

No:19-6498

IN THE
SUPREME COURT OF THE UNITED STATES

ANDREA RENE'E TOOTLE - PETITIONER

VS.

BEAUX ART INSTITUTE OF PLASTIC SURGERY, ET AL.- RESPONDENT (S)

Petition For Rehearing

U.S. Supreme Court, Office of the Clerk
1 First Street, N.E., Washington, DC. 20543

Petition for Rehearing

Andrea Rene'e Tootle

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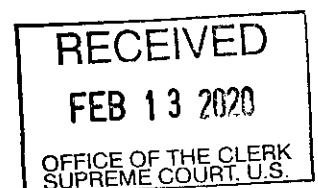


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ANDREA RENE'E TOOTLE, PETITIONER

V.

BEAUX ART INSTITUTE OF PLASTIC SURGERY, ET AL.,
RESPONDENT

ON WRIT OF CERTIORARI

TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH
CIRCUIT

PETITION FOR REHEARING

Pursuant to Rule 44 of this Court, the Acting Solicitor General, on behalf of the petitioner, Andrea Rene'e Tootle, hereby respectfully petitions for rehearing of this case before a full nine-Member Court. This rehearing and protection, along with a public reprimand would serve the purpose of protecting 1 in 8 breast cancer patients, most directly 5% who develop abscess and cellulitis, responsive to standard care of treatment with antibiotics. Rehearing case 19-6498 will set a standard of protection against doctors who use extreme care when treating post radiation therapy breast cancer patients FOR PERSONAL ENRICHMENT. The set standard should require specialized care from a radiation doctor, and not a plastic surgeon before stretching to extreme care, thus harming the patient.

1. This case demands protection of breast cancer patients from unscrupulous and egregiously negligent doctors who harm, maim, disfigure, create false documents because the legal system believes doctors over patients, and doctors lie to cover up wrongdoings, which often causes injury with severe and permanent impairment to their patient. *Gallagher v Mercy Med. Car, Inc.* 207 A.3d 634 (Md. Ct. Spec. App 2019)

2. Ordinarily, only 1% of submitted case reviews are granted hearings, and possibly less for a rehearing. But due to the miscarriage of justice by the lower courts of Maryland, merits of this case, and low number of breast cancer patients who might be affected with cellulitis and abscess after radiation therapy, it is imperative that medical standards are set to address this special group of patients. *Attorney Grievance v Tolar*, 745A.2d 1045 (Md. 2000)

3. Only 5% of breast cancer patients reportedly are impacted by consultation, care, appropriateness to properly diagnose and treat cellulitis and abscess of radiated skin. The standard care and treatment for cellulitis and abscess is considerable different from care for non breast cancer patients with expanders to preserve breast conservation, symmetry, loss of breast, and long term recovery. *Froneberger v Ownes*, No. 1326 (Md. Ct. Spec. App. Feb 29, 2016)

4. It is paramount this case is heard to set a standard of care for the protection of breast cancer patients who are treated and consulted by negligent doctors performing surgeries and harming the patient because of the greater scope of possible radiation therapy burn, thus requiring specialized consultation from a radiation doctor, and not a general or plastic surgeon. The refusal of a doctor to prescribe pain medication for injury caused to the radiated skin and chest area is heartless and often scrutinized due to the ongoing opioid epidemic. *Wilcox v Orellano*, 115 A.3d 621 (Md. 2015). For this reason, doctors who harm their patient must be found liable of negligence, and malpractice.

5. Although the case lacked an expert opinion the doctor knew she would greatly harm her patient and an expert opinion could benefit and help identify the doctor's liability. But in this case, *res ipsa loquitur* clearly indicates gross negligence, lack of consent from patient (to remove an expander due to cellulitis and abscess), excessive care, and not standard care because there is no standard for radiated skin cellulitis and abscess. An expert would probably claim no liability because it is a standard practice established in the plastic surgery speciality to remove an expander, if infected, but radiated skin requires a conservative consultation when going from standard care to extreme care and surgeries outside normal care. *Brown v. Meda* 74 Md. App 331 (Md. Ct. Spec. App. 1988)

6. The need for rehearing is necessary in order to caution doctors from harming breast cancer patients who have had radiation therapy, and may develop cellulitis with an abscess as standards must be set. Radiated skin does not heal readily and often requires wound care to aid in healing for this small identified special group of cancer patients, who need protection.

