

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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Nos. 1D2023-0358  
1D2023-0839  
1D2023-1518  
(Consolidated for disposition)

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CURTIS GORHAM,

Appellant,

v.

DR. GARY H. LAVINE; DR. EMILY  
D. BILLINGSLEY; KENDREA  
VIRGIL, RN; LLOYD G. LOGUE;  
DONNA BAIRD; JOSEPH R.  
IMPICCICHE (CEO); JUNCO  
EMERGENCY PHYSICIANS; BAY  
COUNTY HEALTH SYSTEM, LLC;  
DANIEL COUSIN; PAYPAL, INC.;  
and STATE OF FLORIDA,

Appellees.

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On appeal from the Circuit Court for Bay County.  
Elijah Smiley, Judge.

November 29, 2023

PER CURIAM.

We have consolidated these three appeals for disposition  
because they arise out of the same proceeding below. Appellant

filed suit primarily for medical malpractice against numerous healthcare providers and entities. In the same complaint, Appellant sued the expert witness he retained to furnish the statutorily required opinion that malpractice had occurred. The expert determined that there was no deviation from the medical standard of care and therefore that he could not give the requested opinion. Given that opinion, Appellant also sued PayPal for refusing to refund Appellant's payment to the expert. Appellant also sued the State of Florida for improperly enacting statutory requirements for malpractice suits. We address the three resulting appeals in the order in which they were filed.

**Case No. 1D2023-0358.**

Appellant challenges the order dismissing with prejudice all claims against the expert witness. This is a final and appealable order over which we have jurisdiction. On its merits, we affirm. To the limited extent we can derive a preserved legal argument from Appellant's filings, it appears he argues that this order is invalid because the trial court used Appellant's personal e-mail address in the order, rather than a separate e-mail address Appellant had provided for service. This argument is not supported by any legal authority, and it is meritless.

**Case No. 1D2023-0839.**

Appellant challenges four orders. One cancelled all pending hearings. This procedural order is not appealable, and we dismiss as to this order.

The second challenged order dismissed all claims against PayPal without prejudice. Such an order is not ripe for appeal. *See Hinote v. Ford Motor Co.*, 958 So. 2d 1009, 1010–11 (Fla. 1st DCA 2007) (explaining that a dismissal without prejudice is not appealable unless it is clear in the order that any further proceedings must be brought in a separate action). We dismiss as to this order as well.

The third order granted a motion to dismiss with prejudice claims against Bay County Health System, LLC. Because this order merely grants a motion and does not contain final language

actually dismissing the claims, it is not appealable. *See Johnson v. First City Bank of Gainesville*, 491 So. 2d 1217, 1218 (Fla. 1st DCA 1986) (explaining that an order granting a motion to dismiss with prejudice, but not actually dismissing the case, is not final and appealable); *see also* Fla. R. App. P. 9.110(l). We dismiss as to this order.

The fourth order dismissed with prejudice all claims against Drs. Billingsley and Logue. This order is final and appealable, and the notice of appeal was timely; therefore we have jurisdiction. We affirm on the merits.

It is undisputed that Appellant failed to comply with the medical malpractice presuit requirements, and that the time for doing so has long since passed, barring his action under the statute of limitations. He nevertheless appears to argue that he is exempt from these requirements under what he calls the “foreign body retainment” doctrine, since he “retained” radiation from his CT scan. There is no legal support for this absurd argument, which the trial court correctly rejected.

#### **Case No. 1D2023-1518.**

Appellant attacks the same non-appealable scheduling order challenged in Case No. 2023-0839. Further, this notice of appeal was untimely. We therefore dismiss Case No. 2023-1518 without further discussion.

#### **Court Warning to Appellant.**

Appellant’s filings have been abusively numerous and fractured, utterly failing to state valid arguments in a concise and cogent manner. This is improper. *See F.M.W. Props., Inc. v. Peoples First Fin. Sav. & Loan Ass’n*, 606 So. 2d 372, 377–78 (Fla. 1st DCA 1992) (“We note, however, that the failure to organize arguments under cogent and distinct issues on appeal presents sufficient reason for an appellate court to decline consideration of a matter.”). Appellant is warned that any further such filings will subject him to sanctions, including dismissal of all appeals without further opportunity to be heard, and potentially being barred from

appearing in this Court ever again unless represented by a lawyer in good standing with The Florida Bar.

Although Appellant has the procedural right to file a motion for rehearing or for rehearing en banc, in light of Appellant's history of abusive filings we direct that he must combine any such post-decision arguments in a single document. *See Fla. R. App. P. 9.300(b)*. Any such motion may not merely repeat arguments already raised. Further, any such document shall not exceed 15 pages and must use an authorized font. All arguments presented must be substantively clear, concise, and organized, with citations to legal authority. Any other or additional filings not expressly authorized by the appellate rules, and any filing that does not comply with these requirements, will be stricken without further opportunity to be heard.

All pending motions are denied.

DISMISSED in part and AFFIRMED in part; WARNING issued.

KELSEY, M.K. THOMAS, and NORDBY, JJ., concur.

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***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

---

Curtis Gorham, pro se, Appellant.

Tara L. Said of Lloyd, Gray, Whitehead & Monroe, P.C., Pensacola, for Appellee Dr. Daniel Cousin; Joseph E. Brooks of Brooks Law, Tallahassee, for Appellee Junco Emergency Physicians; Erica Conklin Baines of Husch Blackwell LLP, Chicago, Illinois, for Appellee PayPal, Inc.; and Jacob M. Salow and E. Victoria Penny of Henry Buchanan, P.A., Tallahassee, for Appellees Dr. Emily Billingsley and Lloyd G. Logue, DO.



**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

December 29, 2023

Curtis Gorham,

**Case 1D2023-0358**

L.T. No.: 22001076CA

Appellant,

v.

Dr. Gary H. Lavine; Dr. Emily D.  
Billingsley; Kendrea Virgil, RN;  
Llyod G. Logue; Donna Baird;  
Joseph R. Impicciche (CEO); Junco  
Emergency Physicians; Bay County  
Health System, LLC; Daniel  
Cousin; PayPal, Inc.; and State of  
Florida,

Appellees.

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**BY ORDER OF THE COURT:**

The Court denies the motion for rehearing docketed December 18, 2023.

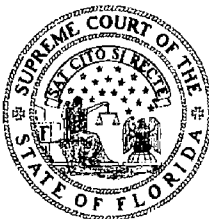
**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Erica Conklin Baines

Joseph Eugene Brooks

Curtis Gorham



# Supreme Court of Florida

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## ACKNOWLEDGMENT OF NEW CASE

Monday, January 8, 2024

RE: Curtis M. Gorham,  
Petitioner(s)

v.

Dr. Gary H. Lavine, et al.,  
Respondent(s)

Case Number: SC2024-0034  
Lower Tribunal Case Number(s): 1D2023-0358;  
032022CA001076CAXXXX

Case Type: Discretionary Review - Notice to Invoke - Direct Conflict  
of Decisions

The Florida Supreme Court has received the filed Plaintiff's Motion for Rehearing and other Matters reflecting a filing date of January 04, 2024, which has been treated as a Notice to Invoke Discretionary Jurisdiction, seeking review of an opinion from the First District Court of Appeal issued November 29, 2023, rehearing denied December 19, 2023, and December 29, 2023.

Please be sure to register for your Appellate Case Information System (ACIS) account. For more information on registering please visit <https://www.flcourts.gov/ACIS>.

**CASE NO.: SC2024-0034**

Page Two

TW

cc:

CIV LIT TLH ATTORNEY GENERAL  
ERICA BAINES  
JOSEPH EUGENE BROOKS  
1DCA CLERK  
BAY CLERK  
CURTIS M. GORHAM  
ELIZABETH VICTORIA PENNY  
TARA LEE SAID  
JACOB MILLER SALOW  
HON. ELIJAH SMILEY  
BRIAN L SMITH

Dr. Cousin Argument & Dr. Billingsley & Bay County Health LCC Standards; Federal Code starting on page 335 the 7 Radiology Standards are as follows;

(Standard A-0536, §482.26(b)(1)) "proper shielding is applied to a patient who is undergoing a procedure using ionizing radiation." "Types of personal protective shielding (e.g., lead aprons, ..protective eyewear,"

*I asked the unknown assistant for shielding and he said "I didn't need it."*

(Standard A-0539., §482.26(b)(4)) - "Radiologic services must be provided only on the order of practitioners... confirms the order with the ordering practitioner if there are any concerns about its appropriateness."

(Standard A-0546., §482.26(c)) radiologist must supervise the ionizing radiology services and must interpret only those radiologic tests that are determined by the medical staff to require a radiologist's specialized knowledge."

(A-0553., §482.26(d)) Standard: "Records of radiologic services must be maintained....The hospital must maintain records for all radiologic procedures performed. At a minimum, **the records must include the orders** for the services,...**and any films, scans, digital or other image records,**... **Patient radiologic services records are considered patient medical records** and the hospital must comply with the requirements of the medical records CoP (§482.24)."

(A-0528., §482.26) ..the diagnostic services, must meet professionally approved standards for safety and personnel qualifications." "Some of these modalities (radiography, computed tomography,...) utilize ionizing radiation, which has enough energy to potentially cause damage to DNA.."

"Diagnostic services are performed to determine a specific cause of the medical problem.. (e.g., fractured bone,...the risks to the patient...depend on.., the length of the study/procedure,"

"Modalities that use Ionizing Radiation, Radiography (X-rays) is a technique for generating and recording an x-ray pattern for the purpose of providing the user with a **static image(s)** after termination of the exposure. During a radiographic procedure, an x-ray beam is passed through the body. A portion of **the x-ray is absorbed** or scattered **by the body's internal structure** and the remaining x-ray pattern is transmitted to a detector, so that **an image may be recorded** for later evaluation. The recording of the pattern may occur on film or through electronic means (digital). X-rays are used to diagnose or treat patients **by displaying images** of the internal structure(s) of the body to assess the presence or.. and structural damage or **anomaly.**"

"Computed Tomography (**CT**) scanning, also called computerized axial tomography (CAT)

scanning, is a medical **imaging** procedure that uses x-rays to show cross-sectional images of the body. A CT **imaging system** produces cross-sectional **images** or "slices" of areas of the body, like the slices in a loaf of bread. During a CT scan, a patient undergoes several consecutive and simultaneous X-rays that can be configured as a three dimensional reconstruction of the part of the body that is being imaged. Thus, a CT scan delivers more ionizing radiation to the patient than radiography. CTs are better able to distinguish between different types of tissues in the body than radiography,...CT offers significantly improved resolution.."

"Ionizing radiation can also be used for therapeutic purposes, in which the energy is utilized to directly kill cancerous cells." "The amount of ionizing radiation that a patient..receive during the procedure depends on the procedure's length and complexity."

"Provision of services in accordance with professionally approved standards for safety All radiological services provided by the hospital, including both diagnostic...must be provided in accordance with acceptable standards of practice, including standards for safety. Professionally approved standards include maintaining compliance with applicable Federal and State laws and regulations governing radiological services, including, but not limited to..."

(A-0535, §482.26) Condition of Participation: "Radiologic Services...**must meet professionally approved standards for safety** and personnel qualifications..."

§482.26(b) Standard: "Safety for Patients...The radiologic services, particularly ionizing radiology procedures, must be free from hazards for patients..."

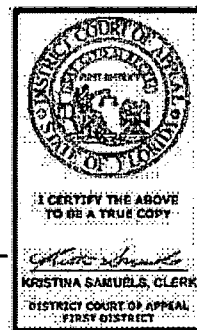
Interpretive Guidelines §482.26(b) "The hospital must adopt and implement radiologic services **policies and procedures that provide safety for affected patients...**and which are consistent with accepted professional standards for radiologic services."

"Ionizing Radiology Procedures...**X-ray energy used in radiologic services also has a potential to harm living tissue.** The most **significant risks** are: Cataracts and skin damage, but only at very high levels of radiation exposure; and..An **increase in the possibility that a person exposed to x-ray energy will develop cancer** later in life. The risk... it depends on at least three factors—the amount of the radiation dose, the age of the person exposed, and the sex of the person exposed: The lifetime **risk of cancer increases the larger the dose and the more x-ray studies or procedures a patient undergoes,**"

"MRI: **However, they also are not entirely risk-free.** Potential risks include **thermal injury and burns**,...and hearing damage..."

(A-0535., §482.26) "Condition of Participation: Radiologic Services  
For ionizing radiation services, application of the fundamental principle of As Low as Reasonably Achievable or ALARA, which is defined by the U.S. Environmental Protection Agency (EPA) as "**A principle of radiation protection** philosophy that requires that exposures to ionizing radiation be kept as low as reasonably achievable, ..the ALARA principle is considered an accepted standard of practice for ionizing radiation services to which hospitals must adhere. Written protocols developed or approved by **the radiologist**

**responsible for the radiologic services, in conjunction with other qualified radiologic services personnel** (e.g., a medical physicist, radiologic technologists, patient safety officers, etc.) designed to ensure that diagnostic studies and therapeutic procedures are routinely performed in a safe manner, utilizing parameters and specifications that are appropriate to the ordered study/procedure. The hospital must ensure that protocols for the various types of ionizing radiation diagnostic or therapeutic imaging modalities are designed to minimize the amount of radiation while maximizing the yield and producing diagnostically **acceptable image** quality. Existing protocols must be reviewed periodically and updated as needed. The rationale and details for changes to technical parameters must be documented.”



IN THE SUPREME COURT,  
OF THE STATE OF FLORIDA

**Appellant, Plaintiff,**  
Curtis M. Gorham

**VS**

**Appellee, Defendants,**

Dr. Gary H. Lavine, Dr. Emily D. Billingsley,  
Kendrea Virgil, RN., Lloyd G. Logue, Donna  
Baird, Joseph R. Impicciche (CEO),  
Junco Emergency Physicians, Bay County  
Health System LLC, The State of Florida,  
PayPal, Inc., USAA FSB, and other  
unknown people such as the orderly and  
radiology assistant,  
(Medical Expert) Dr. Daniel Cousin.

**FIRST DISTRICT COURT  
OF APPEAL**

DCA Case No. 1D23-0839

DCA Case No. 1D23-0358

DCA Case No. 1D23-1518

L.T. Case No. 22001076CA

Bay County Civil  
District Court

Date: 12/29/2023

**Plaintiff's Motion for Rehearing and other Matters**

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**TABLE OF AUTHORITIES:**

766.104(1) .....various  
766.102(2)(b) .....various  
95.11.....various  
Chapter 120.....various

**POINTS INVOLVED:**

In the first district court of appeal, of the state of florida, this is a complex litigation which the First District Court of Appeals has denied my appeals, combined them all, denied my motions, and not allowed me to file enlarged briefs. There is confusion as to if this is Florida Supreme Court appropriate

21 as it is a DCA amicus finding. Appears to be mistakes on top of lower  
22 tribunal mistakes along with attorney misconduct. See the medical records  
23 below. (exhibit A), for how this all began. It is obviously fraud by the  
24 hospital and medical providers. I had a back injury they turned it into a  
25 opportunity to play the opposite game and do eugenics.

#### 26 **ARGUMENT:**

27 We live in a legal world of oops malpractice, and so if it is intentional than  
28 the 766.102(2)(b) lack of informed consent applies, and so the defense  
29 counsel wants no part of that and would rather argue that experts in presuit  
30 were not gotten, which then ran the statutes of limitations, however, Dr.  
31 Cousins report states I did have a back injury and the records speak for  
32 themselves, and so under 766.104(1) there is "reasonable investigation"  
33 and so the defense counsel continued the fraud and misrepresentation that  
34 had been occurring all along, and that required me to have to do things  
35 differently when they denied my claims 2 years ago, and so I had to once  
36 again pursue attorneys after their denial letter making it under 95.11 the  
37 date I discovered the fraud and injury as that denial date and then now 2  
38 years later I file the lawsuit, and so these advanced legal problems within  
39 the statute of repose then become reality with such things, rather than the  
40 defense counsel admit it is under the doctrine exception in 766.102(2)(b) 2  
41 years ago because it was intentional and so instead with denial we have to  
42 move forward, because that denial makes it not intentional and without lack  
43 of informed consent, and so they had already denied all things and so were  
44 not going to be sending me discovery, nor did I want it, covid-19 was  
45 happening, don't send me anything, and I am not going to the hospital, they  
46 already were doing a conspiracy, was I going to ask Dr. Billingsley to  
47 operate the CT scanner so I could measure how far inside of it I was the  
48 night of the incident. There are 2 deleted series of images. The hospital  
49 refuses to give me a copy of the CT scan orders. So how can I have a  
50 expert review what doesn't exist.

51 Much of this lawsuit is undefinable at this time, due to many aspects  
52 crossing over with other applicable laws and are yet to be determined,  
53 making it all fall under the "other" category, which makes it difficult for me to  
54 pursue legal answers or medical answers. Also what happened to me, was  
55 the nurse let it be wrong, didn't correct it, then the doctor didn't correct her,  
56 it is medical experimentation.



57 This is a lawsuit about and based on a series of medical incidents, which  
58 the 1ST DCA has technically and factually and therefore literally gotten  
59 incorrect, making it irreparable harm to me, their denial decision that is and  
60 what is happening here locally with these matters. The DCA decision  
61 11/29/2023 DCA decision is literally don't come back to this court while  
62 there is nothing but harms caused to me on a constant basis.

63 The DCA was asked to consider 2 questions. First, is a state registered  
64 medical expert doing fraud broadly speaking with other causes of action.  
65 Further, how does that expert affect my lawsuit. Second, is the incident at  
66 the hospital a conspiracy that caused me harm, and further does a  
67 continual conspiracy after that incident have any bearing on these matters.

68 The Bay Medical hospital records do not actually outline that I have a "back  
69 injury" but instead outline that I have a "beltline" injury that is accompanied  
70 by a "head injury," while also being accompanied by a "knee contusion, with  
71 abrasion." What this ultimately means is that if I went home and my spine  
72 snapped in half in the middle back where my primary injury was at in the  
73 T12 vertebrae, the hospital would be able to say based on the medical records  
74 that I never had that injury when I was in the ER and that I must have  
75 gotten injured at home. Further, the doctor and or nurse makes great effort  
76 to outline that they had evaluated me and I had a pelvic injury and a head  
77 injury and he had done various neurological exams because of the head  
78 injury.

79 I have a witness who was there all along at the incident and hospital and  
80 pictures/video of the street sign before the moving that made it fall with me  
81 and then being down, from the hurricane, then in the sewer when it  
82 snapped and then reinstalled the next day. I never had as the medical  
83 records say a "head injury," or any tests for it all while at the same time  
84 saying I had a knee contusion which I did have, abrasion. Opposite game  
85 has been outlined in the lower tribunal filings at length they CT scanned my  
86 pelvis while saying they were not going to with assurance of that even  
87 spent time before the exam checking on getting me a copy of the order, so  
88 time line shows what was done, but the hospital refuses to give the order  
89 when requested and the LT judge denied discovery motion.

90 I had a x-ray exam weeks later after the CT scan that says that I have a  
91 T12 compression fracture between T12 and T11 vertebrae in the spine  
92 which is middle back and which is just above the lumbar spine, lower back.

93 Therefore, like all of the medical records, the hospital staff at Bay Medical  
94 "didn't say enough in regards to my real injury." Unknown to me the  
95 records show all along a beltline injury so it was all lies.

96 The nurse records are wrong, the ER doctors are wrong, and the  
97 radiologist spent time before the exam checking for a paper copy of the CT  
98 scan for me and over 10 minutes later didn't return with it, but I was given  
99 assurance that no pelvic scanning would occur including by the unknown  
100 radiology assistant. I talked to him the entire time Dr. Emily Billingsley was  
101 checking on the order. She then "deleted" 2 entire series of images, which  
102 by "standards" is "medical records" and so she deleted my medical records.  
103 The time Dr. Lavine wrote the 2<sup>nd</sup> order is important, but the hospital won't  
104 give it to me despite me requesting it, and it being required to be a part of  
105 the radiology record for 5 years. The time that 2<sup>nd</sup> order was written  
106 establishes that Dr. Billingsley spent time before the exam checking to a  
107 get a paper copy of the order, thus my narrative is correct. Might even be  
108 CCTV video in the "preserved information" since I sent them a letter to the  
109 risk manager she told me to send it to her as well.

110 The question then is can the staff have the records entirely wrong, and do  
111 the wrong exam and it all be considered to have been with 766.102(2)(b)  
112 "Informed Consent" of the patient? The hospital said there was nothing  
113 wrong and then gave me narcotics for pain. Obviously everything is so  
114 obvious on every level of this. Saying experts are required is saying  
115 766.104(1) "reasonable investigation" doesn't exist here, as I did that, even  
116 with the fraud expert it is still obvious.

117 Everything I did was with "due diligence" and "in light of all relevant  
118 circumstances" and under 95.11 fraud and misrepresentation waives the  
119 statutes of limitations and that has been what has been going on, along  
120 with other incidents which makes me "incompetent" to proceed, because of  
121 continued physical harms by other medical providers, thus tolling the  
122 statutes of limitations, estoppel is also applicable, as is covid-19. As in  
123 being poisoned by Dr. Jenkins a urologist, means I am not in the library  
124 reading caselaw. Chapter 120.52 would apply for "waiver" and "delegated  
125 legislative invalidity of statutes" also. DCA has decided only through  
126 misapprehension of facts. Based on such facts and evidence for violation of  
127 766.102(2)(b) the medical providers did not have consent as I can not  
128 agree to have myself harmed, and they can't say that it was done for a  
129 "medical purpose" because it is conspiracy.

130 This is the DCA precedent right now. How do I present that they deleted  
131 my medical records and call it fraud and misrepresentation by staff. Dr.  
132 Cousin a medical expert in radiology said that I had a T12 spine injury and  
133 so that makes my visit to the ER for that injury. Yet the staff says I had  
134 other harms and checked for that. Dr. Daniel Cousin didn't review those  
135 parts of my claims that would give it merit and so is a fraud and he didn't  
136 give opinion based on "all relevant circumstances" which would also seem  
137 to cover me under 766.104(1) for "reasonable investigation.

138 It would seem the court would apply the law that is appropriate when it is  
139 needed to be applied, and the DCA has a rule that all things filed get to be  
140 converted into whatever is necessary as if that was filed, such as a writ of  
141 mandamus or certior, or whatever else, and so instead of just recycling  
142 what the defense counsel has said and how they did misconduct  
143 preventing me from doing my side of filings needed, so now asking the  
144 supreme court to interpret my filings to accomplish the relief sought.

