You're the one that put
20 the insurance through. So, whatever was wrong on the
21 insurance he doesn't put the insurance through, you do.

22 Q How did you think I'm involved?

23 A You tell me - you told me you put the insurance through.
24 So, why would, why would not - why would I sue him for
25 insurance fraud ---

1 Q I'm sorry.

2 A --- when you did the insurance paperwork?

3 Q I'm sorry. I told you that what? I'm involved in the
4 insurance?

5 A That you did the insurance paperwork.

6 Q That's not true.

7 A And you, at first you told me you had somebody in
8 insurance, some girl do it and then you said you did it.

9 Q Okay, you know that I'm only there for appointment and I
10 have nothing to do medically or anything. Did I do any harm
11 to you in any way?

12 A No.

13 Q Why you after me? What do you need from me?

14 A The insurance. You filed the insurance ---

15 Q What's the insurance? The insurance did not pay for him.

16 A --- claim.

17 Q Why you suing me for that?

18 A Because you filed the insurance claim. You fraudulently,
19 you charged my insurance company for things that were not ---

20 Q I do not file insurance.

21 REPORTER: I cannot ---

22 THE COURT: Hold it. You can only speak one at a
23 time. I think her question is she filed an insurance claim,
24 you're claiming it was a false claim. Did the insurance
25 company pay the claim?

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1 A Yes.

2 THE COURT: Okay.

3 A That one they did.

4 THE COURT: All right.

5 Q Which insurance company paid the claim?

6 A Blue Cross.

7 Q Blue Cross Blue Shield they paid for, for ---

8 A The back surgery.

9 Q --- one time.

10 A That, I don't know what else.

11 Q That's it? And for that whole year the United Healthcare

12 did not pay for anything?

13 A \$2000.

14 Q \$2000, they send the check to you?

15 A Uh-huh.

16 Q Did you bring the check to our office?

17 A Yes, I did.

18 Q You do?

19 A Immediately.

20 Q Because I don't remember receiving anything from you.

21 A You asked me if I got a check from them would I please

22 bring it to you and I said immediately. You remember the two

23 cent check I brought to you?

24 Q I don't remember that.

25 A Oh, well.

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1 Q At all from United. I don't remember you send us any
2 checks, but ---

3 A I never got a receipt from you, never got any kind of
4 bill, you know how they bill and receipts and give anything.
5 I never got anything from you. I have checked my checks to
6 prove how much money I've given you. I don't know what you
7 did with the insurance. So, you know ---

8 Q Do you know the punishment if you took the check and put
9 it in your name and do not give it to the doctor?

10 A Yes, I do.

11 Q Do you know what - that's illegal?

12 A Yes, yes, I do.

13 Q And a lot of people doing that?

14 A I gave you every check. I can go call United Healthcare
15 and show that you signed every back of every check.

16 Q Mrs. Miller, are you divorced?

17 A Yes.

18 Q You're divorced. Can I know something about your
19 background? Do you have any ---

20 MR. FURR: I don't see the relevance of this, Your
21 Honor.

22 MS. JARAKI: Yes.

23 THE COURT: Irrelevant.

24 MS. JARAKI: Because she's bringing ---

25 THE COURT: Irrelevant.

1 MS. JARAKI: --- a lot of things irrelevant, too.

2 THE COURT: I sustain the objection.

3 MS. JARAKI: Okay.

4 BY MS. JARAKI:

5 Q Do you come over a year to our office?

6 A Uh-huh.

7 Q Why when my husband touch you you just come to me, talk
8 to me and you never show, you go to the police or go or go,
9 you know, to other doctor than him? Why do you ---

10 MR. FURR: I think that's irrelevant, Your Honor.

11 Q Why did you keep coming?

12 THE COURT: I think it's been asked and answered.

13 A Uh-huh.

14 THE COURT: It's already been asked and answered
15 several times. Let's move on.

16 BY MS. JARAKI:

17 Q Did you, did you say that, "Your husband can fix me and
18 other doctors has to send me from doctor to doctor and I have
19 to pay thousand of dollars for all this doctors and your
20 husband can fix me in one, in one day?"

21 A No.

22 Q You didn't say that?

23 A No.

24 Q Didn't you cry at the office and you said, "I really
25 would like to stay here," and I told you, "We really like you

1 and we don't want, want you to go anywhere but you know we
2 can't, you know, we can't keep - we have busy office and we
3 kept - you have to change your insurance or do something or be
4 self pay?" Didn't I say that?

5 MR. FURR: That's totally irrelevant, Your Honor.

6 THE COURT: I'm going to allow that question, but
7 let's - you're kind of dragging it out. I think you can ask
8 it a little bit more concise than that. Re-ask your question.

9 Q Didn't you didn't pay for me only your co-pay which is
10 \$15 or \$20 when you come and not every time, sometimes you
11 said, "You know, I really, you know, I'll do it another time,"
12 and I said, okay?

13 A No, it was the other way around. You told me that
14 because I come a lot because I was sick that if I could pay
15 you every other week it would be okay and I did. I gave you
16 \$50 every other week, but then when you, when United
17 Healthcare got all screwed up I stopped paying.

18 Q Didn't you came emergency to our office instead of going
19 to emergency room and stay there and for hours and you, you
20 said, "I really like you guys. I don't want to leave. I
21 really feel comfortable with you," and you stayed hours in our
22 office and nobody talked to you and you got treated?

23 A When? Be more specific, please.

24 Q Two times, three times, two times you came early morning
25 and you was waiting in the door.

1 A I had an appointment and you were late.

2 Q You don't have appointment. You came emergency to the
3 office.

4 THE COURT: All right, I'll strike that. Ma'am, you
5 can ask a question. You can't testify.

6 Q Didn't you say that, "I never felt in my life so good and
7 I never felt that way and younger until I met Dr. Jaraki and
8 got treated by him?"

9 A No.

10 Q Didn't you send your boyfriend for prescription even
11 after you went to other doctor and we told you we can't see
12 you anymore to get two prescription; right?

13 A Right.

14 Q Didn't he came to the office and begging me for
15 prescriptions?

16 A Because I wasn't going to that doctor for another three
17 weeks and I ran out and I asked you to give me just the two
18 weeks.

19 Q And I give it to him?

20 A Yes.

21 Q What did we get paid for all this two years being seeing
22 you?

23 A One year.

24 Q One year, what did we - you think one year?

25 A One year.

1 Q It's been over a year. It's been a year and a half to
2 two.

3 A But I stopped coming to you in February and then I came
4 to you that May once.

5 Q Did you pay anything out of your pocket? Did you pay
6 your deductible?

7 A Yes.

8 Q Did you pay anything for us?

9 A I had to pay my deductible, which was \$1000.

10 Q But you didn't pay us anything?

11 A I paid you about \$1000.

12 Q We didn't get paid that.

13 A It's in the records.

14 Q Didn't you say to some people, they called me by phone
15 and you said, "This doctor I'm going to get - I'm going to get
16 a lot of money from him. I'm going to sue his ass and get a,"
17 excuse me, "and get a lot of money from him?"

18 A No.

19 Q I have some witness for that.

20 A No. Your Honor, I think they got me mistaken with
21 somebody else. I really do because I don't ---

22 Q Didn't you call ---

23 THE COURT: Just answer their questions.

24 Q --- say that at the Honda dealer?

25 A No.

1 Q That you gonna' sue him and get a lot of money out of
2 him?

3 A No.

4 Q Didn't you call United Healthcare and told them that you
5 are working at the Institute of Electrophysiology and you're
6 trying to take authorization for Roseann Miller.