7. Refusing to hear this case will put many 5% of breast cancer patients in jeopardy of harm, or even death due to the negligence of an unskilled doctor to provide care for radiated skin that develops cellulitis and abscess.

Close

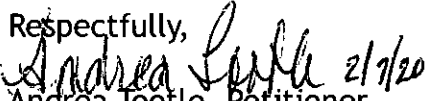
Enclosed are photos and visual claim of loss, along with pain and suffering due to the Respondent (s)s' error in judgment, misleading of Petitioner, mutation of preserved right breast, and failure to provide standard care for an abscess and cellulitis. Petitioner never authorized Respondents' removal of tissue expander from recently radiated skin due to pain. Respondents' counsel has failed to provide proof of Petitioner's authorizing Respondents' claimed removal of not infected tissue expander due to pain, as per Respondents' answer.

The merit of this claim is proof of gross negligence, on the part of the Respondent (s)s, to up hold the medical Hippocratic Oath and trust of Petitioner to provide adequate medical care and healing. The res ipsa loquitur of this claim against the Respondents clearly states the wrongful action of the Respondents, reasons for relief, along with monetary settlement for pain, suffering, cruel, and unusual punishment. To date, Petitioner suffers from pain in the right quadrant: chest/breast area, shoulder, and back. Petitioner continues to take high dose pain medication for ongoing relief at level 4.

Petitioner has suffered greatly (11,616 + hours); emotionally, physically, and mentally by the wrongful and unethical actions of the Respondent(s) as set forth in the claim. The Petitioner also requests all expenses as they relate to the harm, injury, and care from June 25, 2012 - May 14, 2013 (date of DIEP Flap) as requested by the following entities; Care First/Blue Cross Blue Shield, MetLife Insurance, SSDI, Co-payments, Medicare, Physical Therapy Partners, and hospital facilities. Petitioner will seek medical tattoo of areola and nipple, in addition to future surgeries necessary to improve symmetry.

Medical expenses: \$ 165,899.00	Disability Insurance: \$34,800.00
Other Insurance cost: \$38,328.00	Pain & suffering: \$ 2,323,200.00
Filing False documents: \$ 0	Cruel & Unusual Punishment: \$ 2,323,200.00
Court Cost: unknown	Litigation Expenses: unknown
	Punitive Damage: 7,000,000.00

Finally, Petitioner strongly urges Supreme Court Justices to find the Respondent(s) guilty of harm as claimed by the Petitioner with no opportunity for appeal or trial. Petitioner requests demand of settlement. Petitioner has done her due diligence, and now the highest Court of the land is asked to due theirs in order to protect breast cancer patients at the hand of unscrupulous doctors who knowingly harm their patients because they believe the courts will not find them guilty.

Respectfully,

Andrea Tootle, Petitioner
November 12, 2015

Andrea Tootle
Petitioner

v.

Dr. Nia Banks, et al.
Beaux Arts Institute of Plastic Surgery
Respondent (s)s

No.19-6498

Certificate of Service

I certify that this petition for rehearing is presented in good faith and not for delay.

I certify that on 7th of February 2020, the Petitioner mailed copies via prepaid first-class mail to Respondent (s)s' legal representative Michael von Diezelski, 1410 Frest Drive, Suite 26, Annapolis, Maryland. 21403. Petitioner Request for Rehearing, Close and pictures enclosed. Respondent (s)s failed to provide original proof of evidence authorizing Respondent (s)s to perform elective surgery without radiation doctor's consultation when Respondent (s)s removed right tissue expander due to pain, which was against standard care.

Petitioner validates claim of unauthorized procedure and Respondent (s)s' failure to provided standard care for abscess and cellulites with antibiotic therapy, which caused harm to the Petitioner as claimed by Petitioner.

Andrea Tootle
Petitioner

For the foregoing reasons, the petition for rehearing should be granted to establish a standard for breast cancer patients who develop cellulitis and abscess.

Respectfully submitted.

Andrea Tootle
Petitioner

February, 7, 2020

**Additional material
from this filing is
available in the
Clerk's Office.**