

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No. 2017-CP-10-02758
Appellate Case No. 2019-001716

Jeane Whitfield,

Appellant,

v.

Dennis K. Schimpf, M.D. and
Sweetgrass Plastic Surgery,
LLC,

Respondents.

RECORD ON APPEAL – VOLUME V

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Patient Name: _____
Date: _____
Doc: Isaac Whitfield
694 Hohew Bluff Dr
Area: Mount Pleasant, SC 29464
Final: REDACTED
(patients implants only)

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MENTOR

Jean Whitfield
07/16/14

Dear Ms. Whitfield:

I am sorry to hear of the issues that you had regarding your right breast. I have spoken with Dr. Kalus and communicated with him on multiple occasions regarding this.

I am happy that your current course seems to be going well. Dr. Kalus is an experienced surgeon and I trust that he will take very good care of you. I am happy that your eyes and neck turned out to your satisfaction.

I wish you the best of luck with your future. Please note, if there is anything that I can help with in the future, please do not hesitate to let me know. Otherwise, best wishes.

Sincerely,

Dennis Schimpf, M.D.

DKS/del

JEAN WHITFIELD
DOS-06/06/2014

SURGEON: DR. DENNIS K. SCHIMPF
ASSISTANT: NONE
PREOPERATIVE DIAGNOSIS: 1. DERMATOCHALASIS OF THE UPPER EYELIDS.
2. LIPODYSTROPHY OF THE ABDOMEN AND FLANKS, AS WELL AS LEGS.
3. BREAST PTOSIS/MACROMASTIA FROM PREVIOUS IMPLANT PLACEMENT.
4. PAINFUL SCAR, ABDOMINAL REGION.
POSTOPERATIVE DIAGNOSIS: SAME.
PROCEDURE: 1. UPPER BLEPHAROPLASTY.
2. BILATERAL LIPOSUCTION OF THE ABDOMEN AND LEGS.
3. IMPLANT EXCHANGE WITH DOWNSIZING OF PREVIOUSLY PLACED IMPLANTS AND VERTICAL MASTOPEXY.
4. SCAR REVISION OF THE ABDOMEN.
ESTIMATED BLOOD LOSS: 75 CC.
COMPLICATIONS: NONE.

Instrument and sponge count correct at the conclusion of the procedure, per operative staff. Attending surgeon, Dennis Schimpf, scrub and present for the duration of the procedure.

DETAILS: The patient was brought to the operating room and placed in the supine position and under general anesthesia, prepped and draped in a sterile fashion. I turned my attention to the neck region and instilled a total of 100 cc of standard tumescent fluid through a stab incision in the chin region. Using a 3 mm cannula, hand suction assisted, removed a total of 75 cc of fat from this region. The stab incisions were left opened. I then turned my attention to the upper eyelids. A total of 3 cc of 1% lidocaine with epi was injected into each upper eyelid. Eye shields were placed with Lacri-Lube. A #10 scalpel was used to incise the marks, which were made preoperatively consistent with a standard upper eyelid blepharoplasty. The skin was removed with electrocautery on a Colorado-tip with a setting of 10. A small strip of muscle was removed from both. The wound was then closed with running intracuticular 5-0 Prolene. I turned my attention to the abdomen where a total of 500 cc of tumescence was instilled throughout the abdomen and flank region, as well as an additional 500 cc of tumescence instilled into the upper legs bilaterally. Once again, stab incisions were made and 3 mm cannulas were used to

JEAN WHITFIELD
PAGE TWO

perform lipo aspiration of the abdomen, as well as the upper thighs in the saddle bag area. A total of 1,000 cc of lipo aspiration were performed, with 400 cc from each leg and 1,200 cc from the abdomen. Again, these stab incisions were left open. Preoperative marks were made on the breasts consistent with a vertical mastopexy, inferior wise. The nipple/areolar complexes were outlined at 38 mm bilaterally at 19 cm from the nipple to clavicle. A #10 scalpel was used to incise these marks. Deepithelialized was performed of the tissue. Electrocautery was then used to carry the dissection through the subcutaneous breast tissue to the level of the right capsule. The capsule was entered. The implant was removed intact. A small amount of plication was performed on the lateral aspect of the pocket using 2-0 PDS interrupted suture. The Mentor 250 cc smooth round implant was then opened and placed immediately in Adam solution and placed in the right breast pocket. Redundant breast tissue was then redraped over the inferior pedicle and closed in a standard fashion with 2-0 Monocryl, Inisorb staples and intracuticular 3-0 Monocryl. The nipple was inset into its new location with 3-0 Monocryl, Inisorb staples and 4-0 Monocryl. I turned my attention to the contralateral breast and performed an identical procedure with the same exchange of implants and wound closure. Finally, there was an abdominal scar from a previous abdominal surgery in the right upper quadrant, which was excised in an elliptical fashion and closed in multiple layers with 3-0 and 4-0 Monocryl. No hernia was appreciated or noted. The patient was awoken from anesthesia in stable condition and transported to recovery.

DKS/del

Sweetgrass Plastic Surgery

Cosmetic, Reconstructive and Regenerative Surgery of the Face and Body

245 Seven Farms Drive
 Suite 210
 Charleston, SC 29492-8502
 Phone: (843) 881-2130
 Fax: (843) 471-2404
 Email: info@oneillplasticsurgery.com

Patient Name: Whitfield, Jean
 Proposal Date: 4/11/2014
 Procedure Date: 6/6/2014
 PreOp Date: 4/10/2014

Surgery Proposal

These fees will be honored for 90 days from today's date. All fees are payable two weeks prior to the scheduled date of the procedure. Fees may be paid by cash, check, American Express, Visa, MasterCard, Discover or financed through Care Credit.

Surgery and Related Services	Practice Fees	% Discount	Total Discounts
Blepharoplasty Upper			
Procedure Fees			
Blepharoplasty Upper Eyelid	\$1,800.00	15%	\$270.00
Includes			
15% for No Category			
Exchange of Implants	\$2,000.00	40%	\$800.00
Includes			
40% for No Category			
Implant Silicone	\$1,870.00		
Mastopexy	\$3,000.00	40%	\$1,200.00
Includes			
40% for No Category			
Liposuction of Abdomen, Inner thighs, and mons	\$3,600.00		\$2,400.00
Includes			
\$2,400.00 for No Category			
Revision of C-section scar	\$1,000.00		\$750.00
Includes			
\$750.00 for No Category			
Anesthesia Fees			
Cosmetic Anesthesia	\$1,650.00		
Facility Fees			
Facility Fee Cosmetic Surgery	\$1,900.00		
<hr/>			
Procedure Fees:	\$13,270.00		
Anesthesia Fees:	\$1,650.00		
Facility Fees:	\$1,900.00		
Discounts:	(\$5,420.00)		

(843) 881-2130

info@oneillplasticsurgery.com

O'Neill Plastic Surgery, PA - Daniel Island

Patient Name: Whitfield, Jean
Proposal Date: 4/11/2014

Totals:	<u>\$11,400.00</u>	
Total Cost of Surgery:		\$11,400.00
Balance remaining as of 9/23/2015:		\$11,400.00

Patient's Signature _____ Date _____

Witness Signature _____ Date _____

(843) 881-2130

info@oneillplasticsurgery.com

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SCHIMPF_00106

Sweetgrass Plastic Surgery

Cosmetic, Plastic and Reconstructive Surgery of the Face and Body

245 Seven Farms Drive
 Suite 210
 Charleston, SC 29492-8502
 Phone: (843) 881-2130
 Fax: (843) 471-2404
 Email: info@oneillplasticsurgery.com

Patient Name: Whitfield, Jean
 Proposal Date: 12/20/2013
 Procedure Date: TBA
 PreOp Date: TBA

Surgery Proposal

These fees will be honored for 90 days from today's date. All fees are payable two weeks prior to the scheduled date of the procedure. Fees may be paid by cash, check, American Express, Visa, MasterCard, Discover or financed through Care Credit.