7 A No.

8 Q And you said your name is Halla for authorization for a
9 CAT scan?

10 A No, CAT scan, no, you've never did.

11 Q You told me that.

12 A I did not.

13 Q So, it will go through, it has to be the same day or they
14 won't pay you?

15 MR. FURR: Give a verbal answer, please?

16 A No.

17 Q Okay.

18 A Never did that. It was not a CAT scan. Are you talking
19 about the one in May? It was an MRI.

20 Q That the last, the last one he give you, and you know you
21 was begging me to see him and I told you this is the last
22 visit and, and he give you, you know, paper for CAT scan and
23 you called the insurance company and you was telling me that
24 you need to go do the authorization. I told you they going to
25 keep me on the phone for two hours and I probably can't do it

1 today and ---

2 MR. FURR: I believe she's testifying, Your Honor.

3 THE COURT: I think so, too. I'll sustain your
4 objection. You can't testify. You can only ask her a
5 question.

6 MS. JARAKI: Okay.

7 BY MS. JARAKI:

8 Q So, did you call the United Healthcare and told them that
9 your name is Halla and you work at the institute and you're
10 trying to get authorization for Roseann Miller?

11 A Once again, no.

12 Q You did not. Okay. All right, what, what you asking me
13 now to do? Do you need - what do you want me to do to make
14 you happy?

15 A Wait a minute. Can I say something?

16 THE COURT: No, just answer her questions.

17 A Okay. What do - to make me happy?

18 Q What do you want me now to do to make you happy?

19 A Pay for your mistakes.

20 Q What mistake did I do for you?

21 A You misdiagnosed, well, not you, you misdiagnosed me and
22 you falsely - you should pay the insurance company. You
23 falsely put insurance money in to both insurance companies.

24 Q For this whole year you been with United you didn't pay
25 us any cent and you want us now to pay you for the service, we

1 provide you free service and now to pay you damages?

2 A Do you think that misdiagnosing ---

3 THE COURT: All right, just answer the questions.

4 Don't ask her a question. Just answer the questions.

5 A All right, repeat it. I'm sorry.

6 Q For a whole year of treatment you've been with United and
7 you came to us emergency and treating for heart and everything
8 and you don't go to any other people except us and now and you
9 didn't pay for us anything and now you want us to pay you for
10 all the damages plus the service?

11 A Yes.

12 MS. JARAKI: Okay, thank you, Your Honor.

13 THE COURT: All right, redirect?

14 MS. FURR: No further questions.

15 THE COURT: All right, you may step down.

16 A Thank you.

17 THE COURT: Call your next witness.

18 MR. FURR: I think I will not call another witness,
19 Your Honor.

20 THE COURT: All right.

21 A Yeah.

22 THE COURT: All right, I'm going to grant judgment in
23 favor of the Plaintiffs against the Defendants for 100,000
24 actual damages, 100,000 punitive damages. So, it'll be a
25 total of a \$200,000 verdict in favor of the Plaintiff against

1 the Defendant.

2 MR. FURR: Thank you, Your Honor.

3 THE COURT: Thank you. Form 4 order suffice or do you
4 want?

5 MR. FURR: Yes, sir, that's fine.

6 THE COURT: All right.

7 MS. MILLER: Thank you, Your Honor.

8 THE COURT: Thank you.

9 (Adjourned.)

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY) 2010-CP-26-0659

Jane RM Doe,)
)
 Plaintiff,) Transcript of Record
)
 vs.) Hearing
)
 Omar Jaraki, et al.,) May 21, 2012
)
 Defendants.)

B E F O R E :

Honorable Benjamin H. Culbertson
Horry County Courthouse
Conway, South Carolina

A P P E A R A N C E S:

O. Fayrell Furr, Esquire
Attorney for Plaintiff

William Isaac Diggs, Esquire
Attorney for Defendants

Grace L. Hurley, CVR-CM-M
Circuit Court Reporter

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1 P-1 Public Index Case Details

2 (ALL EXHIBITS RETAINED BY CLERK.)

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1 (On the record, May 21, 2012.)

2 THE COURT: All right, let's go ahead. The first one
3 is 2010-CP-26-659, that is the case of - let me get on the
4 roster here, Jane RM Doe versus Omar Jaraki and others.

5 According to my roster I have a motion to be relieved from
6 default judgment and a motion for relief. What is that?

7 MR. DIGGS: Your Honor, it's my understanding there's
8 just one motion to be argued today. That's our motion for
9 relief from default judgment.

10 THE COURT: Okay, because I have one filed on November
11 22nd, 2010, and one filed on November 30th, 2010. That's when
12 the motions were filed? That's got to be a misprint.

13 MR. DIGGS: Yes, sir, what happened if you would - if
14 you'll recall, Your Honor, we were in here on another case,
15 and ---

16 THE COURT: Yeah, I see it's an amended motion to be
17 relieved.

18 MR. DIGGS: --- and they got - this case got combined
19 with another case and put on the roster and Mr. Fayrell, Mr.
20 Furr wasn't - didn't know that had been added to the roster;
21 and so, it got continued.

22 THE COURT: I got you, okay.

23 MR. DIGGS: And so, it's come back up at this point.

24 THE COURT: All right, all right, and this is your
25 motion, Mr. Diggs?

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1 MR. DIGGS: Yes, sir.

2 THE COURT: All right.

3 MR. DIGGS: Your Honor, it's a typical what you've
4 seen before in theses cases with these Defendants. The action
5 was filed in January - on January 27th, 2010, and service was
6 accomplished against Dr. Jaraki on February 26th. Ms. Jaraki
7 was served on March the 5th and what those - the Defendants
8 really that we have here, our position is the other named
9 Defendants aren't really legal entities that have the capacity
10 to be sued, but with respect to the two individual Defendants,
11 what we have here is after service on February the 26th and
12 March the 5th there was a letter that had been sent again by
13 the Jarakis to Mr. Furr indicating that they didn't have
14 anyone in their database of patients by the name of Jane RM
15 Doe. The Jarakis are not from here, of course. They're
16 originally from Syria and didn't understand at that point that
17 this was being done and I would submit the inference is there
18 that they didn't understand that Jane RM Doe was a synonym, a
19 pseudonym, whatever, to conceal the identity for the privacy
20 concerns of the actual Plaintiff in the case. So, they wrote
21 this letter, it's in the file, Your Honor, that was marked or
22 stamped filed April the 1st of 2010. It should be in the
23 Court's file, a letter stating that they needed more
24 information to identify accurately the actual identity of the
25 Plaintiff so that they could respond to the allegations being

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1 made, specifically they asked for the name of the individual,
2 the address, the date of birth and Social Security number, a
3 copy of the driver's license so that they could accurately
4 identify who it was that was bringing this allegation and
5 respond accordingly. That letter was not responded to by the
6 Plaintiff's attorney and an affidavit of default was filed in
7 the case on April the 30th of 2010 and a motion was filed for
8 default judgment and entry of default was filed by the clerk
9 on that date.

10 This motion or this disposition was mailed to Mr. Furr on
11 August the 16th. It was an order of disposition with regards
12 to the motion. On September the 30th there was a second letter
13 that went out from Dr. Jaraki to Mr. Furr asking for the same
14 information about the identity of the Plaintiff stating that
15 he could not find such a person in his records and had not
16 treated that individual as a patient in his office.

17 Then on October the 28th of 2010 a letter went from Mr.
18 Furr to the Jarakis stating that the letters that I had just
19 referenced and that were made part of the record by the, by
20 the Defendants were not or had not been received by his office
21 and he provided a patient number with respect to the identity
22 of the Plaintiff and he provided notice of the hearing for
23 November the 2nd on the issue of damages.

24 On October the 28th, 29th, the next day the Defendant
25 Halla Jaraki wrote that a response to the above legal action

1 had been submitted to the Court on April the 1st, thereby
2 indicating there was still a disagreement about what had been
3 - what kind of reaction or response that the Defendants had
4 made to the complaint and we submit indicating that the
5 Defendants were engaged in a dialogue with the Plaintiff's
6 attorney and had been - that that dialogue had been an ongoing
7 communication between the parties.