145 PayPal is final needs to go to arbitration if DCA doesn't reverse it,  
146 their terms have discretion to act and they didn't and it is fraud.

147 Bay County Health LLC motioned to dismiss and then got it, and so DCA  
148 saying it is not final is odd, since it disposed of defendants with the  
149 dismissal and so it isn't some other "order" it is literal defendant parties like  
150 any other case dismissal.

151 Junco Emergency Physicians should be returned to the lower court, they  
152 staffed Dr. Gary Lavine, the emergency room doctor who did the cover up  
153 and conspiracy, and so they have a registered agent that is a corporation  
154 that does accept service as a business, and so my case is being dismissed  
155 because it wasn't served to their mailbox by a sheriff, instead by a letter,  
156 which was sent to two places actually one with certified mail, and they all  
157 needed to be served with service by court. I have social security disability  
158 and so can't fund all the mailing. It would only be through debt spending.

159 **CONCLUSION:**

160 DCA decision is counter productive to the truth of the matters and what has  
161 happened in the process of the trial. It actually makes it so there is no  
162 conspiracy and there are no harms and the medical expert found no fault.  
163 When the reality is there is nothing but fraud, conspiracy and nobody

164 wanting to address it all so cover it up. It is a matter of great public concern  
165 in many ways. The conspiracy, the ionizing radiation use, the lack of  
166 consent, the laws and lack of ability to bring these matters through counsel.

167 DCA decision is counter productive to the truth of the matters and what has  
168 happened in the process of the trial. It actually makes it so there is no  
169 conspiracy and there are no harms and the medical expert found no fault.  
170 When the reality is there is nothing but fraud, conspiracy and nobody  
171 wanting to address it all so cover it up. I have no choice left but to go to the  
172 Supreme Court of the United States. First Florida Supreme Court is asked  
173 to look at this matter as it is a "combined" appeal with 3 appeals made into  
174 1 decision with no opinion and rehearing denied. Hopefully it can be  
175 original jurisdiction or some other extraordinary writ for review.

176 CERTIFICATION OF FONT

177 This filing complies with the font and format requirements of Arial font and  
178 14 point.

179 I certify that on 12/29/2023 a copy of this filing has been provided to  
180 the First District Court of Appeal in Florida, via the E-Portal and also via  
181 regular mail or email to those not on the E-Portal and that the defendants,  
182 names and address are included below.

183 /s/ Curtis Gorham

184 From:

185 PLAINTIFF/APPELLANT: Curtis M. Gorham

186 Pro Se Litigant. 3513 Rosewood Cir, Lynn Haven, FL 32444 850-601-4954

187 > Primary email: bccgorham@yahoo.com

188 Exhibit A:

189 Medical Records from the Bay Medical Sacred Heart hospital, 10/21/18. I  
190 never had a T12 back injury I had a beltline lumbosacral injury from falling  
191 on my belt is what these record are incorrectly saying. I also hit my head. I  
192 also hit my knee. (liability avoidance, head contusion, if injure my T12 after  
193 leaving the hospital such as breaks, cripple, paralyzed, I was never at bay  
194 med for that, I was only there for beltline injury. These providers are crazy.)

195 ✓x "Ground-level fall"

196 x "He has pain over the midline of the low back"

197 \* "The pain is in the low back and is worse when he walks"  
 198 \*✓ "Worse when he twists and turns and bends over"  
 199 ✓ "Back pain"  
 200 \* "Spasms"  
 201 \* "He states he tripped and fell landing on his low back"  
 202 \* "He has pain over the midline of the low back"  
 203 \* "He states he may have hit his head but not lose consciousness"  
 204 \* "The pain is in the low back"  
 205 \* (Back:) "+ LS midline tenderness"  
 206 ✓ (Extremities:) "Contusion to the right knee"  
 207 ✓ "Tenderness over the kneecap"  
 208 ✓ "Abrasion noted"  
 209 ✓ "Skin: Abrasion to right knee"  
 210 \*✓ (EXAM:) "CT lumbar & Sacrum Spine"  
 211 \*✓ (History) "trauma"  
 212 \*✓ (TECHNIQUE:) "transaxial imaging was obtained through the lumbar  
 213 spine. Sagittal and coronal images were reconstructed from the 3D data  
 214 set."  
 215 \* (RADITATION DOSE:) "DLP: 750 mGy-cm"  
 216 \*✓ (FINDINGS:) "There is normal alignment of the lumbar vertebral  
 217 bodies. No fracture is identified. There is no large disc bulge or protrusion  
 218 in the lumbar spine"  
 219 \*✓ (IMPRESSION:) "No fracture or malalignment in the lumbar spine"  
 220 \*✓ "All CT scans at this facility use dose modulation, iterative  
 221 reconstruction, and or weight based dosing when appropriate to reduce  
 222 radiation to as low as reasonably achievable."  
 223 \*✓ (Dictated/Electronically Signed by: Emily Billingsley)  
 224 \*✓ (Order Phys: Lavine, Gary.)  
 225 \* (ED SCRIBE GENERAL NOTE, ED ATTENDING ADDENDUM:  
 226 HURRICANE MICHAEL CHART:) "This patient did tell nursing staff at the  
 227 end of the visit that he did want something for pain."  
 228 ✓ He had declined pain medications for the majority of course of his ED  
 229 visit."  
 230 ✓ He was given 1 NORCO 7.5 mg."  
 231 ✓ A prescription was given for Ultram.  
 232 \*✓ (EXAM:) CT Lumbar & Sacrum Spine.  
 233 \*✓ (CLINICAL IMPRESSION:)  
 234 \*✓ "1.) Acute Lumbar strain."  
 235 \* "2.) Closed head injury."  
 236 ✓ "3.) right knee contusion/abrasion."

237 x✓ (DISPOSITION: DISCHARGE:) "Condition: Unchanged."  
 238 x✓ (EDUCATION:) Acute Low Back Pain,  
 239 x Lower Back Exercises,  
 240 x✓ Low Back Strain,  
 241 ✓ Knee Pain,  
 242 ✓ Abrasion,  
 243 x Head Injury,  
 244 x✓ [referral to a back doctor]  
 245 x✓ (ED COURSE: PROGRESS:)  
 246 x Patient had a CT of the lumbosacral spine.  
 247 x✓ **No signs of any acute fracture** or subluxation or large disc bulge.  
 248 ✓ He refuses anything for pain.  
 249 x **Was reevaluated** at 11:30 PM.  
 250 x **Still has lumbosacral pain.**  
 251 x✓ But no saddle anesthesia.  
 252 x✓ Repeat neurologic exam is normal.  
 253 x He has a benign nonsurgical abdominal exam.  
 254 x✓ No neck pain.  
 255 x **He did hit his head.**  
 256 x✓ But no loss of consciousness.  
 257 x✓ No signs of any head injury.  
 258 x✓ Normal neurologic exam.  
 259 ✓ He is not on any anticoagulants.  
 260 x✓ Did not see any injury or indication requiring CT of the head or neck.  
 261 x✓ After evaluation of this patient feel that this patient has any evidence  
 262 of cauda equina syndrome, conus medullaris Syndrome, spinal cord infarct,  
 263 epidural abscess, epidural hematoma, discitis or  
 264 x✓ this patient has a normal neurologic examination and  
 265 x✓ **has no midline spine tenderness.**  
 266 x✓ Patient is able to walk with a steady gait and  
 267 ✓ has no saddle anesthesia.  
 268 ✓ There is no bowel or bladder incontinence.  
 269 x✓ No history of IV drug abuse.  
 270 ✓ No fevers.  
 271 x✓ **Do not see any indication for emergent neurosurgical intervention**  
 272 or  
 273 x MRI at this point.  
 274 x✓ Will refer him back to his primary care doctor and  
 275 x✓ will also refer him to Dr. Bleday a orthopedist.  
 276 x After review of this patient's emergency department visit I believe that

277 \* he or she **can safely discharged home.**  
 278 \* I have given this patient time specific follow-up instructions as well as  
 279 \*✓ a healthcare provider to follow-up with.  
 280 \* I have given you specifics regarding signs and symptoms of when to  
 281 \* immediately return to the emergency department.  
 282 \*✓ I have asked her to return to the emergency department if not  
 283 improving in 1 day.  
 284 ✓ Much of this chart was constructed using Dragon voice recognition.  
 285 \*✓ Despite my best efforts to minimize typographical errors they will still  
 286 exist.  
 287 \* (PLAN/MEDICAL DECISION MAKING:) Differential Diagnosis.  
 288 Differential diagnoses:  
 289 ✓ Back pain:  
 290 \*✓ Acute lumbosacral strain,  
 291 \* lumbosacral radiculopathy,  
 292 \* lumbosacral radiculitis,  
 293 \* intervertebral disc disease,  
 294 \*✓ fracture,  
 295 \* subluxation,  
 296 \* aortic aneurysm,  
 297 \* pancreatitis,  
 298 \* cholecystitis,  
 299 \* mesenteric ischemia,  
 300 \* retroperitoneal appendicitis,  
 301 \* ureteral stone,  
 302 \* urinary tract infection,  
 303 \*? pregnancy,  
 304 \*? ectopic pregnancy,  
 305 \*? labor,  
 306 \* shingles,  
 307 \* epidural abscess,  
 308 \* epidural hematoma,  
 309 \* discitis,  
 310 \* cauda equina syndrome,  
 311 \* conus medullaris syndrome.  
 312 \*✓? (PLAN: D/C) Old Records Reviewed: Yes  
 313 \*✓? Additional History From Someone Other Than the Patient: Yes  
 314 \*✓? Discussion of the Patient with Another Provider: No.  
 315 >>>>>>>>

316 >On 11/13/2018 I requested medical records. Selected "Entire medical  
317 record." Also selected "Other" I wrote in pen that I wanted the copy of the  
318 "Doctor CT Scan Orders." "Should be 2 of them?" "1 back & pelvic, 1 back  
319 (no pelvic) "Sacrum" cancel changed to 1 back.

320 November 10th 2020 the investigation unit of Florida Department of Health  
321 sent me a letter saying they are investigating Dr. Billingsley and another  
322 letter saying Dr. Lavine. Their expert said "I didn't know what was going  
323 on."

324 >What about the "Sacrum" it is in the title of the exam report, was half the  
325 images in the exam, allegedly, what else was done, why are there 2 entire  
326 deleted series of images, what is real total dose, this where Dr. Cousin  
327 would have put soft tissue stranding/edema exists in the upper lumbar  
328 suggesting a T12 injury?

329 CERTIFICATION OF SERVICE

330 I certify that on 12/29/2023 a copy of this filing has been  
331 provided to the First District Court of Appeal in Florida, via the E-Portal and  
332 also via regular mail or email to those not on the E-Portal and that the  
333 defendants, names and address are included below. Then on 12/20/2023  
334 to the Bay County 14<sup>th</sup> District Court.

335 /s/ Curtis Gorham

336 From:

337 PLAINTIFF/APPELLANT: Curtis M. Gorham

338 Pro Se Litigant. 3513 Rosewood Cir, Lynn Haven, FL 32444 850-601-4954

339 > Primary email: bccgorham@yahoo.com

340 To:

341 DEFENDANT/APPELLEE; BAY COUNTY HEALTH SYSTEM LLC.

342 COUNSEL; Brian L. Smith [FBN 0150827].,

343 Olestine Turenne [FBN 1018996].

344 FIRM; Hall, Schieffelin & Smith, P.A. 407-628-4848

345 Post Office Box 1090, Winter Park, FL 32790-1090

346 > Primary email: BSmith@HSSLawGroup.com

347 > 1st Secondary email: BLSAssistant@HSSLawGroup.com

348 > 2nd Secondary email: KReeves@HSSLawGroup.com

349 DEFENDANT; USAA FEDERAL SAVINGS BANK.

350 COUNSEL; Bridget M. Dennis [FBN 1024897].,



351 Ryan C. Reinert [FBN 81989]., Juanita Heard.  
352 FIRM; Shutts & Bowen LLP. 813-229-8900  
353 4301 W. Boy Scout Blvd, Suite 300, Tampa, FL 33607  
354 > Primary email: rreinert@shutts.com  
355 > 1st Secondary email: BDennis@Shutts.com  
356 > 2nd Secondary email: jheard@shutts.com

357 DEFENDANT; DR. EMILY BILLINGSLEY, DR. LLOYD LOGUE, (BAY  
358 RADIOLOGY?).  
359 COUNSEL; Elizabeth Victoria Penny [FBN 0032613].,  
360 Jacob M. Salow [FBN 1019760].  
361 FIRM; Henry Buchanan, P.A. 850-222-2920  
362 P.O. Box 14079, Tallahassee, FL 32317-4079  
363 > Primary email: mmeservice@henryblaw.com  
364 > Other e-mail address: clivings@henryblaw.com  
365 > Other e-mail address: hcampbell@henryblaw.com

366 DEFENDANT; DR. DANIEL COUSIN.  
367 COUNSEL; Tara L. Said [FBN 317860]., Justin T. Keeton [FBN 1025509].,  
368 Gregory Kent Rettig [FBN 172774]., Natalie Woods.  
369 FIRM; Lloyd, Gray, Whitehead & Monroe, P.C. 850-777-3322  
370 125 W. Romana Street, Suite 330, Pensacola, FL 32502  
371 > Primary e-mail address: Tsaid@lgwmlaw.com  
372 > Primary e-mail address: Jkeeton@lgwmlaw.com  
373 > Secondary e-mail address: Nwoods@lgwmlaw.com  
374 > Secondary e-mail address: Egates@lgwmlaw.com  
375 > Other e-mail address: grettig@lgwmlaw.com  
376 > Other e-mail address: fkiwak@lgwmlaw.com

377 DEFENDANT; JUNCO EMERGENCY PHYSICIANS.  
378 COUNSEL; Jami M. Kimbrell [FBN 0657379].,  
379 Joseph E. Brooks [FBN 0880752].  
380 FIRM; Brooks Law. 850-201-0942  
381 2629 Mitcham Drive, Tallahassee, FL 32308  
382 > Primary e-mail address: jmk@brookslawyers.net  
383 > 1st Secondary email: arj@brookslawyers.net  
384 > 2nd Secondary email: jeb@brookslawyers.net  
385 > Other e-mail address: paralegal@brookslawyers.net

386 DEFENDANT; PAYPAL INC.

387 COUNSEL; Jessica K. Vander Velde [FBN 1003827].,  
388 Rebecca S. Wilt [FBN 236750].  
389 FIRM; Quarles & Bradley LLP. 813-384-6723  
390 101 East Kennedy Blvd, Suite 3400, Tampa, FL 33602-5191  
391 > Primary e-mail address: jessica.vandervelde@quarles.com  
392 > 1st Secondary email: cyndi.trotti@quarles.com  
393 > 2nd Secondary email: docketfl@quarles.com  
394 > Other e-mail address: rebecca.wilt@quarles.com

395 [USPS Letter] Dr. Gary H. Lavine  
396 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
397 Bay Medical Center Sacred Heart Health System., (in 2018)  
398 615 N Bonita Ave, Panama City, FL 32401

399 [USPS Letter] Kendrea Virgil, RN  
400 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
401 Bay Medical Center Sacred Heart Health System., (in 2018)  
402 615 N Bonita Ave, Panama City, FL 32401

403 [USPS Letter] Donna Baird., Risk Manager  
404 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
405 Bay Medical Center Sacred Heart Health System., (in 2018)  
406 615 N Bonita Ave, Panama City, FL 32401

407 [USPS Letter] Attorney for Dr. Gary Lavine and Junco Emergency  
408 Physicians., (in 2020), Junco now has has counsel but Dr. Lavine has not  
409 responded and doesn't seem to be represented by the hospitals counsel.  
410 Dennis, Jackson, Martin and Fontela, P.A.  
411 1591 Summit Lake Drive, Suite 200, Tallahassee, FL 32317

412 [USPS Letter] Joseph R. Impicciche., CEO. (Bay Medical Center Sacred  
413 Heart Health System., (in 2018))  
414 101 South Hanley Rd., Suite 450, St. Louis, MO 63105

415 [USPS Letter] Office of the Attorney General., Ashley Moody.  
416 State of Florida, PL-01 The Capitol, Tallahassee, FL 32399-1050

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

---

Nos. 1D2023-0358  
1D2023-0839  
1D2023-1518  
(Consolidated for disposition)

---

CURTIS GORHAM,

Appellant,

v.

DR. GARY H. LAVINE; DR. EMILY  
D. BILLINGSLEY; KENDREA  
VIRGIL, RN; LLOYD G. LOGUE;  
DONNA BAIRD; JOSEPH R.  
IMPICCICHE (CEO); JUNCO  
EMERGENCY PHYSICIANS; BAY  
COUNTY HEALTH SYSTEM, LLC;  
DANIEL COUSIN; PAYPAL, INC.;  
and STATE OF FLORIDA,

Appellees.

---

On appeal from the Circuit Court for Bay County.  
Elijah Smiley, Judge.

November 29, 2023

PER CURIAM.

We have consolidated these three appeals for disposition  
because they arise out of the same proceeding below. Appellant

filed suit primarily for medical malpractice against numerous healthcare providers and entities. In the same complaint, Appellant sued the expert witness he retained to furnish the statutorily required opinion that malpractice had occurred. The expert determined that there was no deviation from the medical standard of care and therefore that he could not give the requested opinion. Given that opinion, Appellant also sued PayPal for refusing to refund Appellant's payment to the expert. Appellant also sued the State of Florida for improperly enacting statutory requirements for malpractice suits. We address the three resulting appeals in the order in which they were filed.

**Case No. 1D2023-0358.**

Appellant challenges the order dismissing with prejudice all claims against the expert witness. This is a final and appealable order over which we have jurisdiction. On its merits, we affirm. To the limited extent we can derive a preserved legal argument from Appellant's filings, it appears he argues that this order is invalid because the trial court used Appellant's personal e-mail address in the order, rather than a separate e-mail address Appellant had provided for service. This argument is not supported by any legal authority, and it is meritless.

**Case No. 1D2023-0839.**

Appellant challenges four orders. One cancelled all pending hearings. This procedural order is not appealable, and we dismiss as to this order.

The second challenged order dismissed all claims against PayPal without prejudice. Such an order is not ripe for appeal. *See Hinote v. Ford Motor Co.*, 958 So. 2d 1009, 1010-11 (Fla. 1st DCA 2007) (explaining that a dismissal without prejudice is not appealable unless it is clear in the order that any further proceedings must be brought in a separate action). We dismiss as to this order as well.

The third order granted a motion to dismiss with prejudice claims against Bay County Health System, LLC. Because this order merely grants a motion and does not contain final language

actually dismissing the claims, it is not appealable. *See Johnson v. First City Bank of Gainesville*, 491 So. 2d 1217, 1218 (Fla. 1st DCA 1986) (explaining that an order granting a motion to dismiss with prejudice, but not actually dismissing the case, is not final and appealable); *see also* Fla. R. App. P. 9.110(l). We dismiss as to this order.

The fourth order dismissed with prejudice all claims against Drs. Billingsley and Logue. This order is final and appealable, and the notice of appeal was timely; therefore we have jurisdiction. We affirm on the merits.

It is undisputed that Appellant failed to comply with the medical malpractice presuit requirements, and that the time for doing so has long since passed, barring his action under the statute of limitations. He nevertheless appears to argue that he is exempt from these requirements under what he calls the “foreign body retainment” doctrine, since he “retained” radiation from his CT scan. There is no legal support for this absurd argument, which the trial court correctly rejected.

#### **Case No. 1D2023-1518.**

Appellant attacks the same non-appealable scheduling order challenged in Case No. 2023-0839. Further, this notice of appeal was untimely. We therefore dismiss Case No. 2023-1518 without further discussion.

#### **Court Warning to Appellant.**

Appellant’s filings have been abusively numerous and fractured, utterly failing to state valid arguments in a concise and cogent manner. This is improper. *See F.M.W. Props., Inc. v. Peoples First Fin. Sav. & Loan Ass’n*, 606 So. 2d 372, 377–78 (Fla. 1st DCA 1992) (“We note, however, that the failure to organize arguments under cogent and distinct issues on appeal presents sufficient reason for an appellate court to decline consideration of a matter.”). Appellant is warned that any further such filings will subject him to sanctions, including dismissal of all appeals without further opportunity to be heard, and potentially being barred from

appearing in this Court ever again unless represented by a lawyer in good standing with The Florida Bar.

Although Appellant has the procedural right to file a motion for rehearing or for rehearing en banc, in light of Appellant's history of abusive filings we direct that he must combine any such post-decision arguments in a single document. *See Fla. R. App. P. 9.300(b)*. Any such motion may not merely repeat arguments already raised. Further, any such document shall not exceed 15 pages and must use an authorized font. All arguments presented must be substantively clear, concise, and organized, with citations to legal authority. Any other or additional filings not expressly authorized by the appellate rules, and any filing that does not comply with these requirements, will be stricken without further opportunity to be heard.

All pending motions are denied.

DISMISSED in part and AFFIRMED in part; WARNING issued.

KELSEY, M.K. THOMAS, and NORDBY, JJ., concur.

---

***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

---

Curtis Gorham, pro se, Appellant.

Tara L. Said of Lloyd, Gray, Whitehead & Monroe, P.C., Pensacola, for Appellee Dr. Daniel Cousin; Joseph E. Brooks of Brooks Law, Tallahassee, for Appellee Junco Emergency Physicians; Erica Conklin Baines of Husch Blackwell LLP, Chicago, Illinois, for Appellee PayPal, Inc.; and Jacob M. Salow and E. Victoria Penny of Henry Buchanan, P.A., Tallahassee, for Appellees Dr. Emily Billingsley and Lloyd G. Logue, DO.

**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

December 19, 2023

Curtis Gorham,

**Case 1D2023-0358**

L.T. No.: 22001076CA

Appellant,

v.

Dr. Gary H. Lavine; Dr. Emily D.  
Billingsley; Kendrea Virgil, RN;  
Llyod G. Logue; Donna Baird;  
Joseph R. Impicciche (CEO); Junco  
Emergency Physicians; Bay County  
Health System, LLC; Daniel  
Cousin; PayPal, Inc.; and State of  
Florida,

Appellees.