Surgery and Related Services	Practice Fees	Outside Fees	% Discount	Total Discounts
Liposuction one area				
Procedure Fees				
Liposuction of Abdomen	\$1,200.00	\$0.00	20%	\$240.00
Includes				
20% for Multiple Procedures				
Mastopexy	\$3,000.00	\$0.00	40%	\$1,200.00
Includes				
40% for Multiple Procedures				
Exchange of Implants	\$2,000.00	\$0.00	40%	\$800.00
Includes				
40% for Multiple Procedures				
Implant Silicone	\$1,870.00	\$0.00		
Anesthesia Fees				
Cosmetic Anesthesia	\$0.00	\$1,100.00		
Facility Fees				
Facility Fee Cosmetic Surgery	\$0.00	\$900.00		
<hr/>				
Procedure Fees:	\$8,070.00	\$0.00		
Anesthesia Fees:	\$0.00	\$1,100.00		
Facility Fees:	\$0.00	\$900.00		
Discounts:	(\$2,240.00)			
Totals:	\$5,830.00	\$2,000.00		
Total Cost of Surgery:				\$7,830.00
Balance remaining as of 9/23/2015:				\$7,830.00

(843) 881-2130

info@oneillplasticsurgery.com

Page 1 of 2

SCHIMPF_00107

O'Neill Plastic Surgery, PA - Daniel Island

Patient Name: Whitfield, Jean
Proposal Date: 12/20/2013

Patient's Signature _____ Date _____

Witness Signature _____ Date _____

(843) 881-2130

info@oneillplasticsurgery.com

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SCHIMPF_00108

53 yr. Female, REDACTED



SURGERY CENTER/ O.R. FORMS SET

Pre-Op Checklist:

- Pre Op Checklist

	Completed	Not completed	Notes
Patient identity confirmed	<input checked="" type="checkbox"/>		
Informed Consent Signed	<input checked="" type="checkbox"/>		
Female patients having sedation must have an HCG with a negative result	<input checked="" type="checkbox"/>		
Patient is NPO for 8 hrs for surgery involving mild, to deep sedation	<input checked="" type="checkbox"/>		
Pre-anesthesia H&P completed		<input checked="" type="checkbox"/>	
Surgical site marked with patient per surgeon	<input checked="" type="checkbox"/>		
Verify allergies	<input checked="" type="checkbox"/>		codeine, decadron
Verify the pre-op photos have been taken	<input checked="" type="checkbox"/>		
Verify removal of jewelry, contacts, dentures, ect.	<input checked="" type="checkbox"/>		

- Height: 64
- Weight: 165
- BMI: 28.32
- Blood Pressure: 113/77
- Were vital signs taken today? Yes
- Ethnic Origin

Ethnic Origin 1. Very fair (Celtic and scandinavian)

- Vital Readings

Vitals	Pulse	Respiration Rate	Temperature
84	16		97.0

Pre-incision Nursing Assessment:

- Pre-Op Checklist Reviewed Yes
- Emotional Evaluation alert, oriented and slightly apprehensive
- Nursing Assessment

	Yes
Patient is alert and oriented X3	<input checked="" type="checkbox"/>
Skin is warm, dry and intact	<input checked="" type="checkbox"/>
No peripheral edema noted	<input checked="" type="checkbox"/>
No sensory impairment noted	<input checked="" type="checkbox"/>
Patient transferred self to table	<input checked="" type="checkbox"/>

- Allergies
- Codeine.

53 yr. Female, REDACTED

- Time Out

	Completed	Time
Patient identified	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
Procedure discussed	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
Surgery site verified	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
Equipment and supplies verified	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
All OR personel know each other	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
Surgeon concerns discussed	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
Nursing concerns discussed	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM
Anesthesia concerns discussed	<input checked="" type="checkbox"/>	6/6/2014 9:45 AM

- OR procedure(s):

Procedure name	Bilateral
1 Upper Blepharoplasty	<input checked="" type="checkbox"/>
2 exchange of implants	<input checked="" type="checkbox"/>
3 mastopexy bilateral	<input checked="" type="checkbox"/>
4 liposuction, abdomen, medial thigh, axilla, neck	<input checked="" type="checkbox"/>

OR Record:

- Intraoperative Nursing Assessment - People

Name	
Surgeon	Dennis Schimpf, MD
Anesthesiologist	Elouise Bradham, MD
Scrub	Angie Cassell, CST
Circulator	Dawn Truslow, RN, MS

- O.R. Times

	Time
Anesthesia start	0830
Patlent enters room	0830
Procedure Start	0850
Procedure End	1208
Patientout of OR	1227

- Anesthesia TIVA

- Padding/Positioning

Pillow	Foam Padding	Foam Donut
Head and Neck		<input checked="" type="checkbox"/>
Arms and Elbows	<input checked="" type="checkbox"/>	
Knees	<input checked="" type="checkbox"/>	

- Sequential Compression Devices Yes and Functioning prior to induction

- Sterile Preparation - OR

X

53 yr. Female, REDACTED

X

Chlorhexadine

- Electrosurgical Unit

ESU

Unit number Z9C712M

Grounding Pad Lot # 107050822

Grounding Pad Exp Date 2014/07

Coag Setting 35

Cut Setting 40

Pad Location right calf

Pad applied by: DT

- Temperature Control Interventions

- 1. Warm blankets

- Irrigation Saline

- Medications

	Medication	Dosage	Administered By
1	Adams Solution		Dennis Schimpf, MD
2	Tumescent Fluid		Dennis Schimpf, MD
3	1% Lidocaine w/ Epi 20 ml		Dennis Schimpf, MD

- Medications administered? Yes

- Specimens Obtained? No

- Implants

	Description	Size	Manufacturer	Model #	Serial #	Location	Quantity
1	Smooth Round Silicone Breast Implant	250	Mentor	350-2501	6792167-058	Left breast	1
2	Smooth Round Silicone Breast Implant	275	Mentor	350-2751	6799110-047	Right breast	1

- Explants disposed

- Dressings 4*4 gauze, Benzoin, Jaw Bra, Steri-Strips, Surgical bra and Tape

OR Count Sheet:

- Staff Performing Opening Count

Personnel Name

- 1 Dawn Truslow, RN
- 2 Angie Cassell

- Initial Closing Count Performed By:

Personnel Performing Count

- 1 Dawn Truslow, RN
- 2 Angie Cassell

- Initial Closing Count Items

Correct

Sponges

Sharps

Misc.

Correct

Instruments

- Final Closing Count Performed By:

Personnel Performing Count

- 1 Dawn Truslow, RN
- 2 Angie Cassell

- Final Closing Count Items

Correct

Sponges

Sharps

Misc.

Instruments

- Surgeon Notification Surgeon notified of count
- Unresolved Counts Not Applicable

PACU Record:

- Time into Recovery 1227
- LOC Assessment Awake
- Oxygen Administration Room Air
- Nausea/Vomiting No
- IV Fluids Lactated Ringers
- Medications given No
- Did the patient urinate in recovery? No
- Were drains emptied? N/A
- Patient discharged via wheelchair
 - 1. Yes
- Patient meets discharge criteria Yes
- Discharge instructions given to caregiver Yes
- Patient transported via wheelchair by: D. Truslow

Care Transition:

- Allergies
- Codeine.
- Height: 64
- Weight: 165
- BMI: 28.32
- Blood Pressure: 113/77
- Current Medications
- Ambien 10 mg Tab.
- *Meaningful Use: Patient Reminder Sent Patient was sent reminder via their preferred contact method.

Discharge Note:

- Discharge Criteria

Yes N/A

Vital Signs have remained stable in the PACU

The patient is able to demonstrate the ability to swallow liquids

Yes N/A

- The patient is able to demonstrate the ability to cough.
- The patient does not have excessive nausea, vomiting, or dizziness.
- The patient must not be in excessive pain.
- The patient does not have excessive bleeding.
- There is no sign of respiratory distress
- If the patient was catheterized during the procedure, the patient is able to void.
- The patient is alert and oriented to person, place, and time.
- The patient is able to walk.
- A responsible adult is present to escort the patient
- The responsible adult verbalizes understanding of discharge instructions.
- Discharge instructions were given to the responsible adult
- IV discontinued

- Post Surgery Discharge Note

Patient is doing well. She is alert and oriented without specific complication. Vital signs are stable. Dressings are intact.

Plan: Discharge home. Post-operative instructions were reiterated. Return for follow-up as scheduled.