8 On November the 4th the Jarakis hired counsel and an
9 answer was filed by the individual Defendants, Dr. Jaraki and
10 his wife, and then on November the 22nd the motion, this motion
11 had initially been filed and then an amended motion on
12 November the 30th seeking to be relieved from the default
13 judgment and our grounds, Your Honor, are that under 60(B)(1)
14 the - what we have really is an excusable neglect situation
15 because they didn't have ---

16 THE COURT: Excuse me, let me ask you this.

17 MR. DIGGS: Yes, sir.

18 THE COURT: Has a judgment already been entered?

19 MR. DIGGS: Judgment had been entered.

20 THE COURT: Okay, okay, go ahead then.

21 MR. DIGGS: And so what, what we have here is an
22 attempt to answer the complaint. Certainly it wasn't a
23 situation where the complaint was simply ignored and the
24 Defendants took the position of, you know, "Go ahead and do
25 what you will, we're not going to respond," wasn't that kind

1 of response at all. It was a letter asking for additional
2 information basically saying in the terms of prior pleading
3 practice that they simply needed a more definite and certain
4 statement in order to properly respond to the complaint, and
5 Your Honor, because of the timeliness of that Ms. Jaraki sent
6 that letter and Dr. Jaraki on April the 1st, we would submit
7 that it would be appropriate and just under the facts of this
8 case to allow to - for the Court to grant relief from the
9 default judgment and allow the Defendants to respond on the
10 merits of the action. There was a - an answer, a responsive
11 pleading that was filed basically denying the allegations in
12 the complaint and the complaint goes back really and complains
13 of inappropriate touching of the breasts of the Plaintiff and
14 a rubbing of the thumbs across the breasts in an inappropriate
15 manner. That was denied by Dr. Jaraki and we would submit
16 that it would squarely fall, that the facts of this case
17 within the scope of Rule 60 and warrant relief from the
18 default judgment in this case and an order allowing the case
19 to go forward on the merits and the denial that was submitted
20 by the Defendants.

21 THE COURT: All right, thank you. Mr. Furr.

22 MR. FURR: Judge, when we served Dr. Jaraki, of
23 course, he was - my client, Ms. Miller, was one of about five
24 or six ladies that had filed some criminal actions against
25 him. We used the pseudonym with her initials so he would be

1 able to figure out who it was. We never heard anything. All
2 this has been previously discussed with the Court when you
3 granted the motion for default and Dr. Jaraki testified in
4 that case and we went to the court file because we had never
5 received that letter that they said they had filed on April
6 1st. So, I went to the court file to find out from the clerk's
7 office if that letter had been recorded and this - we've
8 previously marked this as Plaintiff's Number One. This is a
9 printout of the court file which shows that they - they had
10 never received that letter which has been marked, I mean
11 clocked in on April 1st supposedly but we don't know if that
12 was something that was copied from something else and the
13 clocked in thing put on here or what, what happened but that
14 was done in the court file when we checked on April 30th and
15 Diane Mercer of the clerk's office checked that at the time we
16 - before we filed the motion for default and there was no -
17 that - this letter was not in there.

18 THE COURT: And what is the filing date of that
19 letter?

20 MR. FURR: It says April 1st.

21 THE COURT: Of 2010?

22 MR. FURR: Yes, sir.

23 THE COURT: All right, hold for a second, let me ---

24 MR. FURR: We never got this letter.

25 THE COURT: Well, I'm looking to see if it's in the

1 file.

2 MR. FURR: Right.

3 THE COURT: I still don't see.

4 MR. FURR: I believe you checked the court file
5 before you granted the motion before and did not find it in
6 there.

7 THE COURT: Well ---

8 MR. DIGGS: Your Honor, I have one copy here. I
9 certainly would ---

10 THE COURT: There's a copy of it, but it's not the
11 original one. There's a copy of it that is attached ---

12 MR. FURR: I think, I think we offered that into
13 evidence.

14 THE COURT: Is that what you all put into evidence ---

15 MR. FURR: Yes, sir.

16 THE COURT: --- at the motion hearing?

17 MR. FURR: Yes, sir.

18 THE COURT: Okay, so, the original is not in here but
19 a copy that's just like these is in here that is filed ---

20 MR. DIGGS: Was that one you're looking at, were
21 referring to April the 1st of 2010?

22 THE COURT: Filed April 1st, 2010, letter dated March
23 24th, 2010.

24 MR. DIGGS: Yes, sir.

25 THE COURT: But it appears in the file after filings

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1 on September 20th, 2010, as a matter of a fact after October
2 7th, 2010. If you follow chronologically you've got an
3 affidavit of mailing that was filed on October 7th, 2010, and
4 then this copy that appears to accompany another letter that
5 was filed on October 29th, 2010. All right, go ahead.

6 MR. FURR: We don't think even if you assume this
7 letter dated April 1st of 2010 was filed by the doctor and
8 served on us, which it never was, that still would not be
9 sufficient answer. Dr. Jaraki is not a litigation virgin.
10 He's been involved in a number of previous litigation matters,
11 had lawyers in his criminal case that he could have consulted.
12 Morgan Martin was his lawyer in the criminal case at the time.
13 Don't think there's any excuse for him not to have properly
14 answered this complaint.

15 THE COURT: All right, anything in response, Mr.
16 Diggs?

17 MR. DIGGS: Your Honor, I just want to make sure that
18 when Dr. Jaraki, when we filed his affidavit in support of the
19 motion in this case that those letters were made part of his
20 affidavit.

21 THE COURT: Yeah, the affidavit was filed on November
22 30th, 2010 and attached to it is ---

23 MR. DIGGS: Yes, sir.

24 THE COURT: --- Exhibit A is the letter.

25 MR. DIGGS: I just - I want to make sure that that's a

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1 part of the record but ---

2 THE COURT: Right.

3 MR. DIGGS: --- that would be our motion.

4 THE COURT: All right, I'm going to find that doesn't
5 rise to excusable neglect. I'm going to deny your motion.

6 All right.

7 MR. FURR: Thank you, Your Honor.

8 THE COURT: All right, now we make this as Plaintiff's
9 Exhibit One. I don't know if - I didn't really consider that
10 or look at it since I reviewed the file. I didn't know if you
11 want to make this a part of the record or not.

12 MR. FURR: I did, Your Honor.

13 THE COURT: All right, let's put ---

14 MR. DIGGS: We don't have any objections to it, Your
15 Honor.

16 THE COURT: All right, so, that'll be Plaintiff's
17 Exhibit One.

18 (Plaintiff's Exhibit Number One [Public Index Case
19 Details] admitted into evidence and appropriately marked.)

20 THE COURT: All right.

21 MR. DIGGS: Your Honor, thank you for hearing us.

22 THE COURT: Yeah, I can do a form four. Do you want
23 another - a formal order?

24 MR. FURR: I don't care. It's up to you.

25 MR. DIGGS: If Mr. Furr is going to prepare that I, I

1 would prefer.

2 THE COURT: Okay, well, I was just going to put this,
3 I just, I just find that the sending the letter doesn't
4 constitute ---

5 MR. DIGGS: Okay.

6 THE COURT: --- excusable neglect. So, I'll just deny
7 the motion; okay?

8 MR. FURR: Thank you, Your Honor.

9 THE COURT: Thank you.

10 (Adjourned.)

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STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

FIFTEENTH JUDICIAL CIRCUIT

COUNTY OF HORRY)

CASE NO.: 2010-CP-26-659

JANE RM DOE)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff,)

vs.)

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT, and
INSTITUTE OF ELECTROPHYSIOLOGY,
P.C.

Defendant.)

Plaintiff's Attorney:

O. Fayrell Furr, Jr., Bar No. 2246

Address:

1900 Oak St./PO Box 2909

Myrtle Beach, SC 29578

Phone: 843/626-7621 Fax 843/448-6445

E-mail: fho@sc.rr.com Other: _____

Defendant's Attorney:

_____, Bar No. _____

Address:

Phone: _____ Fax: _____

E-mail: _____ Other: _____

FILED
CLERK OF COURT
2010 APR 30 AM 8:11
MELANIE HUGGINS-WARD

- ☒ **MOTION HEARING REQUESTED** (attach written motion and complete SECTIONS II 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: Default Judgment

Estimated Time Needed: 20 mins.