---

**BY ORDER OF THE COURT:**

The Court denies Appellant's "Motion for Rehearing, Request Extended Brief Size Limit or Time," docketed December 14, 2023.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Erica Conklin Baines

Joseph Eugene Brooks

Dennis Jackson Martin & Fontela

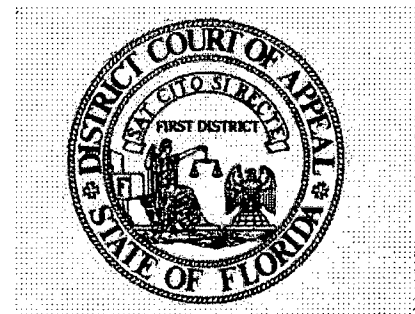
**Case 1D2023-0358**

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Curtis Gorham  
Hall Schieffelin & Smith, P.A.  
Henry Buchanan, P.A.  
Jami M. Kimbrell  
Hon. Ashley Moody  
E. Victoria Penny  
Emily Plakon  
Tara Said  
Jacob Miller Salow  
USAA

KS

~~1D2023-0358~~ December 19, 2023  
Kristina Samuels, Clerk  
1D2023-0358 December 19, 2023





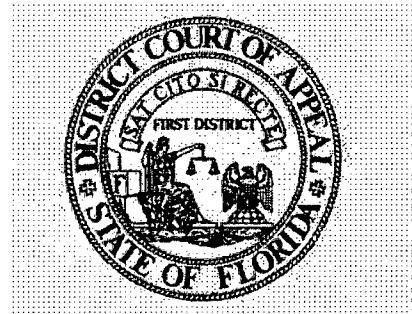
**Case 1D2023-0358**

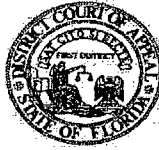
Page < 2 >

Jami M. Kimbrell  
Hon. Ashley Moody  
E. Victoria Penny  
Emily Plakon  
Tara Said  
Jacob Miller Salow

KS

~~1D2023-0358~~ December 29, 2023  
Kristina Samuels, Clerk  
1D2023-0358 December 29, 2023





DISTRICT COURT OF APPEAL  
FIRST DISTRICT  
STATE OF FLORIDA  
2000 DRAYTON DRIVE  
TALLAHASSEE, FLORIDA 32399-0950  
(850) 488-6151

KRISTINA SAMUELS  
CLERK OF THE COURT

January 4, 2024

DANA SHARMAN  
CHIEF DEPUTY CLERK

Re: Curtis Gorham v. Dr. Gary H. Lavine; Dr. Emily D. Billingsley; Kendrea Virgil, RN; Llyod G. Logue; Donna Baird; Joseph R. Impicciche (CEO); Junco Emergency Physicians; Bay County Health System, LLC; Daniel Cousin; PayPal, Inc.; and State of Florida

Appeal No.: 1D23-0358

Trial Court No.: 22001076CA

Trial Court Judge: Hon. Elijah Smiley

If Crim, LT NOA date:

Dear Mr. Tomasino:

Attached is a certified copy of the Notice Invoking the Discretionary Jurisdiction of the Supreme Court, pursuant to Rule 9.120, Florida Rules of Appellate Procedure. Attached also is this Court's opinion or decision relevant to this case.

- ☐ The filing fee prescribed by Section 25.241(2), Florida Statutes, was received by this court and is attached.
- ☐ The filing fee prescribed by Section 25.241(2), Florida Statutes, was not received by this court.
- ☒ Petitioner/Appellant has previously been determined insolvent by the circuit court or our court in the underlying case.
- ☐ Petitioner/Appellant has already filed, and this court has granted, petitioner/appellant's motion to proceed without payment of costs in this case.

No filing fee was required in the underlying case in this court because it was:

- ☐ A summary Appeal, pursuant to Rule 9.141
- ☐ From the Unemployment Appeals Commission
- ☐ A Habeas Corpus proceeding
- ☐ A Juvenile case
- ☐ Other \_\_\_\_\_

If there are any questions regarding this matter, please do not hesitate to contact this Office. **A motion postponing rendition pursuant to Florida Rule of Appellate Procedure 9.020(i) \_\_\_\_\_ is or ☒ is NOT pending in the lower tribunal at the time of filing this notice.**

Sincerely yours,

Kristina Samuels  
Clerk of the Court

By: GO  
Deputy Clerk

IN THE SUPREME COURT,  
OF THE STATE OF FLORIDA

**Appellant, Plaintiff,**  
Curtis M. Gorham

**VS**

**Appellee, Defendants,**  
Dr. Gary H. Lavine, Dr. Emily D. Billingsley,  
Kendrea Virgil, RN., Lloyd G. Logue, Donna  
Baird, Joseph R. Impiccicche (CEO),  
Junco Emergency Physicians, Bay County  
Health System LLC, The State of Florida,  
PayPal, Inc., USAA FSB, and other  
unknown people such as the orderly and  
radiology assistant,  
(Medical Expert) Dr. Daniel Cousin.

**FIRST DISTRICT COURT  
OF APPEAL**

DCA Case No. 1D23-0839

DCA Case No. 1D23-0358

DCA Case No. 1D23-1518

L.T. Case No. 22001076CA

Bay County Civil  
District Court

Date: 12/29/2023

**Plaintiff's Motion for Rehearing and other Matters**

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**TABLE OF AUTHORITIES:**

766.104(1) .....	various
766.102(2)(b) .....	various
95.11.....	various
Chapter 120.....	various

**POINTS INVOLVED:**

In the first district court of appeal, of the state of florida, this is a complex litigation which the First District Court of Appeals has denied my appeals, combined them all, denied my motions, and not allowed me to file enlarged briefs. There is confusion as to if this is Florida Supreme Court appropriate

21 as it is a DCA amicus finding. Appears to be mistakes on top of lower  
22 tribunal mistakes along with attorney misconduct. See the medical records  
23 below. (exhibit A), for how this all began. It is obviously fraud by the  
24 hospital and medical providers. I had a back injury they turned it into a  
25 opportunity to play the opposite game and do eugenics.

#### 26 **ARGUMENT:**

27 We live in a legal world of oops malpractice, and so if it is intentional than  
28 the 766.102(2)(b) lack of informed consent applies, and so the defense  
29 counsel wants no part of that and would rather argue that experts in presuit  
30 were not gotten, which then ran the statutes of limitations, however, Dr.  
31 Cousins report states I did have a back injury and the records speak for  
32 themselves, and so under 766.104(1) there is "reasonable investigation"  
33 and so the defense counsel continued the fraud and misrepresentation that  
34 had been occurring all along, and that required me to have to do things  
35 differently when they denied my claims 2 years ago, and so I had to once  
36 again pursue attorneys after their denial letter making it under 95.11 the  
37 date I discovered the fraud and injury as that denial date and then now 2  
38 years later I file the lawsuit, and so these advanced legal problems within  
39 the statute of repose then become reality with such things, rather than the  
40 defense counsel admit it is under the doctrine exception in 766.102(2)(b) 2  
41 years ago because it was intentional and so instead with denial we have to  
42 move forward, because that denial makes it not intentional and without lack  
43 of informed consent, and so they had already denied all things and so were  
44 not going to be sending me discovery, nor did I want it, covid-19 was  
45 happening, don't send me anything, and I am not going to the hospital, they  
46 already were doing a conspiracy, was I going to ask Dr. Billingsley to  
47 operate the CT scanner so I could measure how far inside of it I was the  
48 night of the incident. There are 2 deleted series of images. The hospital  
49 refuses to give me a copy of the CT scan orders. So how can I have a  
50 expert review what doesn't exist.

51 Much of this lawsuit is undefinable at this time, due to many aspects  
52 crossing over with other applicable laws and are yet to be determined,  
53 making it all fall under the "other" category, which makes it difficult for me to  
54 pursue legal answers or medical answers. Also what happened to me, was  
55 the nurse let it be wrong, didn't correct it, then the doctor didn't correct her,  
56 it is medical experimentation.

57 This is a lawsuit about and based on a series of medical incidents, which  
58 the 1ST DCA has technically and factually and therefore literally gotten  
59 incorrect, making it irreparable harm to me, their denial decision that is and  
60 what is happening here locally with these matters. The DCA decision  
61 11/29/2023 DCA decision is literally don't come back to this court while  
62 there is nothing but harms caused to me on a constant basis.

63 The DCA was asked to consider 2 questions. First, is a state registered  
64 medical expert doing fraud broadly speaking with other causes of action.  
65 Further, how does that expert affect my lawsuit. Second, is the incident at  
66 the hospital a conspiracy that caused me harm, and further does a  
67 continual conspiracy after that incident have any bearing on these matters.

68 The Bay Medical hospital records do not actually outline that I have a "back  
69 injury" but instead outline that I have a "beltline" injury that is accompanied  
70 by a "head injury," while also being accompanied by a "knee contusion, with  
71 abrasion." What this ultimately means is that if I went home and my spine  
72 snapped in half in the middle back where my primary injury was at in the  
73 T12 vertebrae, the hospital would be able to say based on the medical records  
74 that I never had that injury when I was in the ER and that I must have  
75 gotten injured at home. Further, the doctor and or nurse makes great effort  
76 to outline that they had evaluated me and I had a pelvic injury and a head  
77 injury and he had done various neurological exams because of the head  
78 injury.

79 I have a witness who was there all along at the incident and hospital and  
80 pictures/video of the street sign before the moving that made it fall with me  
81 and then being down, from the hurricane, then in the sewer when it  
82 snapped and then reinstalled the next day. I never had as the medical  
83 records say a "head injury," or any tests for it all while at the same time  
84 saying I had a knee contusion which I did have, abrasion. Opposite game  
85 has been outlined in the lower tribunal filings at length they CT scanned my  
86 pelvis while saying they were not going to with assurance of that even  
87 spent time before the exam checking on getting me a copy of the order, so  
88 time line shows what was done, but the hospital refuses to give the order  
89 when requested and the LT judge denied discovery motion.

90 I had a x-ray exam weeks later after the CT scan that says that I have a  
91 T12 compression fracture between T12 and T11 vertebrae in the spine  
92 which is middle back and which is just above the lumbar spine, lower back.

93 Therefore, like all of the medical records, the hospital staff at Bay Medical  
94 "didn't say enough in regards to my real injury." Unknown to me the  
95 records show all along a beltline injury so it was all lies.

96 The nurse records are wrong, the ER doctors are wrong, and the  
97 radiologist spent time before the exam checking for a paper copy of the CT  
98 scan for me and over 10 minutes later didn't return with it, but I was given  
99 assurance that no pelvic scanning would occur including by the unknown  
100 radiology assistant. I talked to him the entire time Dr. Emily Billingsley was  
101 checking on the order. She then "deleted" 2 entire series of images, which  
102 by "standards" is "medical records" and so she deleted my medical records.  
103 The time Dr. Lavine wrote the 2<sup>nd</sup> order is important, but the hospital won't  
104 give it to me despite me requesting it, and it being required to be a part of  
105 the radiology record for 5 years. The time that 2<sup>nd</sup> order was written  
106 establishes that Dr. Billingsley spent time before the exam checking to a  
107 get a paper copy of the order, thus my narrative is correct. Might even be  
108 CCTV video in the "preserved information" since I sent them a letter to the  
109 risk manager she told me to send it to her as well.

110 The question then is can the staff have the records entirely wrong, and do  
111 the wrong exam and it all be considered to have been with 766.102(2)(b)  
112 "Informed Consent" of the patient? The hospital said there was nothing  
113 wrong and then gave me narcotics for pain. Obviously everything is so  
114 obvious on every level of this. Saying experts are required is saying  
115 766.104(1) "reasonable investigation" doesn't exist here, as I did that, even  
116 with the fraud expert it is still obvious.

117 Everything I did was with "due diligence" and "in light of all relevant  
118 circumstances" and under 95.11 fraud and misrepresentation waives the  
119 statutes of limitations and that has been what has been going on, along  
120 with other incidents which makes me "incompetent" to proceed, because of  
121 continued physical harms by other medical providers, thus tolling the  
122 statutes of limitations, estoppel is also applicable, as is covid-19. As in  
123 being poisoned by Dr. Jenkins a urologist, means I am not in the library  
124 reading caselaw. Chapter 120.52 would apply for "waiver" and "delegated  
125 legislative invalidity of statutes" also. DCA has decided only through  
126 misapprehension of facts. Based on such facts and evidence for violation of  
127 766.102(2)(b) the medical providers did not have consent as I can not  
128 agree to have myself harmed, and they can't say that it was done for a  
129 "medical purpose" because it is conspiracy.

130 This is the DCA precedent right now. How do I present that they deleted  
131 my medical records and call it fraud and misrepresentation by staff. Dr.  
132 Cousin a medical expert in radiology said that I had a T12 spine injury and  
133 so that makes my visit to the ER for that injury. Yet the staff says I had  
134 other harms and checked for that. Dr. Daniel Cousin didn't review those  
135 parts of my claims that would give it merit and so is a fraud and he didn't  
136 give opinion based on "all relevant circumstances" which would also seem  
137 to cover me under 766.104(1) for "reasonable investigation.

138 It would seem the court would apply the law that is appropriate when it is  
139 needed to be applied, and the DCA has a rule that all things filed get to be  
140 converted into whatever is necessary as if that was filed, such as a writ of  
141 mandamus or certior, or whatever else, and so instead of just recycling  
142 what the defense counsel has said and how they did misconduct  
143 preventing me from doing my side of filings needed, so now asking the  
144 supreme court to interpret my filings to accomplish the relief sought.

145 PayPal is final needs to go to arbitration if DCA doesn't reverse it,  
146 their terms have discretion to act and they didn't and it is fraud.

147 Bay County Health LLC motioned to dismiss and then got it, and so DCA  
148 saying it is not final is odd, since it disposed of defendants with the  
149 dismissal and so it isn't some other "order" it is literal defendant parties like  
150 any other case dismissal.

151 Junco Emergency Physicians should be returned to the lower court, they  
152 staffed Dr. Gary Lavine, the emergency room doctor who did the cover up  
153 and conspiracy, and so they have a registered agent that is a corporation  
154 that does accept service as a business, and so my case is being dismissed  
155 because it wasn't served to their mailbox by a sheriff, instead by a letter,  
156 which was sent to two places actually one with certified mail, and they all  
157 needed to be served with service by court. I have social security disability  
158 and so can't fund all the mailing. It would only be through debt spending.

159 **CONCLUSION:**

160 DCA decision is counter productive to the truth of the matters and what has  
161 happened in the process of the trial. It actually makes it so there is no  
162 conspiracy and there are no harms and the medical expert found no fault.  
163 When the reality is there is nothing but fraud, conspiracy and nobody



164 wanting to address it all so cover it up. It is a matter of great public concern  
165 in many ways. The conspiracy, the ionizing radiation use, the lack of  
166 consent, the laws and lack of ability to bring these matters through counsel.

167 DCA decision is counter productive to the truth of the matters and what has  
168 happened in the process of the trial. It actually makes it so there is no  
169 conspiracy and there are no harms and the medical expert found no fault.  
170 When the reality is there is nothing but fraud, conspiracy and nobody  
171 wanting to address it all so cover it up. I have no choice left but to go to the  
172 Supreme Court of the United States. First Florida Supreme Court is asked  
173 to look at this matter as it is a "combined" appeal with 3 appeals made into  
174 1 decision with no opinion and rehearing denied. Hopefully it can be  
175 original jurisdiction or some other extraordinary writ for review.

176 CERTIFICATION OF FONT

177 This filing complies with the font and format requirements of Arial font and  
178 14 point.

179 I certify that on 12/29/2023 a copy of this filing has been provided to  
180 the First District Court of Appeal in Florida, via the E-Portal and also via  
181 regular mail or email to those not on the E-Portal and that the defendants,  
182 names and address are included below.

183 /s/ Curtis Gorham

184 From:  
185 PLAINTIFF/APPELLANT: Curtis M. Gorham  
186 Pro Se Litigant. 3513 Rosewood Cir, Lynn Haven, FL 32444 850-601-4954  
187 > Primary email: bccgorham@yahoo.com

188 Exhibit A:

189 Medical Records from the Bay Medical Sacred Heart hospital, 10/21/18. I  
190 never had a T12 back injury I had a beltline lumbosacral injury from falling  
191 on my belt is what these record are incorrectly saying. I also hit my head. I  
192 also hit my knee. (liability avoidance, head contusion, if injure my T12 after  
193 leaving the hospital such as breaks, cripple, paralyzed, I was never at bay  
194 med for that, I was only there for beltline injury. These providers are crazy.)

195 ✓x "Ground-level fall"

196 x "He has pain over the midline of the low back"

197 \* "The pain is in the low back and is worse when he walks"  
 198 \*✓ "Worse when he twists and turns and bends over"  
 199 ✓ "Back pain"  
 200 \* "Spasms"  
 201 \* "He states he tripped and fell landing on his low back"  
 202 \* "He has pain over the midline of the low back"  
 203 \* "He states he may have hit his head but not lose consciousness"  
 204 \* "The pain is in the low back"  
 205 \* (Back:) "+ LS midline tenderness"  
 206 ✓ (Extremities:) "Contusion to the right knee"  
 207 ✓ "Tenderness over the kneecap"  
 208 ✓ "Abrasion noted"  
 209 ✓ "Skin: Abrasion to right knee"  
 210 \*✓ (EXAM:) "CT lumbar & Sacrum Spine"  
 211 \*✓ (History) "trauma"  
 212 \*✓ (TECHNIQUE:) "transaxial imaging was obtained through the lumbar  
 213 spine. Sagittal and coronal images were reconstructed from the 3D data  
 214 set."  
 215 \* (RADITATION DOSE:) "DLP: 750 mGy-cm"  
 216 \*✓ (FINDINGS:) "There is normal alignment of the lumbar vertebral  
 217 bodies. No fracture is identified. There is no large disc bulge or protrusion  
 218 in the lumbar spine"  
 219 \*✓ (IMPRESSION:) "No fracture of malalignment in the lumbar spine"  
 220 \*✓ "All CT scans at this facility use dose modulation, iterative  
 221 reconstruction, and or weight based dosing when appropriate to reduce  
 222 radiation to as low as reasonably achievable."  
 223 \*✓ (Dictated/Electronically Signed by: Emily Billingsley)  
 224 \*✓ (Order Phys: Lavine, Gary.)  
 225 \* (ED SCRIBE GENERAL NOTE, ED ATTENDING ADDENDUM:  
 226 HURRICANE MICHAEL CHART:) "This patient did tell nursing staff at the  
 227 end of the visit that he did want something for pain."  
 228 ✓ He had declined pain medications for the majority of course of his ED  
 229 visit."  
 230 ✓ He was given 1 NORCO 7.5 mg."  
 231 ✓ A prescription was given for Ultram.  
 232 \*✓ (EXAM:) CT Lumbar & Sacrum Spine.  
 233 \*✓ (CLINICAL IMPRESSION:)  
 234 \*✓ "1.) Acute Lumbar strain."  
 235 \* "2.) Closed head injury."  
 236 ✓ "3.) right knee contusion/abrasion."

237 x✓ (DISPOSITION: DISCHARGE:) "Condition: Unchanged."  
 238 x✓ (EDUCATION:) Acute Low Back Pain,  
 239 x Lower Back Exercises,  
 240 x✓ Low Back Strain,  
 241 ✓ Knee Pain,  
 242 ✓ Abrasion,  
 243 x Head Injury,  
 244 x✓ [referral to a back doctor]  
 245 x✓ (ED COURSE: PROGRESS:)  
 246 x Patient had a CT of the lumbosacral spine.  
 247 x✓ **No signs of any acute fracture** or subluxation or large disc bulge.  
 248 ✓ He refuses anything for pain.  
 249 x **Was reevaluated at 11:30 PM.**  
 250 x **Still has lumbosacral pain.**  
 251 x✓ But no saddle anesthesia.  
 252 x✓ Repeat neurologic exam is normal.  
 253 x He has a benign nonsurgical abdominal exam.  
 254 x✓ No neck pain.  
 255 x **He did hit his head.**  
 256 x✓ **But no loss of consciousness.**  
 257 x✓ **No signs of any head injury.**  
 258 x✓ Normal neurologic exam.  
 259 ✓ He is not on any anticoagulants.  
 260 x✓ **Did not see any injury or indication requiring CT of the head or neck.**  
 261 x✓ **After evaluation of this patient feel that this patient has any evidence**  
 262 **of cauda equina syndrome, conus medullaris Syndrome, spinal cord infarct,**  
 263 **epidural abscess, epidural hematoma, discitis or**  
 264 x✓ **this patient has a normal neurologic examination and**  
 265 x✓ **has no midline spine tenderness.**  
 266 x✓ Patient is able to walk with a steady gait and  
 267 ✓ has no saddle anesthesia.  
 268 ✓ There is no bowel or bladder incontinence.  
 269 x✓ No history of IV drug abuse.  
 270 ✓ No fevers.  
 271 x✓ **Do not see any indication for emergent neurosurgical intervention**  
 272 or  
 273 x **MRI** at this point.  
 274 x✓ Will refer him back to his primary care doctor and  
 275 x✓ will also refer him to Dr. Bleday a orthopedist.  
 276 x After review of this patient's emergency department visit I believe that

277 \* he or she **can safely discharged home.**  
 278 \* I have given this patient time specific follow-up instructions as well as  
 279 \*✓ a healthcare provider to follow-up with.  
 280 \* I have given you specifics regarding signs and symptoms of when to  
 281 \* immediately return to the emergency department.  
 282 \*✓ I have asked her to return to the emergency department if not  
 283 improving in 1 day.  
 284 ✓ Much of this chart was constructed using Dragon voice recognition.  
 285 \*✓ Despite my best efforts to minimize typographical errors they will still  
 286 exist.  
 287 \* (PLAN/MEDICAL DECISION MAKING:) Differential Diagnosis.  
 288 Differential diagnoses:  
 289 ✓ Back pain:  
 290 \*✓ Acute lumbosacral strain,  
 291 \* lumbosacral radiculopathy,  
 292 \* lumbosacral radiculitis,  
 293 \* intervertebral disc disease,  
 294 \*✓ fracture,  
 295 \* subluxation,  
 296 \* aortic aneurysm,  
 297 \* pancreatitis,  
 298 \* cholecystitis,  
 299 \* mesenteric ischemia,  
 300 \* retroperitoneal appendicitis,  
 301 \* ureteral stone,  
 302 \* urinary tract infection,  
 303 \*? pregnancy,  
 304 \*? ectopic pregnancy,  
 305 \*? labor,  
 306 \* shingles,  
 307 \* epidural abscess,  
 308 \* epidural hematoma,  
 309 \* discitis,  
 310 \* cauda equina syndrome,  
 311 \* conus medullaris syndrome.  
 312 \*✓? (PLAN: D/C) Old Records Reviewed: Yes  
 313 \*✓? Additional History From Someone Other Than the Patient: Yes  
 314 \*✓? Discussion of the Patient with Another Provider: No.  
 315 >>>>>>>>>

316 >On 11/13/2018 I requested medical records. Selected "Entire medical  
317 record." Also selected "Other" I wrote in pen that I wanted the copy of the  
318 "Doctor CT Scan Orders." "Should be 2 of them?" "1 back & pelvic, 1 back  
319 (no pelvic) "Sacrum" cancel changed to 1 back.