- Caretaker Information

Caretaker Name	Relationship	Verbalized Understanding of D/C instructions
tony	Spouse	Yes

RN Signature:



Date and Time: 6/6/2014 9:56 AM

Dawn Truslow, RN, MS

Care Transition:

- *Meaningful Use: CCM Inquiry Regarding Tobacco Use Current tobacco non-user
- *Meaningful Use: CCM Advising Smokers And Tobacco Users To Quit Tobacco non-user (G8457)
- Allergies
- Codeine.
- Height: 64
- Weight: 165
- BMI: 28.32
- Blood Pressure: 113/77
- Current Medications
- Ambien 10 mg Tab.
- *Meaningful Use: CCM BMI Calculated BMI outside normal parameters, no follow-up plan documented (G8419)

- ***Meaningful Use: CCM Blood Pressure Measurement** Blood pressure measured (2000F), Most recent systolic blood pressure <130mm Hg (3074F) and Most recent diastolic blood pressure <80mm Hg (3078F)
- ***Meaningful Use: Patient Resources** Patient specific educational resources have been provided.
- ***Meaningful Use: Patient Reminder Sent** Patient was sent reminder via their preferred contact method.
- ***Meaningful Use: Breast Cancer Screening** Mammogram NOT performed, reason not specified. (3014F w/ 8P)
- ***Meaningful Use: Influenza Immunization for Patients over 50yrs old** Influenza immunization NOT administered, reason not specified. (G8484)
- ***Meaningful Use: Pneumonia Vaccination** Pneumonia vaccination NOT administered or previously received for medical reasons. (4040F w/ 1P)

Medications for Whitfield, Jean

krista
Page 1 of 1
Print Date: 9/23/2015

<u>MedName</u>	<u>Date</u>	<u>Description</u>	<u>Refills</u>	<u>Quantity</u>	<u>Unit</u>
Bactrim DS	7/11/2014	1 tab po BID	0	14	
Percocet 7.5 mg-325 mg tablet	7/11/2014	Take 1-2 tablets Q4-6h prn pain	0	50	

SCHIMPF_00115

July 21, 2015

RE: Jean Whitfield

To Whom It May Concern:

Ms. Whitfield is a very pleasant woman who presented on 06/06/2014 and underwent multiple surgical procedures, including which a blepharoplasty of the upper eyelids, liposuction of the abdomen and flanks, as well as the legs, a mastopexy with exchange of implants and downsizing of her previously placed implants, as well as a scar revision of the abdominal region. Unfortunately postoperatively she did very well from all of her procedures, with the exception of the right breast. She was seen five days after surgery for removal of her sutures from her upper blepharoplasty, at which point her wounds were clean, dry and intact. Her nipples were viable bilaterally. She had no evidence of cellulitis, induration or infection. However, slowly over the next two weeks she began to experience wound separation of the right breast. She was seen multiple times in the office, including any time at which she called an appointment was immediately given that day or the following day.

She was seen on 07/01/2014 after having issues over the weekend. At this point, there was a small separation of the mastopexy incision on the right side. Wound care was instructed with local bacitracin or Neosporin/Vaseline, as well as soap and water.

She was seen again on the 11th, 14th and 16th of July. During this period, the superficial aspect of her right breast began to dehiscence. At no point did she have cellulitis, induration or obvious infection. She had no purulence and there was never exposure of the implant. Due to the fact that she had a previous breast augmentation, she had a capsule present and the fact that we downsized her implants, coverage over the implant was good. I discussed with her, as well as her husband, multiple times during these visits that the goal was to prevent further wound dehiscence and allow secondary granulation and healing in an effort to preserve her current implants. I explained to them that any point if the implant became exposed or if she became systemically ill from a possible underlying infection that the implant would have to be removed. However, at no point during this time period did she become unwell.

SCHIMPF_00116

She was initially seen by Dr. Ram Kalus on the 10th of July. Dr. Kalus called me on that day and I discussed with him her care. After our discussion on the phone on the 10th, I arranged for her to come to my office either later on the 10th or the 11th.

We arranged for a follow up on the 11th of July. At this appointment, she had an area of 2.5x1 cm superficial with no undermining or tunneling. The granulation tissue was present at the base with no exposure of an implant. At that point, it was discussed whether the wound could be primarily closed and given the chronic nature of the wound being opened at this point, I discussed with her and her husband that this was not the most prudent course of action. Placement of one simple suture was reasonable in an effort not to close the wound but to take tension off of the incision line and prevent further wound dehiscence. This was performed on the 14th of July.

Over the course of the weekend on July 12th, I received a call from Dr. Kalus that a family member had called him begging him to take over her care. He decided at that point to proceed with admitting the patient to the hospital for observation. She was unable to care for the wound at home, per the patient and her family. Again, at this point, she was not septic or ill from the wound. Dr. Kalus determined that operative revision at that point would be the most prudent course of action. He took her to the operating room that week and determined at that point that he could not close the wound with the implant present and elected to remove the implant and the close the wound over a drain. She subsequently has followed up with Dr. Kalus since that point in time.

Prior to her procedures, I met with her on several occasions and discussed with her the risks and benefits of the procedure, including wound dehiscence, the need for a revisional operation, and possible implant extrusion or removal. This was well documented and is present within her consents, which she signed herself. Overall, my goal for her treatment was to preserve her implant to prevent her from having further surgical procedures or implant placement. Again, the main concern was implant exposure or infection, which during my examinations I did not feel that she had significant infection or cause for implant removal at that time. We will go ahead and provide her with medical records, including the operative dictation, as well as notes from Dr. Kalus and our clinical notes.

If you have any questions regarding her care, please feel free to contact me at your convenience.

Best Wishes,

Dennis K. Schimpf, M.D.

DKS/del

Appointments

<u>Date</u>	<u>Start Time</u>	<u>Resource</u>	<u>Purpose</u>	<u>Home Phone</u>	<u>Status</u>
Whitfield, Jean					
Consult Cosmetic New					
2/25/2014	9:45 AM	Dr. Schimpf	Liposuction		Cancelled
	pt wants to proceed with surgery		Re-eval for surgery and add bleph. discuss implants		
Consult fxn est					
2/20/2014	3:00 PM	Dr. Schimpf	Blepharoplasty, Breast Implant Exchange, Liposuction, Scar Revision		Cancelled
	pt wants to proceed with surgery		Re-eval for surgery and add bleph. discuss implants		
Consult fxn new					
12/19/2013	5:15 PM	Dr. Schimpf	Blepharoplasty, Breast Implant Exchange, Liposuction, Mastopexy, Scar Revision, Unknown/Not in List		Out
	Smart Lipo Correction from 2 years ago, scar issues				
Post Op Short					
5/8/2014	4:00 PM	Dr. Schimpf	Breast Implant Exchange, Liposuction, Scar Revision		Cancelled
	1st POC dos 5/2/14				
6/10/2014	12:45 PM	Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Out
	1st POC dos 6/6/14				
6/18/2014	1:00 PM	Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Cancelled
	1wk f/u				
6/19/2014	4:45 PM	Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Out
7/1/2014	11:45 AM	Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Pending
	Continued Drainage from nipple.				
7/16/2014	10:45 AM	Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Pending
	10 day f/u				

Appointments

<u>Date</u>	<u>Start Time</u>	<u>Resource</u>	<u>Purpose</u>	<u>Home Phone</u>	<u>Status</u>
7/23/2014	4:30 PM	Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Pending
4 wk fu					
Pre-op					
4/10/2014	5:00 PM	Dawn, RN, Dr. Schimpf	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Out
Need to discuss implant size					
Surgery Cosmetic					
3/28/2014	8:00 AM	Dawn, RN, Dr. Schimpf, OP	Breast Implant Exchange, Liposuction, Scar Revision		Cancelled
5/2/2014	11:30 AM	Dawn, RN, Dr. Schimpf, OP	Breast Implant Exchange, Liposuction, Scar Revision		Cancelled
6/6/2014	8:00 AM	Dawn, RN, Dr. Schimpf, OP	Blepharoplasty Upper - Bilateral, Liposuction - Abdomen, Liposuction - Legs, Mastopexy - Bilateral, Open Capsulotomy - Silicone Implant Exchange - Bilateral, Scar Revision		Out
Eloise & Heather					

Plastic Surgery of the Carolinas, P.A.

Ram Kalus, M.D., F.A.C.S., F.A.A.P.

578 Lone Tree Drive
Mt. Pleasant, SC 29464

Certified, American Board of Plastic Surgery
Fellow, American College of Surgeons
Fellow, American Academy of Pediatrics

Tel: (843) 881-3881
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e-mail: rkalus@plasticsurgerycarolina.com

PATIENT: Jeane Whitfield

DATE: March 1, 2019

REASON FOR VISIT: The patient is seen in followup for complex bilateral revision breast surgery. I last saw Jeane in December 2015.

She states that emotionally and psychologically she is doing much better. She did have a recent event of a perforated diverticulitis in November 2018 which required emergency surgery through minimal incision and laparoscopic-assisted surgery. That scar in the periumbilical area and left lower quadrant is healing well.

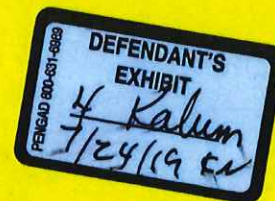
Examination of her breasts today reveals well-healed scars with obvious breast asymmetry with the left breast demonstrating a wider-base diameter but an overall smaller volume. The right breast is more projecting. The right areola measures 19 cm from the notch. The left areola measures 21 cm from the notch. Inframammary crease to nipple distance on the right is 9 cm and on the left 7 cm.