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.

O. Fayrell Furr, Jr.
Signature of Attorney for ☒ Plaintiff / ☐ Defendant

4-27-10
Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$** 2500

☐ **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, SCRCF)

☐ 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: _____

000130

CLERK'S VERIFICATION	
Collected by: <u>①②⑤</u>	Date Filed: <u>4/30/10</u>
☐ MOTION FEE COLLECTED: \$ _____	
☐ CONTESTED - AMOUNT DUE: \$ _____	

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2010-CP-26-659

JANE RM DOE,

Plaintiff,

v.

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT,
INSTITUTE OF
ELECTROPHYSIOLOGY, P.C.

Defendants.

PLAINTIFF'S NOTICE OF MOTION
AND MOTION FOR DEFAULT
JUDGMENT

FILED
HORRY COUNTY
2010 APR 30 AM 8:43
NELLIE HUGGINS-WARD
CLERK OF COURT

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, by and through her undersigned attorney, will move before the Presiding Judge at Chambers of the Court of Common Pleas for Horry County, ten (10) days after service hereof, or as soon thereafter as counsel may be heard, pursuant to Rule 55 of the South Carolina Rules of Civil Procedure, for an Order entering Default Judgment against the Defendants and, as grounds therefore, states as follows:

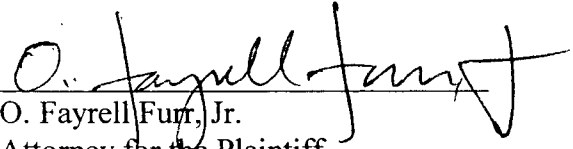
1. That these actions were commenced in the Court of Common Pleas for Horry County on or about January 27, 2010 (see Exhibit A attached);
2. That Omar Jaraki personally and as, registered agent for Cardiology & Arrhythmia Consultants, Cardiology & Arrhythmias Consultant and Institute of Electrophysiology, PC, was served personally with the Summonses and Complaints in this action by Deputy Christopher Graham, of the Horry County Sheriff's Department, on February 26, 2010, (see Exhibits B, C, D, and E attached);
3. That Halla Jaraki was served personally with the Summonses and Complaints in this action by Deputy Christopher Graham, of the Horry County Sheriff's Department, on March 5, 2010, (see Exhibits F attached);
4. That the Plaintiff received the above-mentioned Affidavit of Personal Service from the Horry County Sheriff's Department and filed same with the Clerk of Court of Horry County on March 8, 2010.

2010 and March 15, 2010.

5. That an Answer was due to be filed by the Defendant on or before April 7, 2010, and that as of April 27, 2010, there had not been an appearance or Answer filed by the Defendants; and

6. That said Summonses and Complaints pray for judgment against the Defendant for damages in an amount in excess of \$100,000.00, and for the costs of this action.

WHEREFORE, the Plaintiff respectfully prays for an Order granting this Motion for Default Judgment, for the reasons above-stated.


O. Fayrell Furr, Jr.
Attorney for the Plaintiff
FURR HENSHAW & OHANESIAN
1900 Oak Street
P.O. Box 2909
Myrtle Beach, South Carolina 29578
(843) 626-7621

4/27/, 2010
Myrtle Beach, South Carolina

000133

COUNTY OF HORRY

JANE RM DOE

Plaintiff(s)

vs.

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT,
INSTITUTE OF ELECTROPHYSIOLOGY, P.C.

Defendant(s)

(Please Print)

Submitted By: O. FAYRELL FURR, JR., ESQUIRE

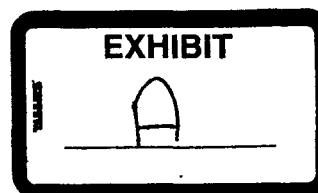
Address: P.O. BOX 2909 (1900 OAK STREET)

MYRTLE BEACH, SC 29578 (29577)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2010 -CP- 200- 4-59-



SC Bar #: 002246
Telephone #: 843/626-7621
Fax #: 843/448-6445
Other:

E-mail: fho@sc.rr.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|--|---|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 -CP- -
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☒ Wrongful Death (360)
☐ Other (399) | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Other (799) | Administrative Law/Relief
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600) ☐ Pharmaceuticals (630)
☐ Automobile Arb (610) ☐ Unfair Trade Practices (640) | | | |

☐ Medical (620)
☐ Other (699)

☐ Out-of State Depositions (650)
☒ Motion to Quash Subpoena in
Out-of-County Action (660)
☐ Sexual Predator (510)

Submitting Party Signature: _____

Date: 1/26/2010

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11 and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY
Allendale, Anderson, Beaufort, Colleton, Florence, Greenville,
Hampton, Horry, Jasper, Lexington, Pickens (Family Court Only), and Richland

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
JANE RM DOE,)
)
)
Plaintiff,)
)
v.)
)
OMAR JARAKI, HALLA JARAKI,)
CARDIOLOGY & ARRHYTHMIA)
CONSULTANTS, CARDIOLOGY &)
ARRHYTHMIAS CONSULTANT,)
INSTITUTE OF)
ELECTROPHYSIOLOGY, P.C.)
)
Defendants.)
_____)

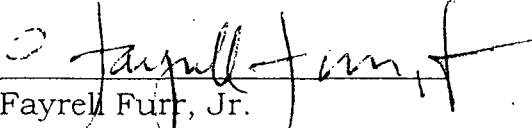
IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. _____

**SUMMONS
(JURY TRIAL)**

FILED
JAN 27 AM 8:43
CLERK OF COURT

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscriber at his office at 1900 Oak Street, P.O. Box 2909, Myrtle Beach, South Carolina 29578 within thirty (30) days after the service hereof, exclusive of the day of such service; and, if you fail to appear and defend by filing an Answer to the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.


O. Fayrell Furr, Jr.
Attorney for the Plaintiff
FURR HENSHAW & OHANESIAN
1900 Oak Street, P.O. Box 2909
Myrtle Beach, SC 29578
(843) 626-7621

Myrtle Beach, South Carolina
1/22, 2010
JURY TRIAL DEMANDED

000137

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)
)
JANE RM DOE,)
)
Plaintiff,)
)
v.)
)
OMAR JARAKI, HALLA JARAKI,)
CARDIOLOGY & ARRHYTHMIA)
CONSULTANTS, CARDIOLOGY &)
ARRHYTHMIAS CONSULTANT,)
INSTITUTE OF)
ELECTROPHYSIOLOGY, P.C.)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.

**COMPLAINT
(JURY TRIAL)**

FILED
HORRY COUNTY
JAN 27 AM 8:13
CLERK OF COURT
JANE HUGGINS-WARD

The Plaintiff would respectfully show unto this Court that:

1. The Plaintiff is a citizen and resident of the State of South Carolina, County of Horry and she brings this action under a pseudonym because of the private and sensitive nature of her injuries; her real name is available to the parties and the Court upon request to Plaintiff's counsel.
2. The Defendant, Omar Jaraki is a resident of the State of South Carolina, County of Horry.
3. The Defendant, Halla Jaraki is a resident of the State of South Carolina, County of Horry.
4. Upon information and belief, Defendant Cardiology & Arrhythmia Consultants (hereinafter referred to as "Defendant Cardiology") at all times relevant herein, was organized and existing under the laws of the State of South Carolina, and doing business in the County of Horry by and through its agents, servants, or employees.
5. Upon information and belief, Defendant Cardiology & Arrhythmias Consultant (hereinafter referred to as "Defendant Consultant") at all times relevant herein, was organized and existing under the laws of the State of South Carolina, and doing business in the County of Horry by and through its agents, servants, or employees.

000138

6. Upon information and belief, Defendant Institute of Electrophysiology, P.C. (hereinafter referred to as "Defendant Institute") at all times relevant herein, was a professional corporation organized and existing under the laws of the State of South Carolina, and doing business in the County of Horry by and through its agents, servants, or employees.