320 November 10th 2020 the investigation unit of Florida Department of Health  
321 sent me a letter saying they are investigating Dr. Billingsley and another  
322 letter saying Dr. Lavine. Their expert said "I didn't know what was going  
323 on."

324 >What about the "Sacrum" it is in the title of the exam report, was half the  
325 images in the exam, allegedly, what else was done, why are there 2 entire  
326 deleted series of images, what is real total dose, this where Dr. Cousin  
327 would have put soft tissue stranding/edema exists in the upper lumbar  
328 suggesting a T12 injury?

329 CERTIFICATION OF SERVICE

330 I certify that on 12/29/2023 a copy of this filing has been  
331 provided to the First District Court of Appeal in Florida, via the E-Portal and  
332 also via regular mail or email to those not on the E-Portal and that the  
333 defendants, names and address are included below. Then on 12/20/2023  
334 to the Bay County 14<sup>th</sup> Distrct Court.

335 /s/ Curtis Gorham

336 From:

337 PLAINTIFF/APPELLANT: Curtis M. Gorham

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358 RADIOLOGY?).

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377 DEFENDANT; JUNCO EMERGENCY PHYSICIANS.  
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388 Rebecca S. Wilt [FBN 236750].  
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393 > 2nd Secondary email: docketfl@quarles.com  
394 > Other e-mail address: rebecca.wilt@quarles.com

395 [USPS Letter] Dr. Gary H. Lavine  
396 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
397 Bay Medical Center Sacred Heart Health System., (in 2018)  
398 615 N Bonita Ave, Panama City, FL 32401

399 [USPS Letter] Kendrea Virgil, RN  
400 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
401 Bay Medical Center Sacred Heart Health System., (in 2018)  
402 615 N Bonita Ave, Panama City, FL 32401

403 [USPS Letter] Donna Baird., Risk Manager  
404 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
405 Bay Medical Center Sacred Heart Health System., (in 2018)  
406 615 N Bonita Ave, Panama City, FL 32401

407 [USPS Letter] Attorney for Dr. Gary Lavine and Junco Emergency  
408 Physicians., (in 2020), Junco now has has counsel but Dr. Lavine has not  
409 responded and doesn't seem to be represented by the hospitals counsel.  
410 Dennis, Jackson, Martin and Fontela, P.A.  
411 1591 Summit Lake Drive, Suite 200, Tallahassee, FL 32317

412 [USPS Letter] Joseph R. Impicicche., CEO. (Bay Medical Center Sacred  
413 Heart Health System., (in 2018))  
414 101 South Hanley Rd., Suite 450, St. Louis, MO 63105

415 [USPS Letter] Office of the Attorney General., Ashley Moody.  
416 State of Florida, PL-01 The Capitol, Tallahassee, FL 32399-1050

# Supreme Court of Florida

FRIDAY, JANUARY 19, 2024

Curtis M. Gorham,  
Petitioner(s)

v.

Dr. Gary H. Lavine, et al.,  
Respondent(s)

**SC2024-0034**

Lower Tribunal No(s).:

1D2023-0358;

032022CA001076CAXXXX

---

In reviewing our records, we note that your case is subject to dismissal for failure to comply with this Court's direction. See Fla. R. App. P. 9.410.

We have not received the initial brief with appendix in accordance with Florida Rule of Appellate Procedure 9.120(d). Failure to file the above referenced documents with this Court within 15 days from the date of this order could result in the imposition of sanctions, including dismissal of the petition.

Please understand that once this case is dismissed, it may not be subject to reinstatement.

A True Copy

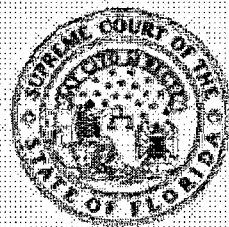
Test:

SC2024-0034 1/19/2024

John A. Tomasino

Clerk, Supreme Court

SC2024-0034 1/19/2024



LC



**CASE NO.: SC2024-0034**

Page Two

Served:

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CURTIS M. GORHAM

ELIZABETH VICTORIA PENNY

TARA LEE SAID

JACOB MILLER SALOW

BRIAN L SMITH

IN THE SUPREME COURT,  
OF THE STATE OF FLORIDA

**Appellant, Plaintiff,**  
Curtis M. Gorham

**VS**

**Appellee, Defendants,**

Dr. Gary H. Lavine, Dr. Emily D. Billingsley,  
Kendrea Virgil, RN., Lloyd G. Logue, Donna  
Baird, Joseph R. Impiccicche (CEO),  
Junco Emergency Physicians, Bay County  
Health System LLC, The State of Florida,  
PayPal, Inc., USAA FSB, and other  
unknown people such as the orderly and  
radiology assistant,  
(Medical Expert) Dr. Daniel Cousin.

) **SC2024-0034, 35 & 36**  
) FIRST DISTRICT COURT  
OF APPEAL  
) DCA Case No. 1D23-0839  
) DCA Case No. 1D23-0358  
) DCA Case No. 1D23-1518  
) L.T. Case No. 22001076CA  
) Bay County Civil  
District Court  
) Date: 2/2/2024

**(Amended EXTENDED) "Plaintiff's Motion for Rehearing and other  
Matters" Now Also Includes Brief on Jurisdiction & APPENDIX.**

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28	PAGE 3 SUPREME COURT APPENDIX INDEX ...(1518)....	Attachment.
29	PAGE 4 SUPREME COURT APPENDIX INDEX ...(0839)....	Attachment.
30	PAGE 5 SUPREME COURT APPENDIX INDEX .(0358 partial).	Attachment.

### **TABLE OF AUTHORITIES, CITATIONS:**

32	766.104(1) .....	various
33	766.102(2)(b) .....	various
34	766.103(2)(b).....	various
35	95.11.....	various
36	Chapter 120.52.....	various
37	120.52(8) "Invalid exercise of delegated legislative authority"...	various
38	394.463 Involuntary examination.—.....	various
39	Fla. R. App. P. 9.210., Rule 9.210 – BRIEFS, (f) .....	various
40	Page 1 Appendix. (includes Orders on appeal, 1 <sup>st</sup> DCA Decision..	various

### **Appendix**

42	11/29/2023 Disposition by Opinion Affirmed	Affirmed in part and
43	dismissed in part [ APPENDIX B]	
44	12/19/2023 Order	Order on Motion for Rehearing
45	for Rehearing [ APPENDIX D]	Order on Motion
46	12/29/2023 Order	Order on Motion for Rehearing
47	for Rehearing [ APPENDIX C]	Order on Motion

### **Bay County Court Docket – Lower Tribunal Appendix:**

49 Bay Medical Hospital & other parties herein such as Dr. Lavine.

50 5 1/11/2023 EP - ORDER ON DEFENDANT DR COUNSIN'S MOTION  
51 TO DISMISS, OR IN THE ALTERNATIVE, FOR MORE DEFINITE  
52 STATEMENT

53 **6 11/17/2022 EP - MOTION TO DISMISS- DR. EMILY BILLINGSLEY**  
54 **AND LLOYD G LOGUE**

55 **Request 11/17/2022 EP - DEFENDANT BAY COUNTY HEALTH**  
56 **SYSTEM, LLC'S MOTION TO DISMISS PLAINTIFFS COMPLAINT,**  
57 **MOTION TO STRIKE AND/OR MOTION FOR MORE DEFINITE**  
58 **STATMENT**

59 Request 11/17/2022 PLAINTIFFS MOTION TO STRIKE PERSONAL  
60 INFORMATION FILING BY DEFENSE FOR PRIVACY RULES  
61 VIOLATIONS  
62 **6 11/18/2022 PLAINTIFFS MOTION TO STRIKE PERSON**  
63 **INFORMATION IN FILINGS BY DEFENSE FOR PRIVACY RULES**  
64 **VIOLATIONS**  
65 3 11/21/2022 EP - ORDER GRANTING STIPULATION AND JOINT  
66 MOTION TO REMOVE PERSONAL SENSITIVE INFORMATION FROM  
67 COURT FILING  
68 **26 11/22/2022 EP - MOTION TO QUASH SERVICE ON DEFENDANT**  
69 **JUNCO EMERGENCY PHYSICIANS**  
70 4 12/14/2022 EP - ORDER REMOVING PERSONAL SENSITIVE  
71 INFORMATION FROM COURT FILINGS  
72 **5 12/15/2022 EP - DEFENDANT USAA FEDERAL SAVINGS BANKS**  
73 **MOTION TO DISMISS PLAINTIFFS COMPLAINT**  
74 **5 1/11/2023 EP - ORDER ON DEFENDANT DR COUSIN'S**  
75 **MOTION TO DISMISS, OR IN THE ALTERNATIVE, FOR MORE**  
76 **DEFINITE STATEMENT - RECORDED (OR 4647.11398. / 2023001957)**  
77 6 1/17/2023 EP - MOTION TO VACATE THE JUDGES ORDER FOR  
78 VIOLATIONS- PLAINTIFF  
79 8 1/25/2023 EP - MOTION TO STRIKE DEFENDANT DR COUSINS  
80 RESPONSE TO PLAINTIFFS MOTION TO VACATE  
81 **6 1/31/2023 EP - PLAINTIFFS MEMORANDUM OF LAW**  
82 4 2/5/2023 EP - PLAINTIFFS MOTION FOR EMERGENCY  
83 DISCOVERY  
84 10 2/9/2023 EP - MOTION TO MAKE PLAINTIFF A VICTIM OR  
85 PREJUDICED  
86 **3 3/9/2023 EP - ORDER CANCELLING ALL PENDING APRIL**  
87 **HEARINGS**  
88 **3 3/10/2023 EP - ORDER GRANTING DEFENDANT BAY COUNTY**  
89 **HEALTH SYSTEM LLC'S MOTION TO DISMISS PLAINTIFFS**  
90 **COMPLAINT WITH PREJUDICE**  
91 **3 3/10/2023 EP - ORDER OF DISMISSAL AS TO DEFENDANT**  
92 **PAYPAL INC WITHOUT PREJUDICE - RECORDED (OR.4666.1246. /**  
93 **2023014790)**  
94 **4 3/10/2023 EP - ORDER GRANTING DEFENDANT DR.**  
95 **BILLINGSLEY AND DR. LOGUE'S MOTION TO DISMISS PLAINTIFFS**  
96 **COMPLAINT WITH PREJUDICE**  
97 **7 4/10/2023 EP - PLAINTIFFS PETITION FOR COURT ORDER**  
98 **FINDING**

5 5/18/2023 EP - ORDER ON PLAINTIFFS MOTION TO VACATE  
THE JUDGE'S ORDER FOR VIOLATIONS  
4 5/19/2023 EP - ORDER GRANTING DEFENDANT, JUNCO  
EMERGENCY PHYSICIANS MOTION TO QUASH SERVICE  
4 5/21/2023 EP - ORDER DENYING PLAINTIFFS REQUEST FOR  
REHEARING AS TO DEFENDANT BAY COUNTY HEALTH SYSTEM LLC  
3 5/24/2023 DCA ORDER - GRANTING IN PART AND DENYING IN  
PART APPELLANTS MOTION TO STAY, POSTPONE APPEAL 1D23-839  
3 5/24/2023 EP - ORDER DENYING PLAINTIFFS MOTION FOR  
EMERGENCY DISCOVERY  
3 5/24/2023 EP - ORDER GRANTING DEFENDANT USAA  
FEDERAL SAVINGS BANKS MOTION TO DISMISS PLAINTIFFS  
COMPLAINT - RECORDED (OR.4768.1210. / 2024004690)  
2 5/30/2023 EP - PLAINTIFFS OBJECTION TO DENIAL OF MOTION  
FOR DISCOVERY REQUEST FOR RECONSIDERATION  
4 10/2/2023 EP - ORDER DENYING PLAINTIFFS FIRST  
OBJECTION TO CASE DISMISSAL WHICH THE COURT TREATS AS A  
TIMLEY FILED MOTION FOR REHEARING

Dr. Jenkins lawsuit;

2 7/5/2022 EP - ORDER GRANTING DFTS MOTION TO DISMISS-  
PLTF HAS 45 DAYS

**First District Court of Appeals Docket APPENDIX:**

Please see the attached "Page 1 Appendix" for all filings and order motions in the DCA docket that are being appealed to the Supreme Court, filed here as an attachment below or supplemental for upload size problems. These 3 cases were combined into 1 decision.

DCA CASE NUMBER 1D2023-0839

04/07/2023 Notice of Appeal

11/29/2023 Disposition by Opinion Affirmed

12/19/2023 Order Order on Motion for Rehearing

12/29/2023 Order Order on Motion for Rehearing

01/18/2024 Mandate

01/18/2024 Misc. Events Case Closed

DCA CASE NUMBER 1D2023-0358

02/12/2023 Notice of Appeal

11/29/2023 Disposition by Opinion Affirmed

139 DCA CASE NUMBER 1D2023-1518

140 06/23/2023 Notice of Appeal

141 11/29/2023 Disposition by Opinion Affirmed

142 12/19/2023 Order Order on Motion for Rehearing

143 12/29/2023 Order Order on Motion for Rehearing

144 01/18/2024 Mandate

145 01/18/2024 Misc. Events Case Closed

148 DCA said I filed abuse amounts of filings, so it is not abusive for the  
149 defendants to cause such things to happen, it's abusive for me to seek legal  
150 relief?

160 The DCA has since the "decision" made filed a "mandate" directly the lower  
161 court to act but I have not yet received an opinion. Included as follows;  
162 January 18, 2024 1ST DCA Mandate:  
163 DCA Case 1D2023-0839  
164 DCA Case 1D2023-0358  
165 DCA Case 1D2023-1518  
166 L.T. No.: 22001076CA  
167 TH, Mandate and **opinion to follow** to: Hon. Bill Kinsaul (Lower Tribunal,  
168 Bay County Court)

5 Of 47

171 consideration the Court having issued its opinion; YOU ARE HEREBY  
172 COMMANDED that further proceedings, if required, be had in accordance  
173 with the opinion of this Court, and with the rules of procedure, and laws of  
174 the State of Florida. WITNESS the Honorable Chief Judge Timothy D.  
175 Osterhaus, Chief Judge, of the District Court of Appeal of Florida, First  
176 District, and the seal of said Court at Tallahassee, Florida, on this day.

177 Additionally, the following things took place recently in the DCA.  
178 >1/18/2024 the docket shows "case closed" for all three DCA appeals.  
179 >On 1/2/2024 I filed with the Florida Supreme Court. It was converted into  
180 a Notice to Invoke Discretionary Jurisdiction.  
181 >On 1/8/24 SC Acknowledged Receipt.  
182 >12/29/2023 Order on Motion for Rehearing [DCA]  
183 >12/19/2023 Order on Motion for Rehearing [DCA]  
184 >12/18/2023 Post-Disposition Motions, Motion for Rehearing, Gorham,  
185 Curtis [DCA]  
186 >12/14/2023 Post-Disposition Motions, Motion for Rehearing, Request  
187 Extended Brief Size Limit or Time, Gorham, Curtis [DCA]  
188 >11/29/2023 Disposition by Opinion Affirmed, Affirmed in part and  
189 dismissed in part [DCA]

190 The "content" of the recent activity reads as follows in brief.  
191 >12/19/2023., The Court denies Appellant's "Motion for Rehearing, Request  
192 Extended Brief Size Limit or Time, docketed December 14, 2023.

193 >12/29/2023., The Court denies the motion for rehearing docketed  
194 December 18, 2023.

195 >11/29/2023., Disposition by DCA.

196 FIRST DISTRICT COURT OF APPEAL STATE OF FLORIDA  
197 Nos. 1D2023-0358., 1D2023-0839., 1D2023-1518

198 (**Consolidated for disposition**)

199 CURTIS GORHAM, Appellant, v. DR. GARY H. LAVINE; DR. EMILY  
200 D. BILLINGSLEY; KENDREA VIRGIL, RN; LLOYD G. LOGUE;  
201 DONNA BAIRD; JOSEPH R. IMPICCICHE (CEO); JUNCO  
202 EMERGENCY PHYSICIANS; BAY COUNTY HEALTH SYSTEM, LLC;  
203 DANIEL COUSIN; PAYPAL, INC.; and STATE OF FLORIDA, Appellees.

204 On appeal from the Circuit Court for Bay County. Elijah Smiley, Judge  
205 November 29, 2023., **PER CURIAM.**

We have consolidated these three appeals for disposition because they arise out of the same proceeding below. Appellant filed suit primarily for medical malpractice against numerous healthcare providers and entities. In the same complaint, Appellant sued the expert witness he retained to furnish the statutorily required opinion that malpractice had occurred. The expert determined that there was no deviation from the medical standard of care and therefore that he could not give the requested opinion. Given that opinion, Appellant also sued PayPal for refusing to refund Appellant's payment to the expert. Appellant also sued the State of Florida for improperly enacting statutory requirements for malpractice suits. We address the three resulting appeals in the order in which they were filed.

Case No. 1D2023-0358. Appellant challenges the order dismissing with prejudice all claims against the expert witness. This is a final and appealable order over which we have jurisdiction. On its merits, we affirm. To the limited extent we can derive a preserved legal argument from Appellant's filings, it appears he argues that this order is invalid because the trial court used Appellant's personal e-mail address in the order, rather than a separate e-mail address Appellant had provided for service. This argument is not supported by any legal authority, and it is meritless.

Case No. 1D2023-0839. Appellant challenges four orders. One cancelled all pending hearings. This procedural order is not appealable, and we dismiss as to this order. The second challenged order dismissed all claims against PayPal without prejudice. Such an order is not ripe for appeal. See *Hinote v. Ford Motor Co.*, 958 So. 2d 1009, 1010-11 (Fla. 1st DCA 2007) (explaining that a dismissal without prejudice is not appealable unless it is clear in the order that any further proceedings must be brought in a separate action). We dismiss as to this order as well. The third order granted a motion to dismiss with prejudice claims against Bay County Health System, LLC. Because this order merely grants a motion and does not contain final language actually dismissing the claims, it is not appealable. See *Johnson v. First City Bank of Gainesville*, 491 So. 2d 1217, 1218 (Fla. 1st DCA 1986) (explaining that an order granting a motion to dismiss with prejudice, but not actually dismissing the case, is not final and appealable); see also Fla. R. App. P. 9.110(l). We dismiss as to this order.



244 The fourth order dismissed with prejudice all claims against Drs. Billingsley  
245 and Logue. This order is final and appealable, and the notice of appeal was  
246 timely; therefore we have jurisdiction. **We affirm on the merits. It is**  
247 **undisputed that Appellant failed to comply with the medical**  
248 **malpractice presuit requirements, and that the time for doing so has**  
249 **long since passed, barring his action under the statute of limitations.**  
250 He nevertheless appears to argue that he is exempt from these  
251 requirements under what he calls the “foreign body retainment” doctrine,  
252 since he “retained” radiation from his CT scan. There is no legal support for  
253 this absurd argument, which the trial court correctly rejected.

254 **Case No. 1D2023–1518.** Appellant attacks the same non-appealable  
255 scheduling order challenged in Case No. 2023-0839. Further, this notice of  
256 appeal was untimely. We therefore dismiss Case No. 2023-1518 without  
257 further discussion.

258 **Court Warning to Appellant.** Appellant’s filings have been abusively  
259 numerous and fractured, **utterly failing to state valid arguments in a**  
260 **concise and cogent manner.** This is improper. See F.M.W. Props., Inc. v.  
261 Peoples First Fin. Sav. & Loan Ass’n, 606 So.2d 372, 377–78 (Fla. 1st  
262 DCA 1992) (“We note, however, that the failure to organize arguments  
263 under cogent and distinct issues on appeal presents sufficient reason for  
264 an appellate court to decline consideration of a matter.”). Appellant is  
265 warned that any further such filings will subject him to sanctions, including  
266 dismissal of all appeals without further opportunity to be heard, and  
267 potentially being barred from appearing in this Court ever again unless  
268 represented by a lawyer in good standing with The Florida Bar. Although  
269 Appellant has the procedural right to file a motion for rehearing or for  
270 rehearing en banc, in light of Appellant’s history of abusive filings we direct  
271 that he must combine any such post-decision arguments in a single  
272 document. See Fla. R. App. P. 9.300(b). Any such motion may not merely  
273 repeat arguments already raised. Further, any such document shall not  
274 exceed 15 pages and must use an authorized font. **All arguments**  
275 **presented must be substantively clear, concise, and organized, with**  
276 **citations to legal authority.** Any other or additional filings not expressly  
277 authorized by the appellate rules, and any filing that does not comply with  
278 these requirements, will be stricken without further opportunity to be heard.