I indicated to the patient that from my perspective, the best next step would be suction-assisted lipectomy of the lateral bra roll area on both sides to try to improve the lateral mammary fold contour and to use that fat harvest and possibly gain additional fat harvest if indicated to perform left breast autologous fat grafting to try to achieve a greater degree of volume symmetry. Once this is achieved, we would approach this with a followup 3 months thereafter or thereabouts and consider a properly determined augmentation mammoplasty if she remains interested in this. The patient felt very comfortable with this treatment plan and we will plan on proceeding as indicated.

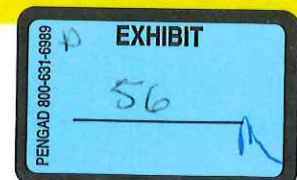
As a separate unrelated issue, the patient has had a skin lesion in her suprasternal notch for several months that is irritated and pruritic. On examination, there is a raised scaly lesion that may be consistent with a basal cell carcinoma of which the patient has had several in the past which we have successfully excised. Prior to committing to a definitive excisional biopsy in the anterior neck which may result in hypertrophic scarring. I suggested to the patient that a diagnosed shave biopsy would be more appropriate and she will schedule this in the very near future with Dr. Craig Rowin in light of my upcoming absence.

Ram Kalus, MD
(Dictated but not read)

RK:dr



KALUS_00045



In the Matter Of:

Jeane Whitfield vs.
Dennis K Schimpf, MD, et al

Vicky Tolbert

February 11, 2019



A. William Roberts, Jr. & Associates

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1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF CHARLESTON

3 JEANE WHITFIELD,

4 Plaintiff,

5 vs. CASE NO. 2017-CP-10-2758

6 DENNIS K. SCHIMPF, M.D., AND SWEETGRASS PLASTIC
7 SURGERY, LLC,

8 Defendants.

9 VIDEO

10 DEPOSITION OF: VICKY TOLBERT

11 DATE: February 11, 2019

12 TIME: 9:00 a.m.

13 LOCATION: Smyth Whitley, LLC
14 126 Seven Farms Drive
15 Suite 150
Charleston, SC

16 TAKEN BY: Counsel for the Plaintiff

17 REPORTED BY: KAREN NELLIUS, RPR

18
19 A. WILLIAM ROBERTS, JR., & ASSOCIATES

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Record on Appeal - 2003

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12 DENNIS K. SCHIMPF, M.D., AND SWEETGRASS
13 PLASTIC SURGERY, LLC:

14 SMYTH WHITLEY, LLC
15 BY: TODD W. SMYTH
16 126 Seven Farms Drive
17 Suite 150
18 Charleston, SC 29492
19 843-606-5635
20 Tsmyth@smythwhitley.com

21 ALSO PRESENT:

22 Michael D. Roberts, Legal Videographer

23 (INDEX AT REAR OF TRANSCRIPT)
24
25

1
2 THE VIDEOGRAPHER: We are now on the
3 record. Today's date is February 11th, 2019. The
4 time is approximately 9:03 a.m.

5 This is the video deposition of Vicky
6 Tolbert. The location is 126 Seven Farms Drive,
7 Suite 150, Charleston, South Carolina 29492.

8 My name is Michael Roberts, legal
9 videographer, representing A. William Roberts, Jr.,
10 & Associates. This deposition is taken in the
11 matter of Jeane Whitfield versus Dennis K. Schimpf,
12 M.D. and Sweetgrass Plastic Surgery, LLC, case
13 number 2017-CP-10-2758.

14 Counsel, please introduce yourselves
15 for the record.

16 MR. SLOTCHIVER: Dan Slotchiver for the
17 plaintiff.

18 MR. SMYTH: Todd Smyth for the
19 defendants.

20 THE VIDEOGRAPHER: Would the court
21 reporter please swear in the witness.

22 VICKY TOLBERT,
23 being first duly sworn, testified as follows:

24 EXAMINATION

25 BY MR. SLOTCHIVER:

1 Q. Ms. Tolbert, my name is Dan Slotchiver,
2 and I'm going to be taking -- or resuming the
3 deposition that was taken several months ago. As
4 it's a continuation of a deposition, I don't need
5 to go through all of the preamble warnings about
6 how to respond, but if you would like me to, I'm
7 happy to do it.

8 MR. SLOTCHIVER: And, Todd, if you
9 would like me to do it, I'm happy to do it.

10 MR. SMYTH: I think she understands.

11 BY MR. SLOTCHIVER:

12 Q. Fair enough.

13 What I would like to do first is to ask
14 you some questions about a document that we have
15 received over the weekend from your counsel. If I
16 can hand this to you.

17 MR. SLOTCHIVER: We're going to mark it
18 as an exhibit.

19 (PLF. EXH. 1, HISTORY AND PHYSICAL, was
20 marked for identification.)

21 BY MR. SLOTCHIVER:

22 Q. Is -- are you familiar with this
23 document?

24 A. Yes.

25 Q. Would you agree with me that this is

1 not a document that Jeane Whitfield or her counsel
2 would have received upon request of Dr. Schimpf and
3 Sweetgrass to provide all medical records related
4 to the treatment of Jeane Whitfield?

5 A. Yes.

6 Q. And would you agree that this not a
7 document that we would have received in discovery
8 until this weekend?

9 A. Yes.

10 Q. And we would not have had this at the
11 time of the deposition taken several months ago?

12 A. Yes.

13 Q. Okay. Could you first tell me what
14 this document is?

15 A. It's, like, an H&P.

16 Q. What is an H&P?

17 A. History and physical.

18 Q. Okay. And is this a document created
19 specifically by Sweetgrass Plastic Surgery?

20 A. Yes.

21 Q. Tell me, please, where it was that you
22 located -- or let's strike that -- who it was that
23 located this document and able to present it to us?

24 A. It was me.

25 Q. Okay. And where did you locate this

1 document?

2 A. It was in my office.

3 Q. And specifically where in your office?

4 A. In a cabinet.

5 Q. Okay. And what else would be contained
6 in that cabinet?

7 A. There is some employee files, there is,
8 like, extra folders, card stock, some other things.

9 Q. Are there -- are there other records
10 that would -- medical records that would belong to
11 Jeane Whitfield or other patients contained in that
12 cabinet in your office?

13 A. There were some other patients in there
14 as well.

15 Q. Okay. How many other patients' records
16 -- I'm not going to ask you the name of the
17 patient. But how many other different patients'
18 records were contained in that cabinet?

19 A. I didn't count them. Sorry.

20 Q. Do you know why patients' records would
21 have been contained in your filing cabinet in your
22 office as opposed to in the medical files and
23 records maintained in the normal course of
24 business?

25 A. I believe that somebody was supposed to

1 scan them and they probably got put in another
2 stack, or something, and then they just got put
3 away, thinking that -- because they were in between
4 some papers.

5 Q. Is -- is that mere speculation on your
6 part?

7 A. Yes.

8 Q. Okay.

9 A. I'm not sure how they got into the
10 cabinet. But they were between -- they were
11 between some things.

12 Q. And it's not the only set of medical
13 records that were also mistakenly placed in your
14 office, obviously, based on your previous testimony
15 today?

16 A. Yes. There was a couple of other
17 papers in there as well.

18 Q. Is a couple less than 10?

19 A. I -- I didn't count them. I mean,
20 there was -- like, I mean, I was looking through
21 everything to try and see -- I was trying to
22 reorganize, and I came across it.

23 Q. Did you anticipate finding medical
24 records in your cabinet?

25 A. No.

1 Q. Is this a cabinet in your personal
2 office?

3 A. Yes.

4 Q. And who besides you has access to your
5 personal office?

6 A. Most employees.

7 Q. Is it the pattern or practice of
8 Sweetgrass to file records in your personal office
9 or are those things that you normally would do?

10 A. No. Patient records would never be
11 stored in my office. Like I said, they were
12 between some other papers. So, I have a feeling
13 that when someone was cleaning up one day, or
14 something, they must have gotten, like, put in
15 there, and somebody must have put them in the
16 cabinet. Because they were with card stock, and
17 that kind of stuff.

18 Q. What -- what were the documents on the
19 other sides of this paper?

20 A. On the other side of the paper?

21 Q. What I'm talking about is, within your
22 file cabinet, if it was stuck in between some other
23 documents, what were the other types of documents
24 it would have been stuck in between?

25 A. It was a couple of these H&Ps.

1 Q. Okay. For this and other patients?

2 A. Yes.

3 Q. Okay. And was all -- were those
4 documents -- a couple of H&Ps, were they all within
5 a folder or were they looseleaf placed inside the
6 cabinet?