7. Upon information and belief, Defendants Omar Jaraki and Halla Jaraki were agents, contractors or employees of Defendants Cardiology, Consultant and Institute, and at all times relevant herein, were acting within the scope of their employment as agents, contractors or employees of Defendants Cardiology, Consultant and Institute and therefore Defendants Cardiology, Consultant and Institute are liable for the acts and omissions of Defendants Omar Jaraki and Halla Jaraki and its other agents, contractors and employees.

8. That at all times mentioned herein, Defendants' conduct was under the guise of and in the course of medical treatment and, thus, constitutes negligent and reckless professional services. Plaintiff's damages resulted over a period of time and would not have occurred but for the professional services rendered during that time, when other services should have been rendered and were not. This tortious sexual misconduct was intertwined with and inseparable from the professional services provided by the Defendant.

9. Plaintiff presented to Defendants upon referral for chest pain, shortness of breath and an abnormal EKG beginning February 8, 2007.

10. On or about February 8, 2007, Defendant Omar Jaraki had the Plaintiff remove her clothing from the waist up to perform an EKG on her at which time he cupped her breasts and ran his thumbs across her nipples in an inappropriate manner.

11. Upon information and belief, the inappropriate touching continued during the next two visits on February 14, 2007 and February 20, 2007. During the February 20, 2007 stress test, the Plaintiff said something to Defendant Omar Jaraki about the inappropriate touching, upon information and belief, Defendant Omar Jaraki then stopped this behavior for the duration of the visit.

12. Upon information and belief, Defendant Omar Jaraki billed Plaintiff's insurance company for surgical tumor removal performed on Plaintiff on February 14, 2007 although Plaintiff had not complained of any tumor and no surgical services were performed.

13. Upon information and belief, Defendants falsified Plaintiff's medical records and improperly billed the Plaintiff and her insurance company for services not performed.

14. Plaintiff requested her medical records from the Defendants so that her new physician could render proper treatment, but Defendant Omar Jaraki and his office repeatedly refused to give her medical records to her.

15. After the Plaintiff reported Defendant Omar Jaraki's activities to the police and the South Carolina Medical Board, Plaintiff is informed and believes that Defendant Omar Jaraki falsified her records.

16. At all times, Defendant Omar Jaraki acted as if the inappropriate touching against Plaintiff was a necessary and proper part of medical diagnosis and treatment.

**FOR A FIRST CAUSE OF ACTION
(Assault)**

17. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

18. That Defendant Omar Jaraki engaged in inappropriate sexual touching without the consent of Plaintiff;

19. That the conduct of the Defendants, jointly and severally, put the Plaintiff in reasonable apprehension of being touched in a sexual and offensive manner;

20. That Defendant Omar Jaraki intended to commit this sexual and offensive touching.

21. That the injuries and damages suffered by the Plaintiff were directly and proximately caused by the above acts of the Defendants.

**FOR A SECOND CAUSE OF ACTION
(Battery)**

22. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

23. The fondling of Plaintiff's breasts was harmful and offensive touching without Plaintiff's consent.

24. That these acts were done intentionally, recklessly, willfully, and wantonly and Defendant Jaraki should have known that such conduct was harmful and offensive to the Plaintiff.

25. That the injuries and damages suffered by Plaintiff were directly and proximately caused by the battery committed upon her person by Defendant Omar Jaraki and condoned by Defendant Halla Jaraki.

**FOR A THIRD CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

26. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

27. The Defendants intentionally, recklessly, willfully inflicted severe emotional distress and was certain or substantially certain that such distress would result from their treatment of Plaintiff.

28. The sexual misconduct was so extreme and outrageous that it exceeds all possible bounds of decency and is regarded as atrocious and utterly intolerable in today's society.

29. That the actions of the Defendants were the sole and proximate cause of the Plaintiff's emotional distress.

30. That the emotional distress suffered by the Plaintiff as a result of Defendants actions was so severe that no reasonable person could be expected to endure it.

31. Plaintiff is entitled to actual and punitive damages as a result of Defendants conduct.

**FOR A FOURTH CAUSE OF ACTION
(Negligent Infliction of Emotional Distress)**

32. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

33. The Defendants negligently, wantonly, recklessly, and carelessly inflicted severe emotional distress upon Plaintiff by their negligent conduct towards her, manifested by offensive physical contact, thus causing her serious injury.

34. That this emotional distress has manifested itself by physical symptoms capable of objective diagnosis.

35. That the actions of the Defendants were the sole and proximate cause of the Plaintiff's emotional distress.

36. Plaintiff is entitled to actual and punitive damages as a result of Defendant's conduct.

**FOR A FIFTH CAUSE OF ACTION
(Invasion of Privacy)**

37. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

38. That Defendants conduct invaded the privacy of the Plaintiff and, such conduct would be embarrassing or humiliating to a person of ordinary sensibilities.

39. That Defendants conduct was intentional and of such a nature that would cause mental harm to persons of ordinary feeling and intelligence in the same circumstances; and said conduct was in blatant and shocking disregard of Plaintiff's rights.

40. Plaintiff has been seriously injured and humiliated as a result of this breach of privacy and is entitled to damages therefrom.

**FOR A SIXTH CAUSE OF ACTION
(Breach of Contract)**

41. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

42. Defendants offered proper medical treatment to Plaintiff, Plaintiff accepted, and Plaintiff's promise to pay for said treatment constituted valid consideration to support a contract of good faith and fair dealing.

43. Defendants' breached their contract with Plaintiff by failing to employ proper treatment which an ordinary practitioner in the same circumstances would.

44. Defendants' breach of contract has resulted in proximately caused damages, which were the natural consequences of Defendants breach and which was foreseeable.

**FOR AN SEVENTH CAUSE OF ACTION
(Breach of Fiduciary Duty/Good Faith and Fair Dealing)**

45. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

46. Defendants' and Plaintiff were associated such that the parties did not deal on equal terms, and Defendant Omar Jaraki, as a clothed male physician, was in a position of overmastering influence, while Plaintiff, as a female patient, was in a position of weakness, dependence, and trust, justifiably reposed, creating a fiduciary relationship with corresponding duties.

47. Plaintiff reposed confidence in Defendants' and relied and acted upon the representations of the Defendants. Plaintiff is guilty of no derelictions on her own part.

48. Defendants' breached this fiduciary duty by engaging in the acts complained of above, causing severe injury to Plaintiff.

Defendants' breach of fiduciary duty has resulted in proximately caused damages, which were the natural consequences of Defendants breach and which was foreseeable

**FOR A EIGHTH CAUSE OF ACTION
(Unfair Trade Practices Act)**

49. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

50. That Defendants' committed unfair and deceptive acts or practices by informing Plaintiff he was treating her injuries with proper medical procedures, when in

in fact he was not.

51. That Defendant's committed unfair and deceptive acts or practices in the distribution of his medical services by charging for medical treatment never rendered to Plaintiff.

52. That Defendants' committed unfair and deceptive acts or practices by charging Plaintiff and her insurance company for medical treatment when he was not rendering the services he charged.

53. That said unfair and deceptive acts or practices of the Defendants' have an impact upon the public interest and such acts or practices have the potential for repetition and, in fact, have been repeated with others.

**FOR A NINTH CAUSE OF ACTION
(Negligent Supervision)**

54. All of the preceding allegations are reiterated and realleged as though set forth verbatim.

55. That Defendant Halla Jaraki, Defendant Cardiology, Defendant Consultants and Defendant Institute were aware of the improper, negligent, reckless, and intentional acts of Defendant Omar Jaraki and failed to take action to prevent further such actions and its resulting damage to Plaintiff.

**FOR AN TENTH CAUSE OF ACTION
(Spoliation of Evidence)**

56. That Defendants failed to properly guard and maintain Plaintiff's medical records.

AS TO ALL CAUSES OF ACTION

As a direct result of the acts of the Defendants, jointly and severally, Plaintiff suffered greatly, resulting in improper medical bills and severe emotional distress and will continue to suffer emotional distress as a result of the acts of the Defendants. The Plaintiff also failed to get proper treatment for her injuries which caused her a prolonged recovery time for the injuries received in the motor vehicle accident.