279 **All pending motions are denied.**

280 **DISMISSED in part and AFFIRMED in part; WARNING issued.**

281 KELSEY, M.K. THOMAS, and NORDBY, JJ., concur.  
282 Not final until disposition of any timely and authorized motion under Fla. R.  
283 App. P. 9.330 or 9.331.  
284 Curtis Gorham, pro se, Appellant. Tara L. Said of Lloyd, Gray, Whitehead &  
285 Monroe, P.C., Pensacola, for Appellee Dr. Daniel Cousin; Joseph E. Brooks  
286 of Brooks Law, Tallahassee, for Appellee Junco Emergency Physicians;  
287 Erica Conklin Baines of Husch Blackwell LLP, Chicago, Illinois, for Appellee  
288 PayPal, Inc.; and Jacob M. Salow and E. Victoria Penny of Henry  
289 Buchanan, P.A., Tallahassee, for Appellees Dr. Emily Billingsley and Lloyd  
290 G. Logue, DO.  
291 >>>>>

292 The findings of this DCA decision are so very wrong it is mind boggling. It  
293 is so wrong that they also then issued a warning to me. It is a decision not  
294 reached based on facts or my requests for relief or the defendant parties  
295 involved. At best it is a selective mix of things to foster a decision already  
296 predetermined and appearing as correct given its way of being presented.  
297 In the same way as saying being found in a crashed car must mean I was  
298 drunk driving since alcohol can be sold type of insane finding. Meaning a  
299 case can not be filed in time but mine was. A case can involve use of  
300 experts but nobody gave a single thought about my claims aside from DCA  
301 outlining the foreign body retention inappropriately and calling such  
302 claims absurd, but there are many other claims that were made. DCA is  
303 willful and wanton in their refusal to actually provide an opinion on these  
304 matters with an in-depth legal analysis. Meaning the one thing of  
305 importance is the facts, it isn't the statutes of limitations, the medical  
306 experts, the case law, the format of the filing, it is the facts alleged. The  
307 law in 766 outlines being harmed alone doesn't create a presumption of  
308 negligence. Are we even dealing with negligence or is it intentional  
309 personal injury? Is one question and cause of action I filed? If the doctor has  
310 been alleged to be guilty of intentional personal injury than why isn't the  
311 staffing agency and hospital blaming the doctor for the personal injury in  
312 their defense saying we are responsible for the doctor doing such harms  
313 since they are personal injury and not medical malpractice, and even if they  
314 are medical malpractice, there is waiver and exceptions and other doctrines  
315 and matters that apply and all of it is not considered? Ultimately arriving at  
316 the DCA decision which is not only insufficient but deficient and actually  
317 kind of insane. Simply stated the "medical staff" told me they would not  
318 harm me and then did. It is not the same as a surgeon had me in for a  
319 surgery and made a mistake that is medical malpractice, it is a different

negligence even if can be called negligence, that the staff "intentionally" did what they did as a personal injury. There are also still a number of unknowns, and so it is not possible to say I didn't [have an expert, I have no money and also I have not been given all of the discovery and so what is there for a expert to review, the hospital records are fake and the hospital retains the further evidence as well in one instance and in another the staff threw it away or deleted it making proving such things rather complex. I can walk up to an expert and ask want to be my expert here write me an affidavit saying you reviewed things that were destroyed and hidden and these false records of the staff, that is what the DCA is attempting to assert as the law of Florida which I didn't adhere to, despite suing the state and laws, and offering numerous exceptions and doctrines and statutes in support of my claims. DCA is basically saying I had to put a gun to the head of the hospital and said talk and give me the evidence, since that is the only way forward if not with the court process here being the only alternative. So I guess I will just from now on visit hospitals and doctors pointing a gun at them waiting for them to make a "mistake" whether it is intentional or negligence. That way there would be something, a dead body to deal with instead the personal harms to my person by medical providers and their false records, which based on the DCA finding and my claims all are legal to do, harm patients continually and make false records. 100% legal, unless it can be proven by an expert to not be proper medical standards of care. Hence this is all insane as I said. The DCA has made Dr. Cousin fraud legal. That is insane precedent and a absolute refusal of my claims and allegations which in the DCA decision converts his crimes into opposite fact that he made an "opinion" and did a "review" which he didn't.

Fla. R. App. P. 9.210., Rule 9.210 – BRIEFS., (f) Contents of Briefs on Jurisdiction. Briefs on jurisdiction, filed under rule 9.120, must contain a **statement of the issues, a statement of the case and facts, the argument, the conclusion, a table of contents, a table of citations, a certificate of service**, and, for computer-generated briefs, must also include a **certificate of compliance** in the same manner as provided in subdivisions (a) and (b) of this rule.

In the **statement of the issues**, petitioner must identify any issues independent of those on which jurisdiction is invoked that petitioner intends to raise if the court grants review.

357 **STATEMENT OF THE ISSUES:**

358 In the first district court of appeal, of the state of florida, this is a complex  
359 litigation which the First District Court of Appeals has denied my appeals,  
360 combined them all, denied my motions, and not allowed me to file enlarged  
361 briefs. There is confusion as to if this is Florida Supreme Court appropriate  
362 as it is a DCA Per Curiam finding. Appears on its face as egregious  
363 mistakes on top of lower tribunal mistakes along with attorney misconduct  
364 along with the facts of the case defendants acts "conspiracy" to cause such  
365 harms and the courts failure to address those matters. See the medical  
366 records below. (exhibit A), for how this all began but it continues way far  
367 beyond to today even. It is obviously fraud by the hospital and medical  
368 providers. I had a back injury they turned it into a opportunity to play the  
369 opposite game and do eugenics. The only self defense is to get a  
370 monetary award capable of enabling me to be able to retain counsel or  
371 under 766.104(1) the court agrees that I did a "reasonable investigation" or  
372 that law means nothing in this mess of litigation and on I have to literally  
373 shoot a medical provider and then let an medical expert review that and  
374 say based on the murder killing of the medical provider at the time of the  
375 poisoning that the medical provider is alleged to have been doing, it is the  
376 only medical evidence that the patient shot the provider for self defense  
377 "because of a violation of the standards of care" because of the poisoning.  
378 Otherwise there is no venue for legal relief. That is one option. The other  
379 is that the lower court judge allowed the defense counsel to do misconduct  
380 and he ignored my claims as part of his "discretion" to do so, and so now  
381 the DCA has done the same regardless of my claims in the lawsuit.  
382 Leaving only the Supreme Court to correct those previous errors of  
383 procedure and address the facts and law I have invoked.

384 Further I do intend on filings of other medical providers lawsuits in regards  
385 to other medical providers who have harmed me, including against the law  
386 enforcement agencies and officers and also the state of Florida again for all  
387 of them once again.

388 **STATEMENT OF THE CASE AND FACTS:**

389 A.) I initially contacted Defendant, Dr. Daniel Cousin, a medical expert in  
390 radiology and he responded and was "retained" at his request and with his  
391 payment cost amount and through one of his suggested payment methods  
392 (PayPal, via the Friends and Family method so that I pay the costs for the  
393 transfer fees and not him as a business service provider and registered  
394 user of PayPal). He was informed that I was over-exposed to ionizing

395 radiation with a CT scanner at a hospital emergency room and that I was  
396 not diagnosed for a back injury that was later diagnosed with a x-ray exam,  
397 he was also informed that the incident took place because of staff lies to  
398 me about what was happening. It is my claim that Dr. Cousin "has not  
399 reviewed the matters" despite having provided what he calls a "consultation  
400 report" and or otherwise known as his "opinion" yet it comes with no "merit"  
401 for a violation of the standard of care and no affidavit and not notarized,  
402 and so it is only a report that has the look and or formatting of an actual  
403 opinion from an expert.

404 A1.) Dr. Cousin was made aware that I was over-exposed to ionizing  
405 radiation. He has no made any mention of this in his report. (cite). It is my  
406 claim that a client seeking expert opinion on such grounds of the staff lying  
407 and causing an over-exposure incident "requires" the expert to address that  
408 matter and by taking the case for review "being retained" he was required  
409 to address those matters.

410 A2.) Failure to address the matters of over-exposure and lying by staff can  
411 not be summed up with "no violation of the standard of care" happened,  
412 which is not even what he did as a review based on such facts, instead he  
413 totally left out the narrative of mine about the lying, and looked at the CT  
414 scan 'exam' (which it can't even be called that) as if it was normal. As if I  
415 never told him about the lying staff and over-exposure as a matter for him  
416 to review prior to payment to be retained. Meaning he could have written  
417 me a 50 page college level PHD dissertation thesis on one aspect of the  
418 soft tissue stranding but if the expert never says a peep about the other  
419 matters than his work is pointless and harmful and theft and fraud.  
420 Insufficient and deficient. He should have never agreed to do a review if he  
421 had no intention of addressing the matters. He even never said anything  
422 about the 2 entire deleted series of images from the CT scan. Hence it  
423 can't be called a 'exam' given it was based on lies, without informed  
424 consent, and includes 2 entire deleted series of images.

425 A3.) Given Dr. Cousin's failures it has created a environment in which the  
426 law on the books do not exist and are not applicable. Meaning Chapter  
427 766 outlines a few things in regards to medical malpractice and also other  
428 legal causes of action all included are things such as "medical battery" "  
429 766.111 - unnecessary diagnostic testing" "766.102(2)(b) - lack of informed  
430 consent" and any other 'do no harm' types of claims that can be made.

431 A4.) The actual "radiology report" includes at the bottom that the hospital  
432 uses the lowest amount of radiation possible a principles known as ALARA  
433 which is easily able to be looked up and shown to be outlined and defined

434 on the government's CDC website. Therefore, my CT scan 'exam' claim for  
435 over-exposure has not been properly reviewed by Dr. Cousin to the effect  
436 that I can claim the hospital itself has created a "rule" for its staff to be  
437 careful with patients. There isn't much else the hospital would give in terms  
438 of pre-determined paperwork for safety that says the hospitals wants to  
439 ensure safety aside from a slippery when wet sign and employees must  
440 wash hands sign in the bathroom.

441 A5.) The Defendant, Dr. Emily Billingsley the radiologist was made aware  
442 along with her still unknown male assistant that I wanted a paper copy of  
443 the CT scan order and that "no pelvic scanning was to occur." Then in  
444 about 10 minutes to even as much as 17 minutes possible the doctor left  
445 the room to go ensure that the proper exam was ordered and that I could  
446 have a paper copy of it. There may be video of her in this time doing  
447 something in the hospital and it may be visible in the time between when  
448 the doctor wrote the orders he did and when the exam with the radiology  
449 doctor began creating a 10 to 17 minute gap, which was not me laying on  
450 the table bed of the CT scanner for 10 to 17 minutes. That video which  
451 may exist would be part of "preserved information" which I contacted the  
452 hospital about via email and then spoke to the risk manager about and then  
453 she agreed to have me send her a "letter of preservation" for that evidence  
454 and anything else so it doesn't spoil. The doctors orders would be a part of  
455 that information and it is actually a part of the medical record for 5 years  
456 along with the exam images as per federal rules and as a medical record it  
457 was not even given to me when I requested it via a records request.  
458 Making the defense counsel claims of me not having an expert review the  
459 case pointless because the hospital refused to give me the information  
460 which is a violation of the law to provide medical records in and of itself  
461 much less for litigation when I had already discussed with the risk manager,  
462 emailed the hospital and sent a letter and also later a request to "amend"  
463 my records. It turns out the hospital is supposed to send along a paper  
464 informing of who to complain to in the government and also potentially  
465 open an internal "adverse incident report" and that by law is public record.  
466 However, instead the risk manager denied my complaint claims in our  
467 phone conversation, refused to send what she was saying to me in "writing"  
468 and hung up on me after saying that the "sacrum" bone is not part of the  
469 pelvis, that it is part of the "lumbar" spine and that "no images exist of my  
470 pelvis or genitals or legs" even though I was looking at them after the  
471 records request that only included the images and report, a report which is  
472 also part of the medical records from the emergency room. Point is that I

473 had done a lot concerning "over-exposure" and staff lying to me and then  
474 Dr. Cousin agreed to be retained for a review and see A1-4, making him a  
475 fraud who failed to review anything and even intentionally ignoring my  
476 emails by talking about other things instead of correcting his errors. To a  
477 point of him threatening me with a lawsuit for trying to extort him. So lets  
478 just ask 1 question then, what had he ever said about the 2 entire deleted  
479 series of images? Nothing is the answer. Did I tell him about his errors  
480 and the laws, yes I did in emails.

481 A6.) What he did include in his report is that I had a back injury that night.  
482 Which the staff failed to diagnose despite the evidence of it existing in the  
483 images of the exam and my narrative plays in here that the staff knew  
484 where I was injured and knew they were failing to diagnose me. It is the  
485 only way such things are possible with such nonsense medical records  
486 being created by the staff, regardless of my narrative. They imaged my  
487 sacrum but I had no sacrum injury diagnosed or mentioned in the  
488 radiologist report. As in the dentist said someone knock my tooth out but  
489 all of my teeth are visible on the x-ray? The staff said I had a pelvic injury  
490 but then there is no injury it was not imaged further up in my middle back,  
491 with only a portion of the upper images showing the soft tissue stranding  
492 edema (ground impact) present in the skin and tissue in the images, and so  
493 Dr. Cousin combined my narrative for him to be retained, looked at the later  
494 x-ray exam that did diagnose my T12 compression fracture and then  
495 looked at the CT scan and noticed there was soft tissue stranding in the  
496 lumbar spine images and said he thinks I had the back injury the night of  
497 the hospital incident. Right so what? He doesn't fault the radiologist for not  
498 diagnosing me. So there goes my narrative, my preserved video evidence,  
499 my timeline to establish with the emergency room physicians order, and  
500 when the CT scan began and my claims of over-exposure are intermixed  
501 in that as well. So Dr. Cousin is not acting as a expert he is acting as a  
502 negligent defense counsel expert and or fraud. He is not acting in my  
503 interest at any point despite the value of being able to say I told you my  
504 back was injured and that explains all of my narrative and claims.

505 A7.) The State of Florida 1<sup>st</sup> District Court of Appeals has stated that in  
506 their "decision" a medical expert is "required." (cite.) Well how can the  
507 state and court system require me to retain a expert but when I sue him for  
508 not doing anything for me then dismissal the case? Basically like saying I  
509 went to the court to file the lawsuit as the law outlines a citizen can do and  
510 the clerk lite it on fire, or the judge, or the defense counsel, or the appeals  
511 court aside from the later Mandate (cite) which I don't today know what the

512 opinion is.

513 A8.) The defense counsel for Dr. Cousin has continually filed my personal  
514 sensitive information in violation of the rules of civil procedure, (cite) to  
515 many to cite, and to this day it still remains on the docket in various places,  
516 despite being ordered to remove it by the Judge and the Judge saying ti  
517 would be removed (cite) and then the Judge of the lower court tribunal  
518 literally the day of the hearing when it was brought up again instead of  
519 being through filings and motions, the judge in this hearing said he would  
520 have the clerk and himself take care of it, but then after that hearing the  
521 defense counsel then filed a dismissal order with my same exact personal  
522 email on it instead of the email I designate at the end of every filing of mine.  
523 Point is it is contempt and the Judge signed it with dirty hands and it is a  
524 voided order it would seem, though it was later updated to remove my  
525 email.

526 A9.) I had to spend a lot of my time on the filing of my personal sensitive  
527 information, in the same way a defense counsel throwing spit balls at me  
528 the entire trail would be disruptive it is 100 times more. The entire case  
529 should be returned on those grounds alone. I was unprepared and unable  
530 to file and respond and prepare for hearings. Due to the abusive filings of  
531 the defense counsels, which include 3 of them, PayPal filed 2 of my emails  
532 for their website, then the Bay County Health LLC filed my personal email  
533 then Dr. Cousin's counsel did it again and again and again. Funny  
534 because some attorneys told me to pay them 1 million dollars to represent  
535 me and here we have multiple defense counsels not aware of basic rules of  
536 not filing personal sensitive information. Fascinating.

537 A10.) I am required to be sure to emphasize that I sent emails to Dr. Cousin  
538 and he replied many times with nonsense and logical fallacies (like his  
539 defense counsel also) and also complained as well about his time and so  
540 said in an email response after many other responses that he would need  
541 to be paid for his time before he would do anything, so I need to emphasize  
542 that it is the important factors here that are that my emails outlined that he  
543 had been refusing to update his opinion with a literal review opinion from an  
544 expert because of the law and facts involved he has ignored, and his  
545 replies in the end were he is an expert, I am not an attorney, and he will not  
546 update, he will not review, and he is wanting me to pay him more money or  
547 he won't speak to me anymore and may sue for extortion. Interestingly his  
548 initial email to his co-worker stated I was a new "pro se" client, (cite) and  
549 so we also discussed that I wouldn't be getting an attorney I had already  
550 tried, and also included that his other initial email the one that included his  
551 report said that if he made errors he would fix it for free, and also that he



552 wants to be paid more in the future from now on, and so his job was done  
553 and wanted more money from that point forward, please see A1-10, and so  
554 his report doesn't name the proper doctor halfway through and also doesn't  
555 include the proper exams at the second hospital where I had the x-ray  
556 exam.

557 A11.) Basically his report is useless and he constantly encouraged me to  
558 seek an attorney with it, and aside from the observation that I had a broken  
559 back which was already known there is just denials of my claims which  
560 make things illegal legal and part of the standard of care, such as it isn't a  
561 violation of the radiology standard of care to delete 2 entire series of  
562 images which are medical records of a patient, delete medical records all  
563 you want, not illegal to not give the order when requested, cover up  
564 medical experimentation all you want, not illegal to lie to patients and  
565 coerce them into a CT scan without informed consent, the list is ever  
566 expanding in all the ways Dr. Cousin is idiotically providing nonsense to me  
567 as a retained medical expert and fraud who stole from me. In terms of  
568 great public importance, Dr. Cousin case precedent, see Gorham v Lavine,  
569 a medical expert doesn't have to review anything even if specifically made  
570 aware of oversights. That is what has been made "required" by the 1<sup>st</sup> DCA  
571 and lower court Judge Smiley. Or at least that is what happened.

572 A12.) Review & Argument Based on Case History In the Lower Court and  
573 First District Court of Appeals.

574 a.) Dr. Cousin's defense counsel kept filing my personal sensitive  
575 information (email, entire date of birth).

576 b.) The Answer to the lawsuit was a Motion to Dismiss. Judge Smiley held  
577 a hearing a granted dismissal.

578 c.) "Everything the defense counsel said was wrong" I said in the hearing.  
579 I was going to file a reply to their motion to dismiss but got side tracked  
580 including dealing with the filings I had to make in regards to the several  
581 defense counsels filings of my personal sensitive information. I also had to  
582 consider that all defense counsels motioned to dismiss as an answer, some  
583 defendants didn't respond at all, and Defendant Junco Emergency  
584 Physicians motioned eventually to quash service, they staff Defendant Dr.  
585 Gary Lavine the emergency room physician. My basic argument is the  
586 facts matter as outline in A1-12abc, and continue with the facts that the  
587 case law used by the defense counsel for Dr. Cousin appear to favor me as  
588 the Plaintiff in regards to "facts matter most" and legal precedent that ability  
589 to amend a complaint is available and simply leaving out "the elements"  
590 doesn't amount to a case dismissal as the rules say (cite) simply format the

591 complaint so the defendant knows why they are being sued.  
592 d.) Dr. Cousin defense counsel Answer (cite) is nonsensical, trying to  
593 establish through case law and fraudulent misrepresentation of facts a  
594 defense which the defense itself has apparently included as a case law that  
595 you 'can't just string together legal theories and presumptions and claim it  
596 is illegal' which isn't that exactly what I just said she (Tara Said) had done?  
597 It is the case law but also the false light and deviation away from any  
598 factual defense instead converting the facts to what is not fact, in fact, she  
599 said in a hearing (cite) if Dr. Cousin was today to create a expert opinion it  
600 would not be that medical malpractice has taken place by the defendant  
601 parties. That is a pretty egregious claim or statement given that there are 2  
602 entire deleted series of images in the CT scan 'exam.' Therefore, Dr.  
603 Cousin wouldn't have an opinion that deleting medical records is a standard  
604 of care violation, but more specifically what is Tara Said the defense  
605 counsel basing that on, since I outlined the claims and causes of action and  
606 in my emails as well to Dr. Cousin, that she could in any way possible come  
607 up with such a statement or claim since Dr. Cousins opinion is deficient and  
608 doesn't elaborate on the matters in a way that Tara Said could reasonably  
609 say such things. The only even remotely possible way to say such a thing  
610 is if Dr. Cousin was a pay for opinion coin operated machine that could only  
611 produce opinions based on some bizarre unrealistic basis that the machine  
612 doesn't speak English or read it and can't be reasoned with or sent an  
613 email to correct errors, and can only redo a opinion based on partial  
614 records one time only with no update and so a mistake is made in the  
615 process and I am forever stuck with it; and so slapping the side of the  
616 machine and complaining to the management would only ever result in it  
617 re=prints the same exact document, therefore to this day unable to say that  
618 medical malpractice has taken place based on its own inherent failure to  
619 perform its basic functioning. Tara Said said I didn't like the opinion. So it  
620 is my fault?  
621 e.) Other than that what Dr. Cousin did as a retained medical expert was  
622 "prevent discovery" of the "preserved information" I had the hospital retain.  
623 To the degree that Chapter 766 says in 766.104(1) a "reasonable  
624 investigation" can be shown by an injured patient and or if it is done by a  
625 attorney than they need to also produce a paper they sign saying they  
626 believe a good faith basis that medical malpractice has taken place in  
627 addition to the review that the attorney had done by an expert potentially.  
628 Meaning, the attorney has to verify they think it is a good case or have to  
629 pay costs and fees if it is shown not to be a good case and the paper they  
630 signed can then be used to seek such costs and fees as a remedy for a

631 frivolous filing it would appear is what the law is saying, while also  
632 preserving a right for a citizen to otherwise conduct a reasonable  
633 investigation, which might just be the staff said they did a malpractice and  
634 so the patient told an attorney, who signed a paper then sent a demand  
635 letter or Notice of Intent to the defendant parties and that would be a  
636 sufficient operation of law process to take place. In my matters it is that it  
637 would have been more beneficial for me to have a medical expert who  
638 created an actual opinion and actually addressed the over-exposure and 2  
639 deleted series of images and the other parts of the incident, enough that I  
640 could take it to court and get a subpoena for discovery before even filing  
641 the Notice of Intent as there is "data" and a CT scan machine hard drive,  
642 and medical records access data and medical records like the "orders" of  
643 the er doctor and even potentially "video" and then depositions and all of  
644 that would have been easily begun with a proper review based on my  
645 emails to Dr. Cousin it can be shown I already stated initially informed him  
646 of "over-exposure" and he said nothing actually about it instead converted  
647 his time to making it appear as a thing that never took place. Making it  
648 additionally difficult to send it in as part of a Florida Department of Health  
649 complaint with a medical expert opinion attached, and as well handing it  
650 over to doctors I have visited for the continuation of care, who have actually  
651 asked me "has anybody ever written down that something happened to  
652 you?" That is also something an attorney would ask, and ask did a doctor  
653 say that you have been harmed or that another doctor harmed you, and if  
654 the answer is no, they will not take the case, and so Dr. Cousin was playing  
655 the opposite game, telling me to seek counsel after calling me pro se and  
656 then not performing his function but telling me to seek counsel. He is a  
657 literal crazy person and it is "defamatory" to have the DCA "decision" be  
658 that he did a opinion or any wording that could establish he had done  
659 anything, since he did the opposite and ruined things. DCA should have  
660 made a decision based on the facts and at worst (best for me) said I failed  
661 in my filing or something like that, but instead (cite.)