7 A. They were in a stack of other papers in
8 the cabinet.

9 Q. Everything in that stack of papers
10 would have been an H&P; is that correct?

11 A. I didn't look through every single one
12 of them, but the ones that I saw because I was just
13 -- specifically happened to see her name and so I
14 grabbed it out.

15 Q. Are the rest of them still inside your
16 cabinet now?

17 A. Yes.

18 Q. You haven't made any effort to put them
19 into the correct files at this point?

20 A. I just found it.

21 Q. When?

22 A. Thursday. Friday. Somewhere around
23 there. And I immediately sent it over.

24 Q. Does -- while the office staff may have
25 access to your personal office, is it your -- is it

1 your practice to allow other people to put
2 documents into your personal filing cabinets or is
3 that something that you generally would do?

4 A. No. Sometimes -- I mean, as they are
5 cleaning up, they will go and say, hey, I'm going
6 to store this here, or do you have any room in your
7 cabinet to put this here, or something like that.

8 Q. So they would just store random things
9 inside your cabinet?

10 A. There is a lot of office supplies, and
11 things like that, in there, yes.

12 Q. Well, obviously an H&P record would not
13 be an office supply?

14 A. No. I'm aware of that, yes.

15 Q. And there was a stack of H&Ps, based on
16 your testimony, that was in your cabinet?

17 A. Yes.

18 Q. Is it your testimony that a member of
19 your staff or Sweetgrass' staff may have confused a
20 stack of H&P documents as office supplies?

21 A. Yes. They were in a stack with, like,
22 card stock, and other things.

23 Q. What does card stock mean?

24 A. Card stock is like thicker paper.

25 Q. Was there -- was it printed thicker

1 paper?

2 A. No. It's, like, blank ones.

3 Q. So there was blank printed paper, and
4 in between blank printed papers were the H&P forms?

5 A. There were. There is pink card stock,
6 there is green card stock, there is yellow card
7 stock, and in that stack of stuff was a few
8 documents, yes.

9 Q. What was it that made you decide to
10 look within the -- well, first, was this pink,
11 green, yellow, white card stock? What color was
12 it?

13 A. It's all different colors.

14 Q. So, the card stock you're -- that was
15 found that encompassed the H&P forms would have
16 been all different colors?

17 A. Yes.

18 Q. What made you decide to look within the
19 card stock to see if anything was there that
20 didn't --

21 A. Because it was all --

22 Q. If I could just finish.

23 A. Okay.

24 Q. -- that didn't appear to belong within
25 that stack?

1 A. Like I said, I was trying to organize.
2 And so when you have a stack of stuff that's not
3 all right, or whatever, you tend to, I guess, kind
4 of look through it as you are trying to straighten
5 it, and I happened to see some stuff with writing
6 on it.

7 Q. How thick -- if you can demonstrate for
8 me, how thick was this pack of information?

9 A. I mean, the cabinet is probably this
10 tall.

11 Q. Okay.

12 A. And it was probably close to the height
13 of the shelf.

14 Q. So the papers were about the height of
15 the shelf?

16 A. Yes.

17 Q. And you went through all of the papers
18 and started looking at them one by one?

19 A. No. They were -- I mean, really you
20 are going to be that nit-picky? There was a -- I
21 mean, the cabinet --

22 Q. Ms. Tolbert, I'm trying to understand
23 how it is that within the confines of stock paper
24 of all different colors you decided to -- randomly
25 decided to search through it and found these

1 documents that are relative to this case and other
2 people's medical records. What stood out that made
3 you believe that there was something in them, other
4 than the fact --

5 A. I didn't think there was -- I had no
6 idea there was anything in them.

7 Q. You just decided to skim through this
8 stockpile in order to see if there was anything in
9 it?

10 A. When I was trying to straighten it, I
11 took the whole stack out, and as I was trying to
12 straighten it and go through and make sure that,
13 you know, everything was nice and neat, I saw some
14 things that had writing on them.

15 Q. Where is the original?

16 A. The original? At our office.

17 Q. Where?

18 A. I'm not sure. It's probably sitting --
19 still sitting on my desk.

20 Q. Is the one that you had an original or
21 is the one you had in your office a copy?

22 A. I would have to go back and look at it.
23 I didn't look that closely.

24 Q. What would be a telltale sign for you
25 whether it was an original or a copy?

1 A. I mean, I think you would be able to
2 look at the signature and the writing on it to see
3 if it's a copy or if it -- you know, if somebody
4 actually, like, wrote that on that specific sheet
5 of paper.

6 Q. Well, you would agree that in today's
7 world of photocopies being as good as they are, you
8 can't always tell, correct?

9 A. Yeah. True. But, I mean, I would
10 think that you would try to be able to.

11 Q. Okay. So whether or not -- there is no
12 -- would it be fair to say there is no stamp or
13 other indicia on a document in the office to
14 confirm if it is or is not an original?

15 A. No. We don't do anything like that.

16 Q. Okay. Do you -- do you recall what
17 color ink was on the one inside your office?

18 A. No.

19 Q. Is your printer a color printer or your
20 scanner a color scanner?

21 A. It can scan in both, yeah.

22 Q. Without going into communications you
23 had with counsel, would it be fair to say that you
24 either scanned it or e-mailed it to counsel --

25 A. Yes.

1 Q. -- once you received it?

2 A. Uh-huh.

3 Q. Which one?

4 A. I scanned it in and e-mailed it.

5 Q. When you scan and e-mail a document
6 with color ink, does the color ink pass?

7 A. I believe so. I mean, it depends on
8 the last person probably to use the scanner. But I
9 think the majority of the time it does scan in
10 color.

11 Q. So if it was a color document, it would
12 have come out color when it was arrived -- when it
13 arrived at counsel's office?

14 A. Most likely, yeah.

15 Q. Okay. Is it fair to say the copy --

16 MR. SLOTCHIVER: Let's go off the
17 record for a second.

18 THE VIDEOGRAPHER: We are now off the
19 record. The time is approximately 9:16 a.m.

20 (Off-the-record conference.)

21 THE VIDEOGRAPHER: We are now back on
22 the record. The time is approximately 9:17 a.m.

23 BY MR. SLOTCHIVER:

24 Q. How often do you look in your cabinets
25 to straighten it out or review what's inside the

1 file cabinets?

2 A. Once or twice a year.

3 Q. Did you have a chance to look at the
4 dates of the other H&P forms?

5 A. I did not. I didn't look that closely.
6 I couldn't even tell you another patient's name
7 that was in there.

8 Q. Would you agree with me that in order
9 to have -- well, let's back it up.

10 Is the practice when the H&P forms are
11 created, is it normal to take the form and stick it
12 into the file?

13 A. It normally goes with the OR chart.

14 Q. Okay. And then it goes into the file?

15 A. Uh-huh.

16 Q. Okay. So what's the date on this form?

17 A. 2014.

18 Q. All right. So -- and this is June of
19 2014?

20 A. Uh-huh.

21 Q. Okay. Almost five years ago.

22 So if you are correct in your
23 speculation that somebody mistakenly grabbed a
24 stack and put it there, then would you agree that
25 the other papers would have also had to have been

1 around the same timeframe in 2014?

2 A. They may have likely been. Like I
3 said, I didn't specifically look at them.

4 Q. Well, if they were, for example, from
5 2015 or 2016, how would that be possible in light
6 of the fact that this form was 2014?

7 MR. SMYTH: Object to the form.

8 THE WITNESS: Without going back and
9 specifically looking at the dates, I can't -- I
10 mean, I can't say that they were '15 or '16 or '14.
11 I mean, you would think that, yes, they would all
12 have been around the same date range.

13 BY MR. SLOTCHIVER:

14 Q. Okay.

15 A. Without specifically looking, I can't
16 give you that information.

17 Q. Is -- are these forms relatively
18 accessible to you?

19 A. What do you mean?

20 Q. The other forms that you found in your
21 office cabinet when you were reviewing your cabinet
22 last week.

23 A. Yes.

24 Q. Okay. Is there any reason why you
25 could not make a copy of those forms and provide

1 them to counsel for my review, understanding that
2 before you would provide them you would delete the
3 name of the patient for which I would not be
4 entitled to?

5 A. If they want me to do that, then I'm
6 happy to do that.

7 Q. Okay. You would agree that if you were
8 to do that, then we could see the timeframe in
9 which they -- they were kept?

10 A. Uh-huh.

11 Q. Then would you agree that if, in fact,
12 there were forms from multiple years, that would
13 mean that Jeane Whitfield's form must have been
14 sitting around somewhere for a long period in order
15 to be added to other forms?