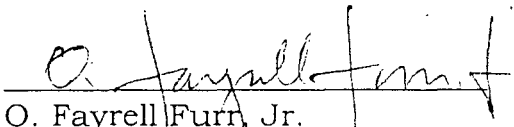
As a direct and proximate result of the negligent and careless acts and omissions of the Defendants, jointly and severally; medical and other expenses; mental anguish; loss of enjoyment of life; embarrassment and humiliation; all of which she will continue to suffer

from in the future.

The Plaintiff is informed and believes that she is entitled to judgment against the Defendants, jointly and severally, in a sum sufficient to adequately compensate her for actual damages and since such conduct was willful and reckless, she is entitled to punitive damages and three times the actual damages sustained, attorneys fees and costs, and other relief the Court deems just and proper.

The Plaintiff demands a jury trial.

WHEREFORE, the Plaintiff demands a jury trial and prays for judgment against the Defendants, jointly and severally, for damages in an amount in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00), for such punitive damages as may be assessed by the jury, for the costs of this action, and for such other and further relief as the Court and jury may deem just and proper.


O. Fayrell Furr, Jr.
Attorney for the Plaintiff
FURR HENSHAW & OHANESIAN
1900 Oak Street, P.O. Box 2909
Myrtle Beach, SC 29578
(843)448-4357

Myrtle Beach, South Carolina
1/22, 2010
JURY TRIAL DEMANDED

600145

EXHIBIT

B

STATE OF SOUTH CAROLINA,

COUNTY OF HORRY

IN THE COMMON PLEAS COURT 2010 MAR -8 PM 12:13

JANE RM DOE

Plaintiff

vs.

OMAR JARAKI, HALLA JARAKI, CARDIOLOGY
AND ARRHYTHMIA CONSULTANTS, ET AL

Defendant

AFFIDAVIT OF

PERSONAL SERVICE

TIME OF SERVICE: 10:30 AM

CASE # 2010CP26659

CHRISTOPHER GRAHAM, DEPUTY being duly sworn says that he served
 SUMMONS AND COMPLAINT, COVER SHEET in the above stated
 action, on the Defendant by delivering to him/her personally, and
 leaving with him/her copies of the same IN HORRY COUNTY
 South Carolina, on the 26th day of FEBRUARY 2010; and that he knows
 the person so served to be the one mentioned and described in the
 document served as: OMAR JARAKI, M.D.
 COURTHOUSE
 CONWAY, S.C.

defendant therein; and the deponent is not a party to the action.

Sworn to before me this 2nd day of MARCH 2010

James B. Jenkins L.S.
 Notary Public for South Carolina.

My Commission Expires: 9-15-2016

Christopher Graham
 CHRISTOPHER GRAHAM
 Deputy Sheriff

000146

C

STATE OF SOUTH CAROLINA,

COUNTY OF HORRY

IN THE COMMON PLEAS COURT

2010-8 PM 12:13

CLARIE HUGHES-PAUL
CLERK OF COURT

JANE RM DOE

Plaintiff

vs.

OMAR JARAKI, HALLA JARAKI, CARDIOLOGY
AND ARRHYTHMIA CONSULTANTS, ET AL

Defendant

AFFIDAVIT

OF SERVICE

TIME OF SERVICE: 10:30 AM

CASE # 2010CP26659

PERSONALLY APPEARED BEFORE ME, the undersigned
deponent, who being duly sworn says that he/she served the
SUMMONS AND COMPLAINT, COVER SHEET
in the action on CARDIOLOGY & ARRHYTHMIA CONSULTANTS, by delivery to
() personally;
() , the of the party served, and
a person of discretion residing at the residence of the party served;
(X) OMAR JARAKI, M.D., the REGISTERED AGENT
of CARDIOLOGY & ARRHYTHMIA CONSULTANTS;
and leaving with him/her a copy at
COURTHOUSE
CONWAY, S.C.

in Horry County, South Carolina on the 26th day of FEBRUARY 2010,
at 10:30 o'clock A.M., that deponent knows the person so served, and
that deponent is not a party of this action, is not less than
eighteen (18) years of age and has no interest therein or connection
therewith.

SWORN to and subscribed before me
this 2nd day of MARCH, 2010

Joyce B. Jenkins
NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 9-15-2016

Christopher Graham
CHRISTOPHER GRAHAM
DEPUTY SHERIFF

000147

EXHIBIT

D

STATE OF SOUTH CAROLINA,

COUNTY OF HORRY

IN THE COMMON PLEAS COURT 11-3 PM 12-13

JANE RM DOE

Plaintiff

vs.

OMAR JARAKI, HALLA JARAKI, CARDIOLOGY
AND ARRHYTHMIA CONSULTANTS, ET AL

Defendant

AFFIDAVIT

OF SERVICE

TIME OF SERVICE: 10:30 AM

CASE # 2010CP26659

PERSONALLY APPEARED BEFORE ME, the undersigned
deponent, who being duly sworn says that he/she served the
SUMMONS AND COMPLAINT, COVER SHEET
in the action on CARDIOLOGY & ARRHYTHMIAS CONSULTANT, by delivery to
() personally;
() , the of the party served, and
a person of discretion residing at the residence of the party served;
(X) OMAR JARAKI, M.D. , the REGISTERED AGENT
of CARDIOLOGY & ARRHYTHMIAS CONSULTANT ;
and leaving with him/her a copy at
COURTHOUSE
CONWAY, S.C.

in Horry County, South Carolina on the 26th day of FEBRUARY 2010,
at 10:30 o'clock A.M., that deponent knows the person so served, and
that deponent is not a party of this action, is not less than
eighteen (18) years of age and has no interest therein or connection
therewith.

SWORN to and subscribed before me
this 2nd day of MARCH, 2010

James B. Jenkins
NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 9-15-2016

Christopher Graham
CHRISTOPHER GRAHAM
DEPUTY SHERIFF

000148

E

STATE OF SOUTH CAROLINA,

COUNTY OF HORRY

IN THE COMMON PLEAS COURT

JANE RM DOE

Plaintiff

vs.

OMAR JARAKI, HALLA JARAKI, CARDIOLOGY
AND ARRHYTHMIA CONSULTANTS, ET AL

Defendant

AFFIDAVIT

OF SERVICE

TIME OF SERVICE: 10:30 AM

CASE # 2010CP26659

PERSONALLY APPEARED BEFORE ME, the undersigned
deponent, who being duly sworn says that he/she served the
SUMMONS AND COMPLAINT, COVER SHEET
in the action on INSTITUTE OF ELECTROPHYSIOLOGY, PC , by delivery to
() personally;
() , the of the party served, and
a person of discretion residing at the residence of the party served;
(X) OMAR JARAKI, M.D. , the REG. AGENT
of INSTITUTE OF ELECTROPHYSIOLOGY, PC ;
and leaving with him/her a copy at
COURTHOUSE
CONWAY, S.C.

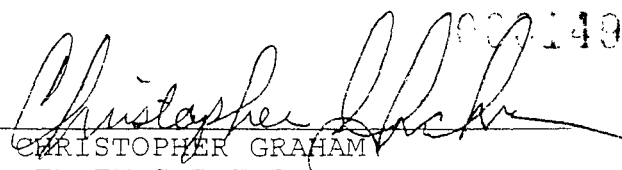
in Horry County, South Carolina on the 26th day of FEBRUARY 2010,
at 10:30 o'clock A.M., that deponent knows the person so served , and
that deponent is not a party of this action, is not less than
eighteen (18) years of age and has no interest therein or connection
therewith.

SWORN to and subscribed before me

this 2nd day of MARCH , 2010

NOTARY PUBLIC OF SOUTH CAROLINA

MY COMMISSION EXPIRES: 9-15-2016


CHRISTOPHER GRAHAM
DEPUTY SHERIFF

000149

EXHIBIT

F

STATE OF SOUTH CAROLINA,

COUNTY OF HORRY

IN THE COMMON PLEAS COURT

JANE RM DOE

Plaintiff

vs.