662 - - - Case No. 1D2023-0358. - - -

663 EX1.) Appellant challenges the order dismissing with prejudice all claims  
664 against the expert witness.

665 This is a final and appealable order over which we have jurisdiction. On its  
666 merits, we affirm.

667 To the limited extent we can derive a preserved legal argument from  
668 Appellant's filings, it appears he argues that this order is invalid because  
669 the trial court used Appellant's personal e-mail address in the order, rather

670 than a separate e-mail address Appellant had provided for service. This  
671 argument is not supported by any legal authority, and it is meritless. [dirty  
672 hands making it invalid, contempt of court for the earlier hearing when the  
673 judge said that the docket would be fixed a basic commandment to the  
674 counsel it can be though of that was entirely ignored. It is abuse)

675 EX2.) In the same complaint, Appellant sued the expert witness he retained  
676 to furnish the statutorily required opinion that malpractice had occurred.  
677 **The expert determined that there was no deviation from the medical**  
678 **standard of care** and therefore that he could not give the requested  
679 opinion. **Given that opinion**, Appellant also sued PayPal for refusing to  
680 refund Appellant's payment to the expert.

681 EX3.) The fourth order dismissed with prejudice all claims against Drs.  
682 Billingsley and Logue. This order is final and appealable, and the notice of  
683 appeal was timely; therefore we have jurisdiction. We affirm on the merits.

684 **It is undisputed that Appellant failed to comply with the medical**  
685 **malpractice presuit requirements**  
686 and that the time for doing so has long since passed, barring his action  
687 under the statute of limitations

688 He nevertheless appears to argue that he is exempt from these  
689 requirements under what he calls the "foreign body retainment" doctrine,  
690 since he "retained" radiation from his CT scan. **There is no legal support**  
691 **for this absurd argument,** which the trial court correctly rejected.

692 - - - Court Warning to Appellant. - - -

693 Appellant's filings have been **abusively numerous and fractured, utterly**  
694 **failing to state valid arguments** in a concise and cogent manner. **This is**  
695 **improper.**

696 See F.M.W. Props., Inc. v. Peoples First Fin. Sav. & Loan Ass'n, 606 So. 2d  
697 372, 377-78 (Fla. 1st DCA 1992)

698 ("We note, however, that the failure to organize arguments under cogent  
699 and distinct issues on appeal presents sufficient reason for an appellate  
700 court to decline consideration of a matter.").

701 **Appellant is warned** that **any further such filings** will subject him to  
702 sanctions, including dismissal of all appeals without further opportunity to

703 be heard, and potentially being barred from appearing in this Court ever  
704 again unless represented by a lawyer in good standing with The Florida  
705 Bar.

706 I hope that the Florida Supreme Court can now understand that this  
707 "Decision" by the 1st DCA is actually insane and needs to be revoked and  
708 removed from the internet, as it is currently now visible by various websites  
709 who index court filings. I seek that as a relief specifically. Essentially the  
710 entire decision is wrong, the warning is wrong, and miss-worded and  
711 unfounded, without an actual opinion as well, so no better than what Dr.  
712 Cousin has done or his defense counsel or the errors by the lower court,  
713 and so in addition why doesn't DCA just come over here and kick my dog  
714 while they are at it basically. This has zero legal authority to it.

715 It is a Decision in context of this case the same as what Dr. Cousin has  
716 done, his defense counsel, same as the defendants and their acts and  
717 omissions and fraud to create false medical records, and comes on the  
718 back of a variety of additional personal attacks on me by other medical  
719 providers, which nobody cares about me mentioning "conspiracy" that took  
720 place during this hospital incident, that Dr. Cousin is also playing the same  
721 opposite game, and that other medical providers and others such as law  
722 enforcement have also physically harmed me, and so I am surviving on a  
723 bad back catastrophically injured by ionizing radiation, having have been  
724 poisoned by the nurse, which is equal to saying foreign body retainment of  
725 radiation as well, since it is all left in me and fails to have other legal ways  
726 of being described except as medical battery, negligence, medical  
727 malpractice, eugenics, medical experimentation, medical research without  
728 informed consent of the patient and the list grows and would seem to  
729 include that 766.102(3)(b)."

730 766.102 Medical negligence; standards of recovery; expert witness.—  
731 3.(b) The existence of a medical injury does not create any inference or  
732 presumption of negligence against a health care provider, and the claimant  
733 must maintain the burden of proving that an injury was proximately caused  
734 by a breach of the prevailing professional standard of care by the health  
735 care provider... However, the discovery of the presence of a foreign body,  
736 such as a sponge, clamp, forceps, surgical needle, or other paraphernalia  
737 commonly used in surgical, examination, or diagnostic procedures, shall  
738 be prima facie evidence of negligence on the part of the health care  
739 provider.

740 So we have to ask is a radiologist intentionally over-exposing a patient the  
741 creation of a "foreign body" since the doctrine here being used by the  
742 legislature is know as the "foreign body retainment doctrine" and so I am  
743 not the one making it up as DCA states, it is a literal doctrine and the  
744 legislature has codified it in the statutes of the medical malpractice act in  
745 Chapter 766.102(3)(b).

746 In addition the doctrine of res ipsa loquitur is applicable. Negligence per  
747 se, is applicable. Ionizing radiation particularly is a particle and a wave,  
748 the next step up in the spectrum is Gamma Ray and that is literally known  
749 as particles that tear through matter and so it is already known that  
750 radiation is "retained" in the body and does cause DNA and genetic  
751 mutations and other known "deterministic" effects such as glaucoma,  
752 arthritis, and other physical ailments including infertility, and so how it would  
753 be possible to "define" radiation as not being a foreign body is unrealistic  
754 what DCA has said as what is causing me to be infertile if not for the  
755 "foreign body retainment caused during a exam and or diagnostic  
756 procedure. It would that the entire intention of the 766 law itself is to make  
757 such harms have a legal remedy available as a patient can have a item  
758 removed from their body but the radiation itself remains and so over-  
759 exposure can really be defined as a foreign body, it isn't the spirit of past  
760 butterfly's and magic and pixies and fairies and mythical things causing the  
761 magic pictures on the magic picture box to appear it is a scientifically  
762 manufactured machinery as a tool for diagnostics in a medical setting  
763 specifically only allowed to be operated by a qualified and licensed  
764 professional under strict rules and regulations and policies and that is why  
765 the janitor isn't given a scalpel and told to report to surgery it is a medical  
766 staff of trained professionals using specific tools and one of the most  
767 common and ubiquitous tools is imaging and ionizing radiation is one of the  
768 most used second only by the MRI magnetic resonance imagining that has  
769 only recently been created. I can however, remove the "foreign body" you  
770 know how it is if there is enough it will scab over, and fall off or cause death  
771 and if it causes my testicles to become cancerous I can have them  
772 removed and thus no more foreign body retainment, and so such a  
773 definition wouldn't fit with any other type of claims of it is just medical  
774 battery, because there is a specific detailed description that comes from  
775 calling radiation a foreign body and the specific known outcomes of such  
776 medical providers negligence, that guess what result in a further medical  
777 procedure, it is going to be cancer treatment, or glaucoma treatment, or

778 some other medical treatment, just as the same applies to a typically  
779 understood foreign body scalpel would require a further medical procedure.  
780 So it is not "absurd" as DCA says. It is entirely "practical" and appropriate  
781 to call the over-exposure through ionizing radiation a foreign body  
782 retainment incident. If it is a diagnostic procedure, which use of "imaging"  
783 was only done for "diagnostic purposes" the only other use is to treat  
784 cancer with the radiation to kill the cancer, so than the fraudulent records  
785 are just that fraud, since there was never any pelvic "sacrum" injury to  
786 examine, and the inclusion that I had such a complaint is fraud only put  
787 there to carry out the cover up and conspiracy and what hope the staff  
788 could have for a liability avoidance. So I will conclude this argument with  
789 the following example, if the medical staff hide behind shielding, and the  
790 ALARA principle is to use shielding, and when patient are at the dentist the  
791 lead vest is used for shielding, and so lets say for example I buy a box of  
792 scalpels and start throwing them at police would the police arrive with  
793 shielding on, yes, they have vests, would they decide Mr. Gorham is crazy  
794 lets taze him and tackle him, would they approach me throwing scalpels at  
795 them, with a "shield?" Like a riot shield? I think they likely would. That  
796 seems to be a fact. Police have shields. So if the medical staff hide behind  
797 shields, patients are supposed to be shielded, and in the vent a scalpel  
798 throwing person was called on by police they would arrive with shields, why  
799 is because of fear of a foreign body retainment, meaning a scalpel hitting  
800 them, and or ionizing radiation exposure, and so than what is "over-  
801 exposure" well the answer is actually very simple, look at the state of  
802 Florida it has a department of radiation control, for nuclear waste and  
803 power plant purposes, and so when for example a "accident" happens the  
804 medical providers would wear suits that shield them, and when the  
805 Japanese Fukushima power plant had an accident after the tsunami, the  
806 people could be seen wearing protective suits, and giger counters, and so it  
807 is all out of fear of the foreign body, it is not out of fear of a foreign pixie, or  
808 magic spirit, it is a foreign body by scientific definition and the 766 statutes  
809 name specifically "Diagnostic" and so that includes a CT scan over  
810 exposure incident. It is prima facei negligence. There is a reason all the  
811 regulations exist and there is a reason people should go to Chernobyl  
812 because the radio active decay is still present after the melt down of the  
813 power plant. It is not "magic" is a particle and wave that can be detected  
814 and 'infect' a person with over-exposure making it a foreign body by many  
815 definitional similarities, likewise, the cell phone people carry in their pocket  
816 doesn't work on magic pixie dust in the air, it is radiation, that is why people  
817 can talk to other people on the other side of the world with their cell phones

that radiation, it is the "ionizing" side of the spectrum which causes serious problems enough that waste is regulated and the use of a CT scanner can only be done on the "order" of a qualified medical provider. I can't open a street corner business called Curt's Diagnostic Radiation Exams because I am not licensed as a medical provider. Therefore, any body who operates such a technology as a CT scanner would be exactly aware of all of the dangers involved and so any over exposure is easily definable as a negligence the same as mistakenly leaving a scalpel in a patient was obviously caused by the medical provider the same can be true if the "images" from the CT scanner exam show the parts of the body that it shouldn't. My legs can be seen for a middle back injury in the T12 vertebra between T12 and T11. The "Thoracic" spine is the middle back spine that runs from the lower rib cage up to the neck. I have already explained the details of all that has gone wrong in that hospital incident and so the only thing left to say is that the staff lied and also played the "opposite game" as it is easy to say that the CT scan had it scanned up as much as it did down unnecessarily that I would have had a proper diagnosis and thus it is a 'exam' that when any person looks at it can say what it is prima facie negligence as clear as a item left in a patient. Besides who has a open body diagnostic procedure these days as outlined in the 2023 Florida statute that is something from time before radiology imaging was invented that a person would go under the scalpel for a diagnosis, and so it can only be meant to be included that radiation is a foreign body with the words included in 766.102(3)(b) "~~or other~~ paraphernalia commonly used in surgical, examination, or diagnostic procedures," the "paraphernalia commonly used" should be a reference to include radiology imaging as there is also a method of using radiation continuously called "fluoroscope" and that is used in "surgery" and so all together the statutes is saying the same thing multiple times in regards to fluoroscope with "commonly used in surgical, examination, or diagnostic procedures," that is exact fluoroscopy. So a component can be left inside the patient is all, but all other fluoroscope use of isn't then applicable as being over exposure that was "surgical, examination or diagnostic." That doesn't seem to make sense. Additionally it can be said that the most used again is radiology as a "other paraphernalia commonly used" and so it is a "paraphernalia" to say it isn't is to create a legal exception or limitation without actually having any grounds to do so when the statute itself already contains the definition in many ways to say a hospital with a tool like a CT scanner isn't a tool of the hospital only a scalpel is a tool of the hospital and so that is a "absurd" result of the statute itself and the purpose of the Florida Statutes in the construction is to



858 legally "avoid absurd results" and that is a well known legal precedent and  
859 so DCA is going way out on a limb to make a determination fundamentally  
860 incorrectly as well legally baseless since it makes it absurd to try to define  
861 radiation as a harm by a medical provider as well creates an actual  
862 exemption for such harms to go past without a remedy specifically created  
863 to address such matters, when there is already so many actual rules on the  
864 books that describe in detail how patient safety and consent is mandatory.  
865 It is kind of as crazy as saying police officers guns sometimes go off when  
866 they take them out of their holsters but it doesn't mean that they shot  
867 anybody, when the actual news report and autopsy report and victims  
868 family and officer involved all would be saying the word "shot" as in I didn't  
869 mean to shoot the victim, another police officer shoots a person while  
870 drawing their gun, the holster is defective the gun is defective it causes  
871 people to be accidentally shot, you see all of that wouldn't make any sense  
872 if we said, it doesn't mean it was intentional for the police to shoot their  
873 guns. Well it does, they need to instantly out that gun and holster down  
874 because that would be "safe" and any officer who continued to carry such  
875 tools would be said to be obviously prima facie negligent. Just like how the  
876 foreign body retainment doctrine outlines a medical provider is when they  
877 cause a incident to happen. In conclusion, these provisions of the law  
878 could apply equally to use of ionizing radiation by medical providers as it  
879 seems that is what the statute is including anyways and if not than it  
880 should. I even would include "poison" as a foreign body since it is "foreign"  
881 and it is a "body" just without the limitation of a production line tool, except  
882 now many things are produced in mass quantities and harmful if too much  
883 is taken resulting a autopsy report of poison. As in not drug overdose, but  
884 the person was poisoned or poisoned themselves. SO it is all definition  
885 and semantics and use case scenarios. Appears the legislature intended  
886 for such use case scenario as there is no other statute except unnecessary  
887 diagnostic testing, which itself wouldn't cover poison, and so how would a  
888 poison incident have a cause of action, causing death, or injury, or foreign  
889 body retainment if survive it. Well lets ask the question, if poisoned puke,  
890 get an IV to flush the fluids out, and if die then the autopsy would include  
891 removing blood and or an organ to determine what the poison did, thus it is  
892 a foreign body being retained to the point it can be withdrawn from a victim.  
893 So it is either poison is just poison or poison is a foreign body retainment,  
894 with the only problem being, that by definition it is only applicable if the  
895 poisoning occurs as part of a "commonly used in surgical, examination, or  
896 diagnostic procedures," and so therefore the only applicable "poison" that  
897 would apply is once again a "fluoroscope" that over exposed the patient

898 since poison isn't used in exams and diagnostic procedures, unless of  
899 course we include what is outlined in my radiology report "without contrast"  
900 and so "contrast solution" is a actual radiological substance like how  
901 Chernobyl is poisoned by the melt down and nuclear waste is dangerous  
902 poison to all things living the same is true of "contrast solutions" and some  
903 people have become sick and filed lawsuit in regards to the contrast used  
904 and so lets now ask, does that not equate to a "surgical, examination or  
905 diagnostic procedures," it is literally all of those things, but based on what  
906 DCA has said now it is precedent that ionizing radiation is exempt. It is  
907 important to note that a MRI can cause burning to the skin. Likewise a tool  
908 left in the body would be likely to be said to cause a problem similar and so  
909 once again we have a injury without an applicable definition. The  
910 radiologist used an MRI that burned me would only be medical battery or  
911 unnecessary diagnostic procedure under 766.111. It is important to note  
912 that I did sue the state of Florida and the rules and statutes and so the  
913 court decision is that my claim of foreign body retainment is absurd, fair  
914 enough, but DCA has limited its decision to only that aspect of my claim as  
915 if it was the only claims made and it isn't in fact there are various causes of  
916 action involved I have included a few just here in this argument past  
917 paragraphs so far, and so the "lack of informed consent" waives a medical  
918 expert, and so why is DCA saying I needed a expert that "it is required"  
919 when 766.102(2)(b) applies, waiving the need for experts, and I even  
920 requested further relief in the form of "common knowledge" doctrine  
921 exception. (cite.) Seems DCA has outlined a specific claim and attacked  
922 that with the foreign body retainment while then saying they affirm on the  
923 merits and not giving opinion about anything else applicable. Really  
924 stretching the "finders of fact" that the justices of the court are defined as,  
925 as well, meaning their findings are substantially not in a condition as  
926 represented and in fact they then warn me about absurd filings and say I  
927 will be sanctioned if I file other things. Basically like being robbed and told  
928 if you tell anybody I will hurt kind of way. Another bizarre actual example is  
929 that literally any tool a medical provider uses can be a foreign body  
930 retainment claim in the course of patient care, however, lets look at an  
931 example of being on a CT scanner table bed and the providers put in a  
932 needle or IV to inject contrast solution into the body and so that if left in can  
933 be a foreign body retainment but nothing about the CT scanner itself could  
934 be, even if the exam was 1000 images ordered but instead the radiologist  
935 did 4000, that is nothing. That is bizarre.

936 Second, seems a new law should be created by the Supreme Court

937 for ionizing radiation as all of the laws create such a primed environment  
938 and the ability to actually know what the radiologist has done is now  
939 actually important to know since I have such extreme problems just getting  
940 the hospital and others to do anything and it all resulted in nothing for me to  
941 show for it, no hard drive analysis, no restoration of the missing series of  
942 images, it would seem to be a perfect "consumer safety / patient safety"  
943 moment in time to have the industry self regulate itself properly by way of  
944 the Supreme Court making it ensure that all such exposures remain in the  
945 records that nothing can be deleted. I speak from experience on the harms  
946 of radiation as not only did this incident happen but following it several  
947 more have happened, and I am being denied the access to the medical  
948 records from another hospital and so they likely deleted it, and I literally had  
949 a x-ray for a potential chest cancer and the radiology man took an image of  
950 my entire back. Which he said he wouldn't (lied). So this is like cutting  
951 down a forest to get to a tree in that forest. Then the literal x-ray exam that  
952 did finally diagnose my undiagnosed back injury at a hospital the man there  
953 radiologist said he would only do what I was telling him and then proceeded  
954 to in front of multiple staff who were literally just standing there the entire  
955 time listening to our conversation as if they were in it themselves then went  
956 into the back room with the radiology man, who then took multiple x-rays  
957 including a "zoomed in" image of my upper back and lower back when  
958 again my injury was in my T12 "middle back." So it is several unnecessary  
959 diagnostician images created all based on once again lies of radiologists.  
960 Now we have a medical expert Dr. Cousin who is also lying and it can be  
961 argued even DCA decision is lies. If the hospital risk manager cooperated  
962 with me none of these things would have happened and DCA wouldn't be  
963 involved, and so literally there is corruption concerns here that the hospital  
964 risk manager can just cover it up and it means nothing whenever the  
965 Florida Department of Health was doing 2 investigations and I still have  
966 nothing to show for it but more harms by more providers since, and my  
967 cases dismissed. So "violence is always is the answer" essentially and or  
968 lies and fraud and conspiracy whatever it is just basically kill patients  
969 nothing matters including any laws that allow a person to seek a remedy.  
970 Point is I can't have a expert review the doctors orders so what the  
971 radiologist had as a order is not a medical record I have, as well, what the  
972 er doctor ordered I can't have a medical expert review, and so why is my  
973 case dismissed I contacted the risk manager long long ago when I initially  
974 got my records and she denied my claims and told me nonsense that I  
975 wasn't even looking at my own genitals in the images. Yes I sure was.  
976 That is a fact. So in conclusion here if the 95.11 statutes say fraud and

977 concealment waive the statutes then the initial attorneys denials are also  
978 misconduct and fraud as clearly there was no consent, and so experts are  
979 waived, and so they hid during covid-19 thinking I would find an attorney or  
980 expert to travel here, is insane, as well I am poor and so not possible to sue  
981 a conspiracy effort, and so that attorney misconduct required me to do  
982 things, and so it is fraud and concealment and no statutes of limitations  
983 argument should be given any weight here, under the grounds of 95.11. I  
984 challenged the rules and statutes anyways what rulings can be cited none?  
985 Just DCA saying what it is did. So this is officially clown world is what it is.  
986 It is interesting to note that the hospital who took the x-rays images for my  
987 back diagnosis medical records state that I had been taking a nicotine  
988 cessation product from them as a medicine, when no such medicine was  
989 taken and so why they would make it that I was taking it is bizarre  
990 coincidence given the radiation exposure that took place initially with 2  
991 chest x0rays when I arrived that I didn't want and said even before the  
992 chest x-rays were taken at the previous hospital and it was noted that I  
993 didn't want any radiation exposure for a chest x-ray, the next hospital took 2  
994 chest x-rays when I arrived, and then the back x-rays as noted were  
995 numerous and included upper body zoomed in x-ray, as well, and so it  
996 makes perfect sense that the medical records state I had been taking a  
997 cigarette smoking cessation product so that the hospital could says as  
998 liability avoidance for the deterministic harmful effects of all of the  
999 exposures to ionizing radiation that I didn't want it was tobacco and  
1000 cigarettes smoking that caused such cancer. It is a literally exact similar  
1001 similar lawsuit as the Bay Medical hospital here incident with the CT  
1002 scanner, and Dr. Cousin was retained with an intent to then get an opinion  
1003 on those incidents and he totally failed to perform. So the Supreme Court  
1004 could grant the relief to require all such parties be added into this lawsuit  
1005 now since I have not had the chance and did all the same preparations in  
1006 presuit time and with complaints and covid-19 pandemic virus and all such  
1007 similar consent matters and prima facei matters equally apply, even notice  
1008 of claims to the government, and so it is ultimately really about how many  
1009 people would the supreme court say I have to sue at the same time  
1010 because it means I would need to become super humans attorney man all  
1011 by myself and or have a endless river of money and willing counsel and  
1012 experts, and none of those things would ever be said to be possible or  
1013 even reasonable. And so once again the laws effect is not to create  
1014 "absurd" results and a determination should be made here about  
1015 conspiracy and such obviously harmful provider and their conspiracy that it  
1016 is actually a matter of great public concerns.

1017 I finally would include that I filed a 90 day extension and included all  
1018 of these other various defendant parties potentially to be named in this  
1019 litigation like Dr. Jenkins could be amended in it was intended I might  
1020 amend them in as all of them were sent notice of intent demand letters the  
1021 same as the defendant parties here.

1022 OTHER SIMILAR MATTERS – Part 1:

1023 I briefly will outline what took place in December of 2018 which came just  
1024 after November of 2018 when I got my medical records from Bay Medical  
1025 hospital and contacted the hospital via email and spoke to the security  
1026 guards and risk manager as detailed previously, which is the current  
1027 incident of this lawsuit having taken place in October of 2018, so all this  
1028 lawsuit medical providers happened about 6 weeks prior to the false arrest  
1029 in December of 2018 which then caused a variety of more incidents of  
1030 medical malpractice by multiple medical facilities and providers. I sent the  
1031 parties such as the government and law enforcement "notices of claim." All  
1032 was denied or ignored.