16 A. I don't understand what you are asking.

17 Q. I'll move on.

18 What is the purpose of an H&P form?

19 A. So the physician knows the history and
20 physical of the patient.

21 Q. How often are these forms filled out
22 with patients, and starting with when they first
23 come into the office all the way through surgery?
24 Is it a one-time form or is it a routine form
25 filled out numerous times?

1 A. It's just filled out for surgery.

2 Q. Okay. And that when -- when in
3 conjunction with surgery is it filled out?

4 A. Usually the day of surgery.

5 Q. Okay. Is it filled out before the
6 surgery or after the surgery?

7 A. I believe they fill it out before. I'm
8 not the one who completes it, so I'm not sure.

9 Q. Is your writing on this document?

10 A. No.

11 Q. Okay. Do you know whose writing is on
12 this document?

13 A. No, I don't.

14 Q. And you're the office manager, correct?

15 A. Uh-huh.

16 Q. And you were the office manager in June
17 of 2014, correct?

18 A. Yes.

19 Q. Is there any writing on this form that
20 you can identify?

21 A. I mean, I can read it. What do you
22 mean is there --

23 Q. Well, that you can identify the
24 originator of it, that you can tell this is --

25 A. I mean, I know that's Dr. Schimpf's

1 signature.

2 Q. You are looking at under the
3 physician's signature. Anywhere else that looks to
4 be Dr. Schimpf's handwriting or anybody else's
5 handwriting?

6 A. Not that I recognize.

7 Q. Do you know if it was filled out before
8 the surgery or after the surgery?

9 A. I don't.

10 Q. Whose job would it be to fill out the
11 form?

12 A. The nurse and Dr. Schimpf.

13 Q. Which nurse?

14 A. What do you mean, which nurse? We only
15 had one nurse at the time, and that's Dawn.

16 Q. So, then, this would have been Donna's
17 signature or Dr. Schimpf's signature? Excuse me.
18 This would have been Donna's handwriting or
19 Dr. Schimpf's handwriting?

20 A. Dawn. Not Donna.

21 Q. Dawn. Nobody else, correct?

22 A. Not that I can think of. We didn't
23 have a PA at the time, or anything.

24 Q. Okay. And I notice under intended
25 procedures, it is -- there is handwriting filling

1 out I take it what the intended procedures are?

2 A. Uh-huh.

3 Q. Would that be the doctor's handwriting
4 or would that be the nurse's handwriting?

5 A. That's definitely not Dr. Schimpf's
6 handwriting.

7 Q. Okay. And what's the purpose of
8 writing down the intended procedure?

9 A. You would have to ask the doctor. I
10 don't deal with H&Ps. I'm not a clinician.

11 Q. Well, you are the office manager?

12 A. Yeah. But I'm not clinical.

13 Q. I'm asking on the form -- what the
14 purpose of the form is. If it says intended
15 procedure and people fill out a blank, what's -- is
16 it the purpose of that to fill out what the
17 intended procedures are to be?

18 MR. SMYTH: Objection. Form and
19 foundation.

20 THE WITNESS: I mean, that's answering
21 the question on the paper. I mean, it's asking the
22 intended procedure so they are putting in the
23 procedure. Just like it says date of surgery, and
24 they put in the date of surgery.

25 BY MR. SLOTCHIVER:

1 Q. Okay. So, then, from your position as
2 the manager, what you fill in under the category of
3 intended procedure is what the intended procedures
4 are to be?

5 A. Yes.

6 Q. Okay. And would you please read what
7 the intended procedures are.

8 A. Bilateral upper bleph, lipo to abdomen
9 and legs, silicone implant exchange.

10 Q. You testified that the signature is, in
11 fact, Dr. Schimpf's signature?

12 A. Yes.

13 Q. Does the date next to it -- what's the
14 date?

15 A. June 6, '14.

16 Q. And there is a time next to it?

17 A. Yes. 3:40 p.m.

18 Q. So, would this form have been filled
19 out after the procedure, if the procedure had taken
20 place before 3:40 p.m.?

21 A. I -- I don't know. Sometimes they fill
22 it out before. Sometimes they fill it out after.
23 I'm not really sure when he actually signed it.

24 Q. Well, would your doctor sign a form
25 with a date -- with a date and time before he had

1 done the procedure?

2 A. Uh-huh. You sign consents before you
3 go in to have a procedure.

4 Q. Okay. If I was to represent to you
5 that the procedure of Jeane Whitfield were on June
6 the 6th of 2014 in the a.m. hours --

7 A. Uh-huh.

8 Q. -- and had been completed before 3:40
9 in the afternoon, would that indicate to you that
10 the doctor must have signed the document after the
11 procedure?

12 A. Not necessarily.

13 Q. So, he could have randomly chosen 3:40
14 in the afternoon?

15 A. If somebody went back and, you know,
16 added a time for him or a date for him.

17 Q. Was it a normal practice to alter
18 records that have been signed by the doctor after
19 they have been sign?

20 A. That's not altering the record.

21 Q. Okay. Is it a common procedure to add
22 information to a document signed by the doctor,
23 Dr. Schimpf, or anybody at Sweetgrass Plastic
24 Surgery, after it had been signed?

25 A. I -- I don't know. I mean, there is

1 plenty of times that we, you know, fill in
2 information for Dr. Schimpf so that he can just
3 sign it and he doesn't have to worry about having
4 -- take the time to write a date or a time or, you
5 know, a patient's date of birth like on a
6 prescription, or something like that. So we will
7 take the liberty to help him out to do those
8 things, and then he will be able to sign off on it.

9 Q. On what -- on what type of documents --
10 on what type of documents --

11 My daughter.

12 On what type of documents does
13 Sweetgrass routinely fill out information for the
14 doctor so that he doesn't have to worry about
15 taking the time to do it?

16 MR. SMYTH: Object to the form.

17 THE WITNESS: I mean, we will -- you
18 know, like I said, like prescriptions, and stuff
19 like that, we'll go -- he'll say the patient needs
20 a prescription for, you know, whatever.

21 BY MR. SLOTCHIVER:

22 Q. Okay.

23 A. And, you know, our PA or our nurse will
24 write out the prescription.

25 Q. Okay.

1 A. And then he can review it and sign it.

2 Q. Any other thing besides prescriptions
3 that you can think of?

4 A. Yes. Some of the OR documents, and
5 things like that. I know that they go through,
6 and, you know, they will go and ask the patient all
7 the questions. The medical assistant will go
8 through it, and then he'll review it with the
9 patient and sign off on it.

10 Q. Okay.

11 A. But they have gone in and completed the
12 form.

13 Q. But that's done before he goes over it
14 with them and before he signs it, correct?

15 A. Yes. Usually.

16 Q. Okay. I'm asking under what situation
17 is it that Sweetgrass would fill in the information
18 after the doctor signed a form?

19 A. I guess if it didn't get completed
20 beforehand. But, I mean, it should be completed
21 beforehand.

22 Q. Okay. So, if it should be completed
23 beforehand, then would it be logical to say that
24 the timestamp, the 3:40 p.m., on this form that is
25 in front of you that's been marked as plaintiff's

1 exhibit would have been something filled in
2 commensurate with the doctor's signature?

3 MR. SMYTH: Object to the form.

4 THE WITNESS: I -- I don't know the
5 answer to that. I don't know at what point he
6 signed it, and I don't know at what point that time
7 was put in, so I don't know if he signed it
8 initially and then they put in the time after or if
9 he signed it at the same time. I don't know the
10 answer to that. I'm sorry.

11 BY MR. SLOTCHIVER:

12 Q. I was asking you for examples of a form
13 or a scenario wherein --

14 A. And I don't know of any. I'm sorry.

15 Q. If I can finish. I was asking you for
16 examples of a form or a scenario wherein the
17 medical practice would fill in information on a
18 form after the doctor had signed it.

19 A. And I don't know of any examples.

20 Q. Okay. Are you aware of this happening
21 on a routine basis?

22 A. No, sir.

23 Q. Okay. Any reason to believe, then,
24 that this time is not accurate?

25 A. I mean, if they put that time, then I

1 would believe that that's the correct time.

2 Q. Okay. And any reason to believe that
3 this is not -- that this time is not consistent
4 with the time that the doctor would have signed the
5 form, based on the fact that his signature is next
6 to a date and next to a time?

7 A. I -- you are asking if -- ask me again,
8 please.

9 Q. Would you agree with me, based on the
10 discussions we have had, that -- and the questions
11 that -- and responses that we've -- that you've
12 given that I've asked if there is any reason to
13 believe that the time referenced on the form, this
14 3:40 p.m. --

15 A. Uh-huh.

16 Q. -- is not the time that the doctor
17 signed it, being as much as his signature is next
18 to a date and next to a time?