OMAR JARAKI, HALLA JARAKI, CARDIOLOGY
AND ARRHYTHMIA CONSULTANTS, ET AL

Defendant

AFFIDAVIT OF

PERSONAL SERVICE

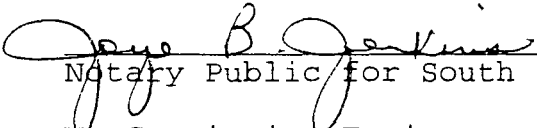
TIME OF SERVICE: 2:35 PM

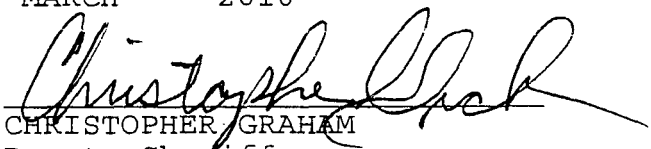
CASE # 2010CP26659

CHRISTOPHER GRAHAM, DEPUTY being duly sworn says that he served
SUMMONS AND COMPLAINT, COVER SHEET in the above stated
action, on the Defendant by delivering to him/her personally, and
leaving with him/her copies of the same IN HORRY COUNTY
South Carolina, on the 5th day of MARCH 2010; and that he knows
the person so served to be the one mentioned and described in the
document served as: HALLA JARAKI, MD
HORRY COUNTY JUDICIAL CENTER
CONWAY, SC

defendant therein; and the deponent is not a party to the action.

Sworn to before me this 10th day of MARCH 2010

 L.S.
Notary Public for South Carolina.
My Commission Expires: 9-15-2016


CHRISTOPHER GRAHAM
Deputy Sheriff

000150

STATE OF SOUTH CAROLINA)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2010-CP-26-659 --

JANE RM DOE,

Plaintiff,

v.

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT,
INSTITUTE OF
ELECTROPHYSIOLOGY, P.C.

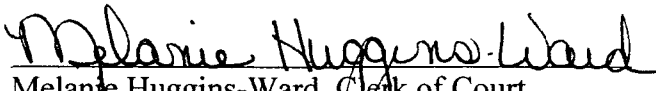
Defendants.

ENTRY OF DEFAULT

FILED
HORRY COUNTY
2010 APR 30 AM 8:44
MELANIE HUGGINS-WARD
CLERK OF COURT

This matter, having come before the Court this _____ day of _____, 2010, on a Motion for Entry of Default Judgment, pursuant to Rule 55 of the South Carolina Rules of Civil Procedure, as filed by the Plaintiff herein, and the Court, having reviewed said Motion, the Affidavit of Service and the Court file, and being otherwise fully advised,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that default is hereby entered against the Defendants and that a hearing to assess damages will be held to determine the amount of damages against said defendants.


Melanie Huggins-Ward, Clerk of Court
Fifteenth Judicial Circuit

Dated at Horry County, South Carolina,
this 30th day of April, 2010.

000151

STATE OF SOUTH CAROLINA)
)
COUNTY OF HORRY)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2010-CP-26-659

JANE RM DOE,

Plaintiff,

v.

AFFIDAVIT OF DEFAULT

OMAR JARAKI, HALLA JARAKI,
CARDIOLOGY & ARRHYTHMIA
CONSULTANTS, CARDIOLOGY &
ARRHYTHMIAS CONSULTANT,
INSTITUTE OF
ELECTROPHYSIOLOGY, P.C.

Defendants.

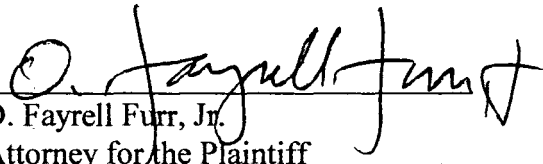
FILED
Horry County
2010 APR 30 AM 8:44
MELANIE HUGGINS-WARD
CLERK OF COURT

PERSONALLY appeared before me O. Fayrell Furr, Jr., who, being duly sworn, deposes and states:

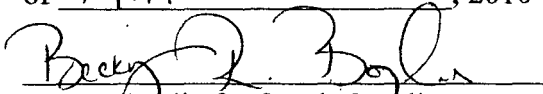
- 1) That he is the attorney for the Plaintiff in the above-captioned action.
- 2) That the Summonses and Complaints were duly served on the Defendants by the Horry County Sheriff's Department;
- 3) That more than thirty (30) days have elapsed since the service of said Summonses and Complaints and that no Answer, Motion or Notice of Appearance has been made therein; and that said Defendants are now in default;
- 4) Upon information and belief, that said Defendants are not a member of the armed services of the United States, as in contemplated under the Soldiers' and Sailors' Relief Act, as amended;
- 5) That said Defendants are not minors nor incompetent persons.

And further this affiant sayeth naught.

000152


O. Fayrell Furr, Jr.
Attorney for the Plaintiff
FURR HENSHAW & OHANESIAN
1900 Oak Street
P.O. Box 2909
Myrtle Beach, South Carolina 29578
(843) 626-7621

SWORN to before me this 27 day
of April, 2010


Notary Public for South Carolina

My Commission Expires 3-21-11

IN THE COURT OF COMMON PLEAS
FOR THE FIFTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO. 2010-CP-26-659

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PLAINTIFF'S MEMORANDUM IN
OPPOSITION TO DEFENDANT'S
MOTION TO BE RELIEVED FROM
DEFAULT JUDGMENT

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FILED
JURY COUNTY
2012 MAY -2 AM 8:04
MELANIE HUGGINS-WARD
CLERK OF COURT

STATEMENT OF THE CASE

This is an assault case brought by Jane RM Doe for damages that occurred while she was a patient of Defendants over a period of time and would not have occurred but for the professional services rendered during that time, when other services should have been rendered and were not. This tortious sexual misconduct was intertwined and inseparable from the professional services provided by the Defendant. Entry of Default was entered by the Court on April 30, 2010. On November 2, 2010 a damages hearing was held before the Honorable Judge Culbertson, all parties were present and judgment was granted in favor of the plaintiff against the defendants for \$100,000.00 actual damages and \$100,000.00 punitive damages. We are before the Court today on Defendant's Motion to Be Relieved from Default Judgment which was entered on November 3, 2010.

LEGAL ARGUMENTS

I. IGNORANCE OF THE LAW

Defendants pray for relief from the Default Judgment entered against them on April 30, 2010 relying on S.C.R.C.P. 60(b)(1) which allows the court to

000004

relieve a party from a final judgment due to mistake, inadvertence, surprise, or excusable neglect. "To obtain relief from a default judgment, the movant must also show a meritorious defense." Tri-County Ice and Fuel Company v. Palmetto Ice Company, 303 S.C. 237, 242, 399 S.E.2d 779 (1991).

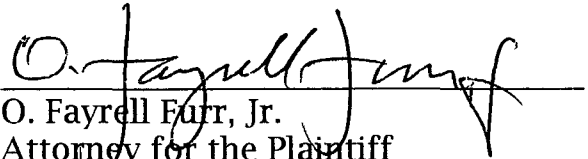
Defendants specifically cites their mistake as to the identity of Plaintiff "Jane RM Doe" and their lack of any patient by that name. (Jaraki Aff. ¶5) The custom of using "John Doe" and its female equivalent "Jane Doe" to identify defendants or victims whose identity is intended to be anonymous has been used since the reign of England's King Edward III. See http://wiki.answers.com/Q/How_did_the_terms_Jane_Doe_and_John_Doe_originate. Plaintiff even included "RM" in "Jane RM Doe" to represent the initials of plaintiff's actual name. Regardless, if Defendants had any questions as to the identity of the Plaintiff named in the complaint Defendants should have contacted Plaintiff's counsel. Defendants claim to have responded to the complaint by letter on March 24, 2010 and has included a copy of said letter with their affidavit. However, no such letter was ever received by Plaintiff's counsel and no record of such letter can be found in the case file at the courthouse in Horry County, South Carolina where this case is filed.