1033 Lynn Haven Police and Bay County Sheriff arrived to my house and Baker  
1034 Acted me. Took me to a receiving facility and then Panama City Police  
1035 arrived to put me in a padded room. I was denied medical care and the  
1036 staff didn't call the sheriff's department for me as the arresting officer said  
1037 to tell the staff to do in regards to the false arrest. He named his supervisor  
1038 for me to contact. Instead local police arrived as I just explained and they  
1039 were informed as well about the sheriffs direction to call his supervisor and  
1040 they didn't either. I was then later transferred by ambulance to the local  
1041 hospital emergency room where "emergency medical treatment" was  
1042 provided. The staff also requested a head CT scan. I was then again  
1043 transferred by another ambulance company to another hospital emergency  
1044 room where a head CT scan likely took place. 2 chest x-rays were taken  
1045 and I was transferred to a regular hospital room upstairs until the next day  
1046 when after telling a medical provider about what happened I was still then  
1047 transferred again down into the mental health wing of the hospital where I  
1048 would remain for several weeks. In that time I had the back x-rays (further  
1049 over-exposures) that diagnosed my compression fracture of the T12 spine  
1050 which wasn't diagnosed in the 'CT scan' (eugenics, medical  
1051 experimentation) of a few weeks prior at the Defendant, Bay Medical  
1052 hospital.

1053 The staff at the Baker Act receiving facility kept no records. How can a  
1054 medical expert review the incident if there are no records? The hospital  
1055 emergency room I was transferred to kept fraudulent records in the same  
1056 way Bay Medical CT scan parties here now did also. The second  
1057 emergency room hospital incident kept no record of a head CT scan that  
1058 they will provide to me. However, if we follow Dr. Cousin's 'expert opinion' if  
1059 a exam is ordered it is done, and so as example, there is the initial chest x-  
1060 rays, then the later back x-rays done weeks later, and so why wouldn't they  
1061 do a head CT scan initially if it was requested as well? Doesn't make  
1062 sense? The mental health wing also kept questionable medical records in  
1063 a few ways. Ultimately, I attempted to have a habeous corpus hearing but  
1064 it came at the same time that the hospital had motioned to keep me as a  
1065 patient without consent so that they could further provide mental health  
1066 medical treatment to me. Given the fact I was falsely arrested and having  
1067 no actual idea what he was doing the medical doctor who was a mental  
1068 health doctor should have released me, along with the prior doctors along  
1069 the way, but instead wanted to keep me based on nonsense and the  
1070 nonsense they and their staff created. All based on a false arrest I didn't  
1071 meet the criteria for a Baker Act given the incident.

1072 Specifically, I had a HVAC heat and AC problem in my home and a  
1073 technician arrived to clean the HVAC, which I had already cleaned. He  
1074 became upset that I had a camera and left. The law enforcement would  
1075 detail that I was acting crazy towards the man and family and was a threat  
1076 and forced him to leave. Under the law in 394.453 Legislative intent.— (1)  
1077 (b)(5) Individual dignity and human rights be guaranteed to all persons who  
1078 are admitted to mental health facilities or who are being held under s.  
1079 394.463. I also contacted the local Fort Walton Beach Police and the  
1080 County Sheriff's Department and nobody ever arrived. The hospital staff in  
1081 fact hung up the phone on me both times and I had them later send a fax.  
1082 What it also involved is a legal violation of the "criteria" in 394.463 for law  
1083 enforcement taking me for involuntary examination. As a result it would  
1084 them seem that since it is false arrest that **all such medical care is**  
1085 **without informed consent as it is medical malpractice for the medical**  
1086 **providers** to have taken my consent away and provided emergency  
1087 medical treatment in the emergency room and then in the hospital later  
1088 following the hearing. Where I was also poisoned by needle and by oral  
1089 infection and a head CT scan as well as over exposure with chest x-rays.  
1090 Along with the same oral infection being initially caused by the ambulance  
1091 ride. Then the later back x-ray exam also included over exposure the

1092 operator said he wasn't going to do.

1093 394.463 Involuntary examination.—

1094 (1) CRITERIA.—A person may be taken to a receiving facility for  
1095 involuntary examination if there is reason to believe that the person has a  
1096 mental illness **and because of** his or her mental illness:

1097 (a)1. The person has refused voluntary examination **after conscientious**  
1098 **explanation and disclosure of the purpose of the examination**; or

1099 2. The person is **unable to determine** for himself or herself whether  
1100 examination is necessary; **and**

1101 (b)1. **Without care or treatment**, the person is likely to suffer from  
1102 neglect or refuse to care for himself or herself; such neglect or refusal  
1103 poses a real and present threat of substantial harm to his or her well-being;  
1104 and it is not apparent that such harm may be avoided through the help of  
1105 willing family members or friends or the provision of other services; or

1106 2. **There is a substantial likelihood that without care or treatment** the  
1107 person will cause serious bodily harm to himself or herself or others in the  
1108 near future, as evidenced by recent behavior.

1109 The sheriff deputy went with (2) and (2)(b)(2). So for me (1) doesn't apply  
1110 the "because of mental illness" really isn't a matter of the law enforcement  
1111 concerns nor anybody else really because I was "filming" in my own home  
1112 it is not able to be associated with a mental illness incident requiring  
1113 intervention by law enforcement and medical providers. So it is initially not  
1114 applicable as "criteria" being met. There is no (a)(1) to apply either so that  
1115 criteria isn't met. So then all we are left with is (2) and there is no (2) to  
1116 apply as "criteria" the problem with (2) is because I was "able to  
1117 determine," as I was telling law enforcement exactly what happened all  
1118 along, I even told them I had it on camera, so my statements had no  
1119 "mental illness" criteria being met with (2). So therefore, (2)(b)(1) won't  
1120 apply and so no "criteria" applies, leaving only (2)(b)(2) but it is stacked you  
1121 need (2) as well because of the "and" and so the later (2)(b)(2) doesn't  
1122 apply as a "criteria" because I was not a harm to myself or other all  
1123 resulting in meaning I was falsely arrested.

1124 That being the case the mental health doctor is a fraud. The receiving  
1125 facility kept no records to hide their negligence they have the ability to let  
1126 me leave, not keep me and run up a medical bill. This is called "patient  
1127 brokering." To pass a patient around for monetary gain. All told resulting in  
1128 the "absurd" legal result once again that we have to ask why was I being

1129 given harmful medications because I was filming in my home essentially is  
1130 the answer. As in seek help from a doctor, but why, because I was filming  
1131 in my home, that is absurd. It is a conspiracy and malicious prosecution.  
1132 >>>

1133 766.102 Medical negligence; standards of recovery; expert witness.—  
1134 (2)(b) The provisions of this subsection **shall apply only when the**  
1135 **medical intervention was undertaken with the informed consent of the**  
1136 **patient** in compliance with the provisions of s. 766.103.

1137  
1138 [Semantics is the study of reference, meaning, or truth. The term can be  
1139 used to refer to sub fields of several distinct disciplines, including  
1140 philosophy, linguistics and computer science. Wikipedia]

1141 766.111 Engaging in unnecessary diagnostic testing, penalties.—  
1142 (1) **No health care provider** licensed pursuant to chapter 458, chapter  
1143 459, chapter 460, chapter 461, or chapter 466 **shall order, procure,**  
1144 **provide, or administer unnecessary diagnostic tests**, which are not  
1145 reasonably calculated to assist the health care provider in arriving at a  
1146 diagnosis and treatment of a patient's condition.

1147 It is the "arriving at a diagnosis" that matters here since no CT scan of my  
1148 pelvis was needed but the staff included that I had a pelvic injury and so  
1149 the only way to justify this 'exam' is to say the radiologist wanted to "arriving  
1150 at a diagnosis" to settle the matter was I correct in saying doctors order  
1151 doesn't have any pelvic scanning and I don't want it or need it and or did  
1152 the radiologist think well in the 10 to 17 minutes I have she read the  
1153 records and decided on her own to settle the matter since the staff had said  
1154 what they did in the records, and or did the records get changed later and  
1155 the radiologist did her own experiments for her own reasons, which  
1156 wouldn't be for "arriving at a diagnosis" since it is only on the order of the  
1157 doctor she operates the machine and not on her own presumptions?  
1158 Regardless there was no informed consent anyways, and it is fraud and  
1159 conspiracy.

1160 The last thing to say is that the second hospital emergency room sent me  
1161 to the third hospital and in that third hospital the doctor must have read the  
1162 medical records of the second hospital where it says that I was claiming to  
1163 be falsely arrested and that I also didn't want any exposure to ionizing  
1164 radiation. However, it is only on the order of some medical provider that



such chest x-rays would be ordered and so it is only through ignoring the medical records of the 2<sup>nd</sup> hospital that the 3<sup>rd</sup> hospital did what it did to x-ray me, meaning the doctor of the emergency room is negligent, as the radiology tech simply believes that he can do whatever he wants since it was "ordered" regardless of what I have to say about it and so it is a lawsuit against the ordering doctor or medical provider in that 3<sup>rd</sup> hospital emergency room since he blatantly ignored the medical records and in doing so participated in a conspiracy, as in if I said I was falsely arrested and he is a doctor able to deal with the taking of consent from a patient or not he is required by law to determine if I am a person who should be kept or set free on those same grounds as if you can take consent away you can also set me free, and since I made a medical record following me apparently that said I had claimed to be falsely arrested it is negligence of the doctor to have moved me to a hospital room out of the emergency room and also the chest x-rays. So it is that literally every medical providers in those various incidents is a defendant herein. As in similarity to a police officer having the ability or "authority" to arrest a person but also then determine I have made an error and falsely arrested or detained a person and then let them go with the same authority. He was looking for a blonde person but had a brown hair person cops police let the person get out of the car scenario. Same as saying "I didn't meet the criteria." This makes the judge involved guilty of malicious prosecution as I didn't meet the criteria and the judge made it so instead of me being released that I was medically treated for mental illness.

#### OTHER SIMILAR MATTERS – Part 2:

I also motioned the appeals court with a "similar" case against Dr. Mike Jenkins a urologist who caused me to become infected with herpes a life long incurable disease through apparently the course of his exam on my genitals. I had a lab report say I had a new and recent infection, meaning a first time. So under 766.104(1) that would be a "reasonable investigation." I got infected with a virus and or disease it is that herpes is defined as all of them actually. I then went to a doctor and got an order to go to a lab and the report is the evidence. You can't get any more "medical expert" than a lab report it is literal science. Like saying a gun that causes a specific rifling to a bullet is like a guns finger print. If a lab reviews the gun barrel and bullet and says that the bullet came from that gun that would be a expert report based on science and so why would I need a gun expert to testify to what the lab report says. Once again I did not consent to having the doctor infect me and so there is no "informed consent" and so the

1204 medical expert is waived by the 766 statutes. Why did Judge Smiley  
1205 dismiss the case, as well it appears to be a part of the ongoing conspiracy  
1206 by medical providers for legal advantage. Seems the court DCA decision  
1207 and lower court error and discretion is to allow medical providers to utilize  
1208 exceptions in the law to cause me harm and grant immunity and then not  
1209 address when I bring it to the court. So medical providers can poison a  
1210 patient a bunch of ways and assists all others who came before in that  
1211 effort and it all means nothing. Well 95.11 says "intentional fraud" and  
1212 "concealment of facts" waives the statutes of limitations and so I am not  
1213 legally supposed to have any expert or be dismissed on the grounds of the  
1214 statutes of limitations, hence DCA has avoided my appeals, my motions,  
1215 my inclusion of a similar case to put up on the same appeal for a  
1216 determination that has been avoided, and now Mandate has been made,  
1217 but I don't know if Dr. Jenkins case is reinstated, as it was dismissed  
1218 without prejudice until I get a medical expert in 45 days but that was long  
1219 ago and I have no money they are all trying to bankrupt me. I can't win  
1220 regardless of the facts and conspiracy?

1221 **Conclusion to the Statement:**

1222 Statutes of Limitations do not apply here for a 2 year filing. The defense  
1223 counsel hasn't even suggested a plausible understanding of tolling or when  
1224 I determined I had any injury. Meaning sure the nurse injected me, that is  
1225 medical battery, but what is the actual damage, wouldn't it be frivolous to  
1226 sue for a monetary award for a nurse using an IV and then injecting me  
1227 with unwanted fluids potentially poison, wouldn't I need to develop a harm  
1228 from that poison? What does the defense think I learned of that damage?  
1229 There has been adverse effects as a result of the harms and firings. They  
1230 have no answer. Second, I went to medical providers and got further  
1231 harmed and then fired. How can the statutes of limitations still be said to  
1232 apply if I am wondering around to doctors office being harmed and fired but  
1233 then legally I am being told I was required to have a medical expert by the  
1234 DCA, I was required to not be poisoned and fired by doctors as part of a  
1235 conspiracy. Again, fraud and intentional concealment of the facts is a  
1236 wavier under 95.11.

1237 Finally I am "poor" and filed paperwork for indigent status and receive  
1238 government benefits as my income and so the law gives me those benefits  
1239 but also the law just said by DCA and lower court Judge Smiley that is I  
1240 also needed about 32 experts. I should have asked for a waiver under  
1241 120.52. But instead sued the state for this and other things and the rules

1242 and statutes were sued so it accomplishes the same thing as a waiver  
1243 under 120.52.

1244 So what we are really dealing with here is "road blocks." Every single  
1245 medical provider has put up road blocks instead of provide competent bare  
1246 minimum standards of care. I am not talk full course meal care standards, I  
1247 mean bread and water standards of care that have not been met in fact  
1248 instead I am served poison and dismissals or denials. All of it is road  
1249 blocks. Which is another way of saying fraud and concealment of facts  
1250 which is waiver under 95.11 the Statutes of Limitations. Having to outline  
1251 complaints to law enforcement takes time, to the department of health  
1252 takes time, to attorneys takes time, to doctors takes time, to find new  
1253 doctors, again and again, for various problems so it is a actual day by day  
1254 type of count to be determined that how much time off the extension of the  
1255 statutes is it for being poisoned, isn't that what being "incompetent" means  
1256 as a waiver as well? I am not trying to do things ex parte it is just a side  
1257 effect of the complexity. That is the robust basic foundation of my claims  
1258 and includes a lot more details, and all amounts to "excusable neglect." It  
1259 all means nothing to the DCA who never considered anything like this. Nor  
1260 Judge Smiley in the lower court. It means I am handicapped by a  
1261 conspiracy that is still on going. They are stalking me. I am not crazy just  
1262 look at the CT scan and you can see my legs for what was reported at first  
1263 as a back injury. Ask any radiologist is it in the standard of care with  
1264 ionizing radiation to expose legs for a T12 injury? Of course the answer  
1265 would be no or it should be no and if it isn't no then it is much worse than  
1266 clown world we are in.

1267 120.52 Definitions—As used in this act:

1268 (7) "Final order" means a written final decision which results from a  
1269 proceeding under s. 120.56, s. 120.565, s. 120.569, s. 120.57, s. 120.573,  
1270 or s. 120.574 which is not a rule, and which is not excepted from the  
1271 definition of a rule, and which has been filed with the agency clerk, and  
1272 includes final agency actions which are affirmative, negative, injunctive, or  
1273 declaratory in form. A final order includes all materials explicitly adopted in  
1274 it. The clerk shall indicate the date of filing on the order.

1275 (8) **"Invalid exercise of delegated legislative authority"** means action  
1276 that goes beyond the powers, functions, and duties delegated by the  
1277 Legislature. A proposed or existing rule is an invalid exercise of delegated  
1278 legislative authority if any one of the following applies:

1279 (a) The agency has materially failed to follow the applicable rulemaking

procedures or requirements set forth in this chapter;

(b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(3)(a)1.;

(c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(3)(a)1.;

(d) **The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency;**

(e) **The rule is arbitrary or capricious.** A rule is arbitrary if it is not supported by logic or the necessary facts; a rule is capricious if it is adopted without thought or reason or is irrational; or

(f) **The rule imposes regulatory costs on the regulated person,** county, or city which could be reduced by the adoption of less costly alternatives that substantially accomplish the statutory objectives.

A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required.

An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the

purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have

the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority

or generally describing the **powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.**

(13) "Party" means

(a) Specifically named persons whose substantial interests are being determined in the proceeding.

(b) **Any other person who, as a matter of constitutional right, provision of statute, or provision of agency regulation, is entitled to participate in whole or in part in the proceeding, or whose substantial interests will be affected by proposed agency action, and who makes an appearance as a party.**

(14) "Person" means any person described in s. 1.01, any unit of government in or outside the state, and any agency described in subsection (1).

(16) "Rule" means each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the

1320 amendment or repeal of a rule. The term does not include:  
1321 (21) **"Variance"** means a decision by an agency to grant a modification to  
1322 all or part of the literal requirements of an agency rule to a person who is  
1323 subject to the rule. Any variance shall conform to the standards for  
1324 variances outlined in this chapter and in the uniform rules adopted pursuant  
1325 to s. 120.54(5).

1326 (22) **"Waiver" means a decision by an agency not to apply all or part**  
1327 **of a rule to a person who is subject to the rule.** Any waiver shall  
1328 conform to the standards for waivers outlined in this chapter and in the  
1329 uniform rules adopted pursuant to s. 120.54(5).

1330 >>>

1331 It is not known if Lloyd G. Logue is the unknown male radiology assistant?  
1332 I tried to sue that assistant under the "others" in the caption as well sue the  
1333 company that Dr. Emily Billingsley works for the Bay Radiology company,  
1334 Dr. Llogue is a registered agent of that company and looks similar to the  
1335 unknown assistant. But he wouldn't be an assistant, he is a doctor.

1336 **The "standard" is the lowest possible minimum of acceptable care,**  
1337 **there is a lot more above and beyond that can be done by a medical**  
1338 **provider, and any violation of the bare minimum standard is illegal.**

1339 **ARGUMENT:**

1340 We live in a legal world of oops malpractice, and so if it is intentional than  
1341 the 766.102(2)(b) lack of informed consent applies, and so the defense  
1342 counsel wants no part of that and would rather argue that experts in presuit  
1343 were not gotten, which then ran the statutes of limitations, however, Dr.  
1344 Cousins report states I did have a back injury and the records speak for  
1345 themselves, and so under 766.104(1) there is "reasonable investigation"  
1346 and so the defense counsel continued the fraud and misrepresentation that  
1347 had been occurring all along, and that required me to have to do things  
1348 differently when they denied my claims 2 years ago, and so I had to once  
1349 again pursue attorneys after their denial letter making it under 95.11 the  
1350 date I discovered the fraud and injury as that denial date and then now 2  
1351 years later I file the lawsuit, and so these advanced legal problems within  
1352 the statute of repose then become reality with such things, rather than the  
1353 defense counsel admit it is under the doctrine exception in 766.102(2)(b) 2  
1354 years ago because it was intentional and so instead with denial we have to  
1355 move forward, because that denial makes it not intentional and without lack  
1356 of informed consent, and so they had already denied all things and so were

1357 not going to be sending me discovery, nor did I want it, covid-19 was  
1358 happening, don't send me anything, and I am not going to the hospital, they  
1359 already were doing a conspiracy, was I going to ask Dr. Billingsley to  
1360 operate the CT scanner so I could measure how far inside of it I was the  
1361 night of the incident. There are 2 deleted series of images. The hospital  
1362 refuses to give me a copy of the CT scan orders. So how can I have a  
1363 expert review what doesn't exist.

1364 Much of this lawsuit is undefinable at this time, due to many aspects  
1365 crossing over with other applicable laws and are yet to be determined,  
1366 making it all fall under the "other" category, which makes it difficult for me to  
1367 pursue legal answers or medical answers. Also what happened to me, was  
1368 the nurse let it be wrong, didn't correct it, then the doctor didn't correct her,  
1369 it is medical experimentation.

1370 This is a lawsuit about and based on a series of medical incidents, which  
1371 the 1ST DCA has technically and factually and therefore literally gotten  
1372 incorrect, making it irreparable harm to me, their denial decision that is and  
1373 what is happening here locally with these matters. The DCA decision  
1374 11/29/2023 DCA decision is literally don't come back to this court while  
1375 there is nothing but harms caused to me on a constant basis.

1376 The DCA was asked to consider 2 questions. First, is a state registered  
1377 medical expert doing fraud broadly speaking with other causes of action.  
1378 Further, how does that expert affect my lawsuit. Second, is the incident at  
1379 the hospital a conspiracy that caused me harm, and further does a  
1380 continual conspiracy after that incident have any bearing on these matters.

1381 The Bay Medical hospital records do not actually outline that I have a "back  
1382 injury" but instead outline that I have a "beltline" injury that is accompanied  
1383 by a "head injury," while also being accompanied by a "knee contusion, with  
1384 abrasion." What this ultimately means is that if I went home and my spine  
1385 snapped in half in the middle back where my primary injury was at in the  
1386 T12 vertebrae, the hospital would be able to say based on the medical records  
1387 that I never had that injury when I was in the ER and that I must have  
1388 gotten injured at home. Further, the doctor and or nurse makes great effort  
1389 to outline that they had evaluated me and I had a pelvic injury and a head  
1390 injury and he had done various neurological exams because of the head  
1391 injury.

1392 I have a witness who was there all along at the incident and hospital and  
1393 pictures/video of the street sign before the moving that made it fall with me  
1394 and then being down, from the hurricane, then in the sewer when it  
1395 snapped and then reinstalled the next day. I never had as the medical  
1396 records say a "head injury," or any tests for it all while at the same time  
1397 saying I had a knee contusion which I did have, abrasion. Opposite game  
1398 has been outlined in the lower tribunal filings at length they CT scanned my  
1399 pelvis while saying they were not going to with assurance of that even  
1400 spent time before the exam checking on getting me a copy of the order, so  
1401 time line shows what was done, but the hospital refuses to give the order  
1402 when requested and the LT judge denied discovery motion.

1403 I had a x-ray exam weeks later after the CT scan that says that I have a  
1404 T12 compression fracture between T12 and T11 vertebrae in the spine  
1405 which is middle back and which is just above the lumbar spine, lower back.  
1406 Therefore, like all of the medical records, the hospital staff at Bay Medical  
1407 "didn't say enough in regards to my real injury." Unknown to me the  
1408 records show all along a beltline injury so it was all lies.