19 A. I don't know what time that he signed
20 the document and what time -- the time was put on
21 there.

22 Q. Is there any reason that we should not
23 assume that it was actually signed and stamped at
24 the same time that he would of -- that the document
25 reflects?

1 A. There is no way to know that.

2 Q. Okay. So if it's not so, then this
3 document is actually false --

4 MR. SMYTH: Object to the form.

5 BY MR. SLOTCHIVER:

6 Q. -- and misleading. Would that be fair
7 to say?

8 MR. SMYTH: Object to the form.

9 THE WITNESS: I guess so.

10 BY MR. SLOTCHIVER:

11 Q. Okay. Can you tell me where on the
12 form there is any reference to liposuction on the
13 chin of Jeane Whitfield?

14 A. I don't see it stated on there.

15 Q. Is it the practice of Sweetgrass and
16 the doctor to accurately fill out medical forms,
17 such as the one in front of you right now, this
18 exhibit?

19 A. Yeah.

20 Q. And assuming that the time listed next
21 to the date and the doctor's signature is correct
22 as to when he signed this form, would you agree
23 that the lack of any reference on the form to the
24 liposuction of the chin is concerning?

25 MR. SMYTH: Object to the form.

1 THE WITNESS: I -- I assume that you
2 are asking me that because she must have had
3 liposuction to the chin? I don't even know what
4 she had. I assume that she had these procedures
5 that are stated here.

6 BY MR. SLOTCHIVER:

7 Q. Well, if she did have liposuction to
8 the chin, it certainly isn't listed on the form as
9 we have discussed, correct?

10 A. That's correct.

11 Q. And the procedure is any procedure that
12 was intended to be done should have been listed on
13 the form, correct?

14 A. Yes.

15 Q. And if the form was signed when it was
16 purported to be signed, at 3:40 p.m., after the
17 procedures were done, certainly the doctor should
18 have accurately or the staff should have accurately
19 reflected what procedures were done in filling out
20 this form?

21 A. Correct.

22 Q. Okay. At the last time that we met for
23 your deposition, there was a question asked and
24 objected to, and I'm going to go into that area
25 right now, as the Court has ruled that we can ask

1 you about it. So the question before you is not --
2 is just factfinding for us. It's not meant to
3 embarrass, or anything, but it's part of the
4 evidence that we need to understand.

5 Have you at anytime had a sexual
6 relationship with Dr. Schimpf?

7 A. Yes. With him and his wife.

8 Q. With him and his wife?

9 A. Yes.

10 Q. Okay. And how far back does that go?

11 A. 2010.

12 Q. In 2010 was he still working at the
13 Medical University?

14 A. Yes.

15 Q. Is it an ongoing or is it an off-and-on
16 or is it over completely?

17 A. It's been off and on.

18 Q. And is it still off and on even today?

19 A. Yes.

20 Q. Approximately how frequently?

21 A. How frequently what?

22 Q. How frequently would -- would you and
23 the doctor or you and the doctor and his wife
24 engage in sexual relations?

25 A. Sometimes weekly. Sometimes monthly.

1 Depending. Sometimes it didn't happen for a few
2 months. Sometimes it did. I mean, it's been off
3 and on.

4 Q. When is the last time?

5 A. Two -- one week ago.

6 Q. I understand at one point the doctor
7 and his wife were separated. Did it continue
8 during that time period?

9 A. Yes.

10 Q. The other area that I wanted to ask you
11 about was -- pertains to plastic surgery that you
12 yourself have had performed at or by Dr. Schimpf.
13 What is the -- have you had plastic surgery
14 performed by Dr. Schimpf?

15 A. Yes.

16 Q. And over what time period?

17 A. What do you mean over what time period?

18 Q. Okay. I can ask it differently.

19 What type of procedures have you had
20 done with Dr. Schimpf?

21 A. I have had breast augmentation, hernia
22 repair.

23 Q. I'm sorry?

24 A. Hernia.

25 Q. Okay.

1 A. And I've had some liposuction, and I've
2 had fillers, and Botox, and my eyes, laser
3 treatments.

4 Q. All of those -- and excuse me. I don't
5 know the whole realm of plastic surgery. But is
6 hernia repair within the normal confines of a
7 plastic surgeon of what they do?

8 A. They will do it, yes, because they are
9 all certified in general surgery as well as plastic
10 surgery usually.

11 Q. Okay.

12 A. So that when they do abdominoplasty,
13 things like that, they are able to fix those
14 problems.

15 Q. Over what time period have you had
16 these procedures performed?

17 A. In the last six years.

18 Q. What is the most recent?

19 A. Laser procedure.

20 Q. When was the most recent time you had
21 that done?

22 A. Last week. But it was not performed by
23 Dr. Schimpf.

24 Q. Was it performed at Sweetgrass?

25 A. Yes.

1 Q. Are you charged for the procedures that
2 you undergo?

3 A. No. Originally when we were with
4 Dr. O'Neill, we were.

5 Q. Okay. When you shared space with
6 Dr. O'Neill?

7 A. Uh-huh.

8 Q. Do you pay for the costs of the
9 procedures, separate from his billing, but do you
10 pay the costs of whatever procedure is done?

11 A. Well, I mean, it depends on what it is.
12 Like lasers, there is no disposable cost.

13 Q. For example, breast augmentation.
14 You've got a surgical center, correct?

15 A. Yes.

16 Q. Do you pay for the cost of that?

17 A. When we were with Dr. O' Neal, I had to
18 pay for all the facility fees.

19 Q. How about now with Dr. Schimpf?

20 A. No. He does not require it.

21 Q. Okay. Which procedures did you have
22 done while with Dr. O'Neill versus those with
23 Dr. Schimpf?

24 A. Breast aug, eyes, and hernia.

25 Q. Do you receive any -- have you received

1 any end-of-the-year tax forms for the benefits that
2 you've received separate from the wages you
3 receive?

4 A. No.

5 Q. Have you declared these benefits on
6 your tax returns?

7 A. No.

8 Q. When you were sharing space with
9 Dr. O'Neill --

10 A. Uh-huh.

11 Q. -- would the office charge you a
12 discounted rate or a full rate?

13 A. They charged the full rate for
14 facilities and supplies.

15 Q. Okay. And were you charged anything
16 for the doctor's time?

17 A. No.

18 Q. When you were sharing space with
19 Dr. O'Neill, did you receive any end-of-the-year
20 tax documents to file --

21 A. No.

22 Q. -- regarding the benefits that you
23 received without compensating?

24 A. No.

25 Q. Do you know the average value of the

1 procedures, what the cost would have been had you
2 paid for it, for example, on the augmentation?

3 A. They're around 5,700.

4 Q. And the hernia repair?

5 A. Probably 2,100, or so. But when you do
6 them in conjunction with one another, it decreases
7 the price.

8 Q. The liposuction that you've had?

9 A. Probably maybe 3,500, 4,000.

10 Q. Where was that to?

11 A. Inner and outer thighs.

12 Q. And I take it those three were all done
13 one time and one time only?

14 A. I have had an implant exchange.

15 Q. Okay. And that was done with O'Neill's
16 practice or that was done --

17 A. At Sweetgrass.

18 Q. At Sweetgrass. And you weren't charged
19 for that?

20 A. No. The company donates the implants.

21 Q. Are the fillers, are they -- that's
22 more than once, correct?

23 A. Yes. And they are donated as well.

24 Q. They are donated?

25 A. Uh-huh.

1 Q. By who?

2 A. By the company.

3 Q. They are donated for purposes of being
4 used on staff?

5 A. Uh-huh. They have a special staff
6 night where they provide all of the products.

7 Q. Well, the liposuction isn't donated by
8 a company, is it?

9 A. No.

10 Q. And the augmentation isn't donated by a
11 company?

12 A. The implants are.

13 Q. And the replacements?

14 A. Yes.

15 Q. What company?

16 A. Mentor.

17 Q. Your eyes you've had done once?

18 A. Yes.

19 Q. No donation with that, correct?

20 A. (Shakes head.)

21 Q. And laser treatment, is that more than
22 a one-time thing?

23 A. Uh-huh. I've had a couple.

24 Q. Is that donated?

25 A. Well, I mean, there is no disposable

1 cost, or anything, for it. There is not really
2 anything that can be donated.

3 Q. If a customer were to come and seek
4 laser treatment, what would that cost?

5 A. For a full smart skin package, it's
6 \$3,250.

7 Q. Is that the equivalent of what you've
8 had done?

9 A. Yes.

10 Q. Once or more?

11 A. Well, we either do three strong
12 treatments or we can break it up and do, like, five
13 or six smaller treatments. They are not quite as
14 aggressive. So I've had the less aggressive ones.