Defendants admit to receiving a copy of the summons and complaint on or about February 26, 2010. (Jaraki Aff. ¶12) After the expiration of the 30 day time period given to a defendant to respond to a complaint, no such response had been received by Plaintiff's counsel and no record of such a response had been filed with the court. Rule 60(b)(1), SCRPC is an appropriate remedy for good faith mistakes of fact. Hillman v. Pinion, 347 S.C. 253, 256, 554 S.E.2d 427 (2001). "However, a party may not generally use Rule 60(b)(1) as a vehicle for relief from a mistake of law." *Id.* By failing to respond to the complaint within 30 days of service Defendants made an error, or mistake of law. Anderson v. Toledo Scale Co., 192 S.C. 300, 303, 6 S.E.2d 465, 466 (1939). This is not the type of mistake, surprise, inadvertence, or excusable neglect contemplated by Rule 60(b)(1). Hillman, 347 S.C. 253, at 257. Therefore, the Court need not even address whether or not Defendants have shown a meritorious defense. Tri-County Ice and Fuel Company, 303 S.C. 237, at 243.

CONCLUSION

For the above reasons, the Plaintiff respectfully requests that the Court deny Defendants' Motion to Be Relieved from Default Judgment and Strike Defendants' Answer to the Complaint.

Respectfully Submitted,



O. Fayrell Furr, Jr.
Attorney for the Plaintiff
FURR & HENSHAW
1900 N. Oak Street, P.O. Box 2909
Myrtle Beach, SC 29578
(843) 626-7621

May 1, 2012
Myrtle Beach, South Carolina

Omar Jaraki MD

P O Box 810

North Myrtle Beach, SC 29597

March 24, 2010

This is in response to the civil action: 2010-26-659

O Faryl Furr Jr.

P O Box 2909

1900 Oak Street

Myrtle Beach, SC 29577

Mr. Furr;

I have to have the following to identify your plaintiff correctly if he or she existed in our records. I do not find anybody by name JaneRM Doe. I need the following and every item of the following:

Name

Address

Date of Birth

Social security Number

A copy of the driver license

To positively identify your plaintiff due to the sensitive nature of medical records. Until I receive all the above information about this matter I cannot answer any further question.

Omar Jaraki MD

HORRY COUNTY
10 APR - 1 PM 4:00
MELANIE J. SHERBARD
CLERK OF COURT

000137

Halla Jaraki

4400 Randal Road

Conway, SC 29526

Sept 20, 2010

This is in response to the civil action: 2010-26-659

O Faryl Furr Jr.

P O Box 2909

1900 Oak Street

Myrtle Beach, SC 29577

Mr. Furr;

I not yet received the requested following information to identify your plaintiff correctly if he or she existed in our records. I do not find anybody by name Jane RM Doe. I need the following and every item of the following:

Name

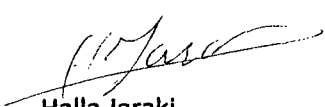
Address

Date of Birth

Social security Number

A copy of the driver license

to positively identify your plaintiff due to the sensitive nature of medical records. Until I receive all the above information about this matter I cannot answer any further question.


Halla Jaraki

HORRY COUNTY
10 SEP 20 PM 1:50
MELANIE HUGGINS-WARD
CLERK OF COURT

000158

Omar Jaraki MD

P O Box 810

North Myrtle Beach, SC 29597

Sept 20, 2010

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O Faryl Furr Jr.

P O Box 2909

1900 Oak Street

Myrtle Beach, SC 29577

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Omar Jaraki MD


Horry County
10 SEP 20 PM 1:50
MELANIE HUGGINS-WARD
CLERK OF COURT

2010-26-659

FHO
FURR, HENSHAW & OHANESIAN
ATTORNEYS AT LAW

O. Fayrell Furr, Jr.
*Board Certified Civil Trial Advocate
by the National Board of Trial Advocacy
Also Board Certified by American Board
of Professional Liability Attorneys*

Karolan F. Ohanesian
Pamela M. Secrest

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E-mail: fho@sc.rr.com

A Partnership of Professional Corporations
www.scmedicalmalpractice.com

Charles L. Henshaw, Jr.

1534 Blanding Street
Columbia, SC 29201
Telephone: (803) 252-4050
Fax: (803) 254-7513
E-mail: charles.henshaw@fholaw.com

October 28, 2010

Reply To: Myrtle Beach

Mr. Omar Jaraki
Mrs. Halla Jaraki
4400 Randal Road
Conway, SC 29526

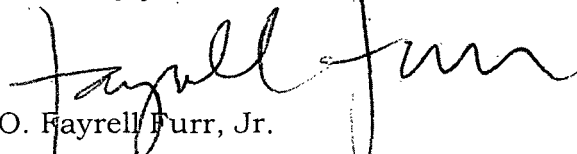
Re: Jane RM Doe vs. Omar Jaraki, Halla Jaraki, Cardiology & Arrhythmia
Consultants, Cardiology & Arrhythmias Consultant and Institute of
Electrophysiology, P.C.
Civil Action No.: 2010-CP-26-659

Dear Mr. and Mrs. Jaraki:

Review of the Court file shows that you filed two letters on September 20, 2010 in the above case requesting identification of the patient. These letters were never received and/or served on me at either my physical address or post office box. For clarification purposes, my client's name is Roseann Miller and my client's date of birth is 4/27/55. Your medical record number for her according to your records is 0000382. Any additional information requested on my client will need to be made through formal discovery requests. If you have retained legal counsel to represent you in this matter, please let me know their name or have them contact me directly. Further, I want to remind you of the hearing in this case which has been set for November 2, 2010 at 9:30am in court room 3E before Judge Benjamin Culbertson. This will be held at the Horry County Courthouse in Conway which is located at the Government & Justice Center 1301 Second Ave, Conway, SC 29526.

With kindest regards, I am

Sincerely yours,


O. Fayrell Furr, Jr.

OFF/bb

000160

NOTICE OF MOTION SCHEDULING

September 29, 2010



**Motion "MMFDEF - Motion/Default Judgment" for Case:
2010CP2600659 - Jane RM Doe VS Omar Jaraki , defendant, et al has
been added to the following Motions Roster:**

35 - CPNJ Motions-Honorable Benjamin Culbertson-11-01---11-03-2010

CR 3E

**The hearing of this motion has been scheduled for Tuesday, November 2,
2010 at 9:30 am.**

A Non Jury Motion Roster for November 2, 2010 thru November 3, 2010 will be held in courtroom 3-E with the Honorable Benjamin Culbertson, presiding has been posted on the Clerk of Court's website.

If your motion(s) has been resolved or does not need to be heard, please email Linda Johnson at Johnson@horrycounty.org. If you have any questions, please contact Ms. Johnson at 843-915-6803.

REMEMBER, All Continuances should be addressed to the Chief Administrative Judge Benjamin H Culbertson no later than Wednesday by 5:00 PM prior to the commencement of court.

Mail Notice To:

Halla Jaraki
4400 Randal Road

Conway, SC 29526

Court Info:

Common Pleas
PO Box 677
1301 2nd Avenue
Conway, SC 29528-9528

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

(843)915-5080

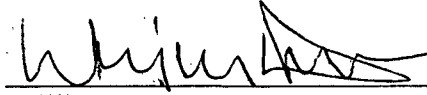
Respectfully,

Melanie Huggins-Ward
Clerk of Court

000161

CERTIFICATE OF COUNSEL

Pursuant to S.C.A.C.R. 210, counsel certifies that the foregoing Record on Appeal contains all material proposed to be included by any of the parties and not any other material.



William Isaac Diggs
ATTORNEY AT LAW
1700 Oak Street, Suite D
Myrtle Beach, SC 29577
(843)-626-4243

ATTORNEY FOR THE APPELLANTS

This 26th day of November, 2012
Myrtle Beach, South Carolina