15 Q. When you've had procedures done on
16 yourself, are there records maintained of the
17 procedures?

18 A. Yes.

19 Q. Do you maintain them yourself or are
20 they maintained at Sweetgrass?

21 A. No. I mean, they are contained in the
22 EMR.

23 Q. Okay. And when did you convert to EMR?

24 A. We have had an EMR the whole time.

25 Q. All right. EMR is electronic medical

1 records, correct?

2 A. Uh-huh.

3 Q. You've had EMR records keeping since
4 Sweetgrass was opened?

5 A. Uh-huh. Well, we used Su Casa, and
6 then we have our regular EMR.

7 Q. Okay. Have you looked in the EMR to
8 see if the exhibit was contained in it?

9 A. I haven't.

10 Q. Any reason it would not have been
11 contained in it?

12 A. If it didn't get scanned in.

13 Q. Did you look in the EMR in order to
14 provide your counsel with -- and Ms. Whitfield with
15 the requested information that she had originally
16 asked for?

17 A. Yeah. We --

18 Q. So if --

19 A. Everything that was in there was given.

20 Q. Is it fair to say that the only
21 document that -- that has been located other than
22 those documents previously provided to us would
23 have been this Exhibit 1?

24 A. Yes.

25 Q. You testified that the augmentation,

1 the hernia repair, and the liposuction were all
2 done while he -- while Dr. Schimpf was still
3 sharing space with Dr. O'Neill, correct?

4 A. The lipo was not done at that time.

5 Q. When was the lipo done, approximately?

6 A. 2016, probably.

7 Q. And when were the fillers done?

8 A. Off and on for the past couple of
9 years.

10 Q. Your eyes?

11 A. They were done at O'Neill's.

12 Q. I'm sorry?

13 A. They were done at O'Neill's.

14 Q. At O'Neill. Sorry.

15 The laser treatment?

16 A. They have been done at Sweetgrass. So
17 in the past couple of years.

18 Q. Are these benefits that you've been
19 provided without cost, are they offered to all of
20 the employees at Sweetgrass?

21 A. Yes. It's common practice in our
22 business.

23 Q. You've worked in two different
24 facilities during your tenure working for doctors,
25 correct?

1 A. Uh-huh.

2 Q. One was at the Medical University and
3 one is at Sweetgrass?

4 A. Yes. But when we were with the Medical
5 University, we dealt with all of the other plastic
6 surgery practices as well.

7 Q. Did the Medical University provide free
8 services to its employees?

9 A. If a patient had wanted -- or if an
10 employee had wanted to undergo, then the doctor
11 would not have charged them, but they would have
12 been charged facility and anesthesia fees because
13 we didn't have a surgical suite so it would have
14 had to have been done like at East Cooper Hospital,
15 or something.

16 Q. And the implant exchange, what year was
17 that?

18 A. 2016. With the lipo.

19 MR. SLOTCHIVER: Let's go off the
20 record for just a moment. I think we're done. Let
21 me take a quick look.

22 THE VIDEOGRAPHER: We are now off the
23 record. The time is approximately 9:47 a.m.

24 (A recess transpired.)

25 THE VIDEOGRAPHER: We are now back on

1 the record. The time is approximately 9:50 a.m.

2 BY MR. SLOTCHIVER:

3 Q. Ms. Tolbert, have all the answers
4 you've given to us today been truthful to the best
5 of your abilities?

6 A. Uh-huh.

7 Q. Is there anything that I've not asked
8 you about the exhibit in front of you that would be
9 relevant to Ms. Whitfield's case or anything on
10 that document that refreshed your recollection
11 about anything on Ms. Whitfield's case?

12 A. No.

13 Q. Okay. Would you be so kind when we
14 conclude the deposition to make a copy of the other
15 records, the other H&P forms that you found within
16 the stack of documents in your cabinet drawer, and
17 provide them to your counsel so he can -- so that
18 we can -- he and I can discuss whether or not he
19 can provide those to us in a redacted form?

20 A. Okay.

21 Q. Is that something you can do today?

22 A. Uh-huh. Oh, today?

23 Q. Or -- or within the next couple of
24 days.

25 A. Yes.

1 Q. Okay. And -- and when you provide
2 that, would you be so kind as to also provide him
3 -- or to confirm with him if the document that you
4 have appears to be an original, if you believe it
5 is, under which case we would like an opportunity
6 to -- to see it.

7 MR. SMYTH: Exhibit 1?

8 MR. SLOTCHIVER: Exhibit 1.

9 MR. SMYTH: Okay.

10 BY MR. SLOTCHIVER:

11 Q. Otherwise, we -- or if it's in color,
12 in which case we would like to see it. Is that
13 something that you can do also in the next couple
14 of days?

15 A. Uh-huh.

16 MR. SLOTCHIVER: Okay. Well, thank you
17 very much. I've got nothing further.

18 MR. SMYTH: Just one followup question
19 for clarification.

20 EXAMINATION

21 BY MR. SMYTH:

22 Q. You were asked a number of questions
23 about Exhibit 1, as to who filled it out and when
24 they filled it out. Do you have firsthand
25 knowledge of any of that information?

1 A. No.

2 Q. Okay. And you are not saying that
3 Dr. Schimpf or any of the staff that was involved
4 in filling this form out either provided false or
5 misleading information in that document, are you?

6 A. No.

7 MR. SMYTH: Okay. Those are all my
8 questions. Thank you.

9 THE VIDEOGRAPHER: This concludes the
10 video deposition of Vicky Tolbert. The time is
11 approximately 9:52 a.m. We are now off the record.

12 (The witness, after having been advised
13 of her right to read and sign this transcript, does
14 not waive that right.)

15 (The deposition was concluded at 9:52
16 a.m.)

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SIGNATURE OF DEPONENT

DEPONENT: VICKY TOLBERT
DEPOSITION DATE: FEBRUARY 11, 2019
REPORTER: KAREN NELLIUS
CASE CAPTION: JEANE WHITFIELD vs. DENNIS K.
SCHIMPF, M.D., AND SWEETGRASS PLASTIC SURGERY, LLC

(Please return both Signature of Deponent pages)

I, the undersigned, VICKY TOLBERT, do hereby
certify that I have read the foregoing deposition
and find it to be a true and accurate transcription
of my testimony, with the following corrections, if
any:

PAGE	LINE	CHANGE	REASON
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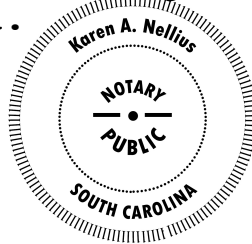
SIGNATURE OF DEPONENT (CONTINUED)

DEPOSITION DATE: FEBRUARY 11, 2019
REPORTER: KAREN NELLIUS
CASE CAPTION: JEANE WHITFIELD vs. DENNIS K.
SCHIMPF, M.D., AND SWEETGRASS PLASTIC SURGERY, LLC

PAGE LINE CHANGE REASON

VICKY TOLBERT Date

I, Karen Nellius, Notary Public for the State of South Carolina at Large, do hereby certify that the deponent was advised of his or her right to read and sign said deposition both verbally and in writing. If the deponent fails to execute and return foregoing Signature of Deponent pages within the thirty (30) days allowed pursuant to the Rules of Civil Procedure, the original transcript may be filed with the court.



Karen Nellius

Karen Nellius, RPR
My Commission expires
November 14, 2024

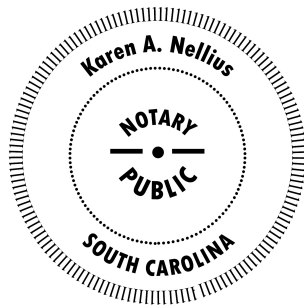
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CERTIFICATE OF REPORTER

I, Karen Nellius, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

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

Witness my hand, I have hereunto affixed my official seal this 13th day of February, 2019 at Charleston, Berkeley County, South Carolina.



Karen Nellius

Karen Nellius, RPR
My Commission Expires
November 14, 2024

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

SC Court of Appeals

Bentley D. Price, Circuit Court Judge

Case No. 2017-CP-10-02758
Appellate Case No. 2019-001716

Jeane Whitfield,

Appellant,

v.

Dennis K. Schimpf, M.D. and
Sweetgrass Plastic Surgery,
LLC,

Respondents.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

s/Jesse Sanchez
Jesse Sanchez (SC Bar No. 101906)
The Law Office of Jesse Sanchez, LLC
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(843) 814-8181

Attorney for Appellant

October 12, 2020
Charleston, South Carolina