1409 The nurse records are wrong, the ER doctors are wrong, and the  
1410 radiologist spent time before the exam checking for a paper copy of the CT  
1411 scan for me and over 10 minutes later didn't return with it, but I was given  
1412 assurance that no pelvic scanning would occur including by the unknown  
1413 radiology assistant. I talked to him the entire time Dr. Emily Billingsley was  
1414 checking on the order. She then "deleted" 2 entire series of images, which  
1415 by "standards" is "medical records" and so she deleted my medical records.  
1416 The time Dr. Layine wrote the 2<sup>nd</sup> order is important, but the hospital won't  
1417 give it to me despite me requesting it, and it being required to be a part of  
1418 the radiology record for 5 years. The time that 2<sup>nd</sup> order was written  
1419 establishes that Dr. Billingsley spent time before the exam checking to a  
1420 get a paper copy of the order, thus my narrative is correct. Might even be  
1421 CCTV video in the "preserved information" since I sent them a letter to the  
1422 risk manager she told me to send it to her as well.

1423 The question then is can the staff have the records entirely wrong, and do  
1424 the wrong exam and it all be considered to have been with 766.102(2)(b)  
1425 "Informed Consent" of the patient? The hospital said there was nothing  
1426 wrong and then gave me narcotics for pain. Obviously everything is so  
1427 obvious on every level of this. Saying experts are required is saying  
1428 766.104(1) "reasonable investigation" doesn't exist here, as I did that, even

1429 with the fraud expert it is still obvious.

1430 Everything I did was with "due diligence" and "in light of all relevant  
1431 circumstances" and under 95.11 fraud and misrepresentation waives the  
1432 statutes of limitations and that has been what has been going on, along  
1433 with other incidents which makes me "incompetent" to proceed, because of  
1434 continued physical harms by other medical providers, thus tolling the  
1435 statutes of limitations, estoppel is also applicable, as is covid-19. As in  
1436 being poisoned by Dr. Jenkins a urologist, means I am not in the library  
1437 reading case law. Chapter 120.52 would apply for "waiver" and "delegated  
1438 legislative invalidity of statutes" also. DCA has decided only through  
1439 misapprehension of facts. Based on such facts and evidence for violation of  
1440 766.102(2)(b) the medical providers did not have consent as I can not  
1441 agree to have myself harmed, and they can't say that it was done for a  
1442 "medical purpose" because it is conspiracy.

1443 This is the DCA precedent right now. How do I present that they deleted  
1444 my medical records and call it fraud and misrepresentation by staff. Dr.  
1445 Cousin a medical expert in radiology said that I had a T12 spine injury and  
1446 so that makes my visit to the ER for that injury. Yet the staff says I had  
1447 other harms and checked for that. Dr. Daniel Cousin didn't review those  
1448 parts of my claims that would give it merit and so is a fraud and he didn't  
1449 give opinion based on "all relevant circumstances" which would also seem  
1450 to cover me under 766.104(4) for reasonable investigation.

1451 It would seem the court would apply the law that is appropriate when it is  
1452 needed to be applied, and the DCA has a rule that all things filed get to be  
1453 converted into whatever is necessary as if that was filed, such as a writ of  
1454 mandamus or certiorari, or whatever else, and so instead of just recycling  
1455 what the defense counsel has said and how they did misconduct  
1456 preventing me from doing my side of filings needed, so now asking the  
1457 supreme court to interpret my filings to accomplish the relief sought.

1458 **PayPal** is final needs to go to arbitration if DCA doesn't reverse it,  
1459 their terms have discretion to act and they didn't and it is fraud.

1460 **Bay County Health LLC** motioned to dismiss and then got it, and so DCA  
1461 saying it is not final is odd, since it disposed of defendants with the  
1462 dismissal and so it isn't some other "order" it is literal defendant parties like  
1463 any other case dismissal.



**Junco Emergency Physicians** should be returned to the lower court, they staffed Dr. Gary Lavine, the emergency room doctor who did the cover up and conspiracy, and so they have a registered agent that is a corporation that does accept service as a business, and so my case is being dismissed because it wasn't served to their mailbox by a sheriff, instead by a letter, which was sent to two places actually one with certified mail, and they all needed to be served with service by court. I have social security disability and so can't fund all the mailing. It would only be through debt spending.

**CONCLUSION:**

DCA decision is counter productive to the truth of the matters and what has happened in the process of the trial. It actually makes it so there is no conspiracy and there are no harms and the medical expert found no fault. When the reality is there is nothing but fraud, conspiracy and nobody wanting to address it all so cover it up. It is a matter of great public concern in many ways. The conspiracy, the ionizing radiation use, the lack of consent, the laws and lack of ability to bring these matters through counsel.

DCA decision is counter productive to the truth of the matters and what has happened in the process of the trial. It actually makes it so there is no conspiracy and there are no harms and the medical expert found no fault. When the reality is there is nothing but fraud, conspiracy and nobody wanting to address it all so cover it up. I have no choice left but to go to the Supreme Court of the United States. First Florida Supreme Court is asked to look at this matter as it is a "combined" appeal with 3 appeals made into 1 decision with no opinion and rehearing denied. Hopefully it can be original jurisdiction or some other extraordinary writ for review.

**CERTIFICATION OF FONT**

This filing complies with the font and format requirements of Arial font and 14 point.

I certify that on 2/2/2024 a copy of this filing has been provided to the First District Court of Appeal in Florida, via the E-Portal and also via regular mail or email to those not on the E-Portal and that the defendants, names and address are included below.

/s/ Curtis Gorham

From:

1498 PLAINTIFF/APPELLANT: Curtis M. Gorham  
1499 Pro Se Litigant. 3513 Rosewood Cir, Lynn Haven, FL 32444 850-601-4954  
1500 > Primary email: bccgorham@yahoo.com

1501 **Exhibit A:**

1502 Medical Records from the Bay Medical Sacred Heart hospital, 10/21/18. I  
1503 never had a T12 back injury I had a beltline lumbosacral injury from falling  
1504 on my belt is what these record are incorrectly saying. I also hit my head. I  
1505 also hit my knee. (liability avoidance, head contusion, if injure my T12 after  
1506 leaving the hospital such as breaks, cripple, paralyzed, I was never at bay  
1507 med for that, I was only there for beltline injury. These providers are crazy.)

1508 ✓x "Ground-level fall"  
1509 x "He has pain over the midline of the low back"  
1510 x "The pain is in the low back and is worse when he walks"  
1511 x✓ "Worse when he twists and turns and bends over"  
1512 ✓ "Back pain"  
1513 x "Spasms"  
1514 x "He states he tripped and fell landing on his low back"  
1515 x "He has pain over the midline of the low back"  
1516 x "He states he may have hit his head but not lose consciousness"  
1517 x "The pain is in the low back"  
1518 x (Back:) "+ LS midline tenderness"  
1519 ✓ (Extremities:) "Contusion to the right knee"  
1520 ✓ "Tenderness over the kneecap"  
1521 ✓ "Abrasion noted"  
1522 ✓ "Skin: Abrasion to right knee"  
1523 x✓ (EXAM:) "CT lumbar & Sacrum Spine"  
1524 x✓ (History) "trauma"  
1525 x✓ (TECHNIQUE:) "transaxial imaging was obtained through the lumbar  
1526 spine. Sagittal and coronal images were reconstructed from the 3D data  
1527 set."  
1528 x (RADITATION DOSE:) "DLP: 750 mGy-cm"  
1529 x✓ (FINDINGS:) "There is normal alignment of the lumbar vertebral  
1530 bodies. No fracutre is identified. There is no large disc bulge or protrusion  
1531 in the lumbar spine"  
1532 x✓ (IMPRESSION:) "No fracture of malalignment in the lumbar spine"  
1533 x✓ "All CT scans at this facility use dose modulation, iterative  
1534 reconstruction, and or weight based dosing when appropriate to reduce

1535 radiation to as low as reasonably achievable."  
1536 \*✓ (Dictated/Electronically Signed by: Emily Billingsley)  
1537 \*✓ (Order Phys: Lavine, Gary.)  
1538 \* (ED SCRIBE GENERAL NOTE, ED ATTENDING ADDENDUM:  
1539 HURRICANE MICHAEL CHART:) "This patient did tell nursing staff at the  
1540 end of the visit that he did want something for pain."  
1541 ✓ He had declined pain medications for the majority of course of his ED  
1542 visit."  
1543 ✓ He was given 1 NORCO 7.5 mg."  
1544 ✓ A prescription was given for Ultram.  
1545 \*✓ (EXAM:) CT Lumbar & Sacrum Spine.  
1546 \*✓ (CLINICAL IMPRESSION:)  
1547 \*✓ "1.) Acute Lumbar strain."  
1548 \* "2.) Closed head injury."  
1549 ✓ "3.) right knee contusion/abrasion."  
1550 \*✓ (DISPOSITION: DISCHARGE:) "Condition: Unchanged."  
1551 \*✓ (EDUCATION:) Acute Low Back Pain.  
1552 \* Lower Back Exercises,  
1553 \*✓ Low Back Strain,  
1554 ✓ Knee Pain,  
1555 ✓ Abrasion,  
1556 \* Head Injury,  
1557 \*✓ [referral to a back doctor]  
1558 \*✓ (ED COURSE: PROGRESS.)  
1559 \* Patient had a CT of the lumbosacral spine.  
1560 \*✓ No signs of any acute fracture or subluxation or large disc bulge.  
1561 ✓ He refuses anything for pain.  
1562 \* Was reevaluated at 11:30 PM.  
1563 \* Still has lumbosacral pain.  
1564 \*✓ But no saddle anesthesia.  
1565 \*✓ Repeat neurologic exam is normal.  
1566 \* He has a benign nonsurgical abdominal exam.  
1567 \*✓ No neck pain.  
1568 \* He did hit his head.  
1569 \*✓ But no loss of consciousness.  
1570 \*✓ No signs of any head injury.  
1571 \*✓ Normal neurologic exam.  
1572 ✓ He is not on any anticoagulants.  
1573 \*✓ Did not see any injury or indication requiring CT of the head or neck.  
1574 \*✓ After evaluation of this patient feel that this patient has any evidence

1575 of cauda equina syndrome, conus medullaris Syndrome, spinal cord infarct,  
1576 epidural abscess, epidural hematoma, discitis or  
1577 x✓ this patient has a normal neurologic examination and  
1578 x✓ **has no midline spine tenderness.**  
1579 x✓ Patient is able to walk with a steady gait and  
1580 ✓ has no saddle anesthesia.  
1581 ✓ There is no bowel or bladder incontinence.  
1582 x✓ No history of IV drug abuse.  
1583 ✓ No fevers.  
1584 x✓ **Do not see any indication for emergent neurosurgical intervention**  
1585 or  
1586 x **MRI** at this point.  
1587 x✓ Will refer him back to his primary care doctor and  
1588 x✓ will also refer him to Dr. Bleday a orthopedist.  
1589 x After review of this patient's emergency department visit I believe that  
1590 x he or she **can safely discharged home.**  
1591 x I have given this patient time specific follow-up instructions as well as  
1592 x✓ a healthcare provider to follow-up with.  
1593 x I have given you specifics regarding signs and symptoms of when to  
1594 x immediately return to the emergency department.  
1595 x✓ I have asked her to return to the emergency department if not  
1596 improving in 1 day.  
1597 ✓ Much of this chart was constructed using Dragon voice recognition.  
1598 x✓ Despite my best efforts to minimize typographical errors they will still  
1599 exist.  
1600 x (PLAN/MEDICAL DECISION MAKING:) Differential Diagnosis.  
1601 Differential diagnoses:  
1602 ✓ Back pain:  
1603 x✓ Acute lumbosacral strain,  
1604 x lumbosacral radiculopathy,  
1605 x lumbosacral radiculitis,  
1606 x intervertebral disc disease,  
1607 x✓ **fracture,**  
1608 x subluxation,  
1609 x aortic aneurysm,  
1610 x pancreatitis,  
1611 x cholecystitis,  
1612 x mesenteric ischemia,  
1613 x retroperitoneal appendicitis,  
1614 x ureteral stone,

1615 \* urinary tract infection,  
1616 \*? pregnancy,  
1617 \*? ectopic pregnancy,  
1618 \*? labor,  
1619 \* shingles,  
1620 \* epidural abscess,  
1621 \* epidural hematoma,  
1622 \* discitis,  
1623 \* cauda equina syndrome,  
1624 \* conus medullaris syndrome.  
1625 \*✓? (PLAN: D/C) Old Records Reviewed: Yes  
1626 \*✓? Additional History From Someone Other Than the Patient: Yes  
1627 \*✓? Discussion of the Patient with Another Provider: No  
1628 >>>>>>>>

1629 >On 11/13/2018 I requested medical records. Selected "Entire medical  
1630 record." Also selected "Other" I wrote in pen that I wanted the copy of the  
1631 "Doctor CT Scan Orders." "Should be 2 of them?" "1 back & pelvic, 1 back  
1632 (no pelvic) "Sacrum" cancel changed to 1 back.

1633 November 10th 2020 the investigation unit of Florida Department of Health  
1634 sent me a letter saying they are investigating Dr. Billingsley and another  
1635 letter saying Dr. Lavine. Their expert said "I didn't know what was going  
1636 on."

1637 >What about the "Sacrum" it is in the title of the exam report, was half the  
1638 images in the exam, allegedly, what else was done, why are there 2 entire  
1639 deleted series of images, what is real total dose, this where Dr. Cousin  
1640 would have put soft tissue stranding/edema exists in the upper lumbar  
1641 suggesting a T12 injury?  
1642 >>>

#### CERTIFICATION OF SERVICE

1643  
1644 I certify that on 2/2/2024 a copy of this filing has been provided  
1645 to the Supreme Court of Florida, via the E-Portal and also via regular mail  
1646 or email to those not on the E-Portal and that the defendants, names and  
1647 address are included below.

1648 /s/ Curtis Gorham

1649 From:

1650 PLAINTIFF/APPELLANT: Curtis M. Gorham

1651 Pro Se Litigant. 3513 Rosewood Cir, Lynn Haven, FL 32444 850-601-4954  
1652 > Primary email: bccgorham@yahoo.com

1653 To:  
1654 DEFENDANT/APPELLEE; BAY COUNTY HEALTH SYSTEM LLC.  
1655 COUNSEL; Brian L. Smith [FBN 0150827].,  
1656 Olestine Turenne [FBN 1018996].  
1657 FIRM; Hall, Schieffelin & Smith, P.A. 407-628-4848  
1658 Post Office Box 1090, Winter Park, FL 32790-1090  
1659 > Primary email: BSmith@HSSLawGroup.com  
1660 > 1st Secondary email: BLSAssistant@HSSLawGroup.com  
1661 > 2nd Secondary email: KReeves@HSSLawGroup.com

1662 DEFENDANT; USAA FEDERAL SAVINGS BANK.  
1663 COUNSEL; Bridget M. Dennis [FBN 1024897].,  
1664 Ryan C. Reinert [FBN 81989]., Juanita Heard  
1665 FIRM; Shutts & Bowen LLP. 813-229-8900  
1666 4301 W. Boy Scout Blvd, Suite 300, Tampa, FL 33607  
1667 > Primary email: rreinert@shutts.com  
1668 > 1st Secondary email: BDennis@Shutts.com  
1669 > 2nd Secondary email: jheard@shutts.com

1670 DEFENDANT; DR. EMILY BILLINGSLEY, DR. LLOYD LOGUE, (BAY  
1671 RADIOLOGY?).  
1672 COUNSEL; Elizabeth Victoria Penny [FBN 0032613].,  
1673 Jacob M. Salow [FBN 1019760].  
1674 FIRM; Henry Buchanan, P.A. 850-222-2920  
1675 P.O. Box 14079, Tallahassee, FL 32317-4079  
1676 > Primary email: mmeservice@henryblaw.com  
1677 > Other e-mail address: clivings@henryblaw.com  
1678 > Other e-mail address: hcampbell@henryblaw.com

1679 DEFENDANT; DR. DANIEL COUSIN.  
1680 COUNSEL; Tara L. Said [FBN 317860]., Justin T. Keeton [FBN 1025509].,  
1681 Gregory Kent Rettig [FBN 172774]., Natalie Woods.  
1682 FIRM; Lloyd, Gray, Whitehead & Monroe, P.C. 850-777-3322  
1683 125 W. Romana Street, Suite 330, Pensacola, FL 32502  
1684 > Primary e-mail address: Tsaid@lgwmlaw.com  
1685 > Primary e-mail address: Jkeeton@lgwmlaw.com  
1686 > Secondary e-mail address: Nwoods@lgwmlaw.com

1687 > Secondary e-mail address: Egates@lgwmlaw.com  
1688 > Other e-mail address: grettig@lgwmlaw.com  
1689 > Other e-mail address: fkiwak@lgwmlaw.com

1690 DEFENDANT; JUNCO EMERGENCY PHYSICIANS.  
1691 COUNSEL; Jami M. Kimbrell [FBN 0657379].,  
1692 Joseph E. Brooks [FBN 0880752].  
1693 FIRM; Brooks Law. 850-201-0942  
1694 2629 Mitcham Drive, Tallahassee, FL 32308  
1695 > Primary e-mail address: jmk@brookslawyers.net  
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1697 > 2nd Secondary email: jeb@brookslawyers.net  
1698 > Other e-mail address: paralegal@brookslawyers.net

1699 DEFENDANT; PAYPAL INC.  
1700 COUNSEL; Jessica K. Vander Velde [FBN 1008827].,  
1701 Rebecca S. Wilt [FBN 236750].  
1702 FIRM; Quarles & Bradley LLP. 813-384-6723  
1703 101 East Kennedy Blvd, Suite 3400, Tampa, FL 33602-5191  
1704 > Primary e-mail address: jessica.vandervelde@quarles.com  
1705 > 1st Secondary email: cyndi.trotti@quarles.com  
1706 > 2nd Secondary email: docketfl@quarles.com  
1707 > Other e-mail address: rebecca.wilt@quarles.com

1708 [USPS Letter] Dr. Gary H. Lavine  
1709 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
1710 Bay Medical Center Sacred Heart Health System., (in 2018)  
1711 615 N Bonita Ave, Panama City, FL 32401

1712 [USPS Letter] Kendrea Virgil, RN  
1713 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
1714 Bay Medical Center Sacred Heart Health System., (in 2018)  
1715 615 N Bonita Ave, Panama City, FL 32401

1716 [USPS Letter] Donna Baird., Risk Manager  
1717 Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
1718 Bay Medical Center Sacred Heart Health System., (in 2018)  
1719 615 N Bonita Ave, Panama City, FL 32401

1720 [USPS Letter] Attorney for Dr. Gary Lavine and Junco Emergency

1721 Physicians., (in 2020), Junco now has has counsel but Dr. Lavine has not  
1722 responded and doesn't seem to be represented by the hospitals counsel.  
1723 Dennis, Jackson, Martin and Fontela, P.A.  
1724 1591 Summit Lake Drive, Suite 200, Tallahassee, FL 32317

1725 [USPS Letter] Joseph R. Impicciche., CEO. (Bay Medical Center Sacred  
1726 Heart Health System., (in 2018))  
1727 101 South Hanley Rd., Suite 450, St. Louis, MO 63105

1728 [USPS Letter] Office of the Attorney General., Ashley Moody  
1729 State of Florida, PL-01 The Capitol, Tallahassee, FL 32399-1050

**STRICKEN**



Page 1:

**Supreme Court APPENDIX INDEX:**

Supreme Court Initial Filing "Appendix." As requested by the clerk of court to be filed within 15 days of the order of the court to do so. There are 3 DCA cases dockets and a additional actual paper copy of each filing in addition to this index, being Appendix A, B, C, etc..

01/19/2024	Supreme Court Order to Amend my filing.
01/18/2024	DCA Mandate [APPENDIX A, also filed individually to SC]
01/02/2024	Supreme Court Notice to Invok. Disc. Jur. FSC
12/29/2023	Order Order on Motion for Rehearing [ APPENDIX C]
12/19/2023	Order Order on Motion for Rehearing [ APPENDIX D]
11/29/2023	Disposition by Opinion Affirmed Affirmed in part and dismissed in part [APPENDIX B]
01/18/2024	Misc. Events Case Closed

**DCA CASE NUMBER 1D2023-0839**

04/07/2023	Misc. Events	Docketing Statement (duplicate copy of NOA)	
04/07/2023	Motions Extensions	Motion for Extension of Time to Serve Initial Brief	Motion for Extension of Time to Serve Initial Brief
<b><u>04/07/2023</u></b>	<b><u>Notice</u></b>	<b><u>Notice of Appeal</u></b>	
04/21/2023	Motions Other	Motion To Stay	
04/27/2023	Misc. Events	Order Appealed	Order Appealed - It order granting Dr. Billingsley and Logue's motion to dismiss Gorham, Curtis [me]
04/27/2023	Misc. Events	Order Appealed	Order Appealed - It order granting Bay Co Health System's motion to dismiss [me]
04/27/2023	Misc. Events	Order Appealed	Order Appealed - It order of dismissal as to Paypal [me]
04/27/2023	Misc. Events	Order Appealed	Order Appealed - It order cancelling all pending April hearings
04/27/2023	Misc. Events	Miscellaneous Docket Entry	filed with notice of filing (motion to dismiss) [me]
04/27/2023	Misc. Events	Miscellaneous Docket Entry	filed with notice of filing (Plaintiff's first objection to case dismissal) [me]
04/27/2023	Misc. Events	Miscellaneous Docket Entry	filed with notice of filing (Plaintiff's motion for leave to amend) [me]
04/27/2023	Misc. Events	Miscellaneous Docket Entry	filed with notice of filing (Plaintiff's request for rehearing) [me]
04/27/2023	Misc. Events	Miscellaneous Docket Entry	filed with notice of filing (Plaintiff's petition for court order finding) [me]
04/27/2023	Misc. Events	Miscellaneous Docket Entry	filed with notice of filing (It motion to stay)
04/27/2023	Misc. Events	Docketing Statement	
04/27/2023	Misc. Events	Miscellaneous Docket Entry	additional sheets to Docketing Statement
04/28/2023	Record Transcript Unredacted/Not Fully Redacted	Transcript of It hearing on motion to dismiss	
<b><u>05/01/2023</u></b>	<b><u>Brief</u></b>	<b><u>Initial Brief</u></b>	<b><u>Initial Brief</u></b>
05/11/2023	Order	Order Striking Filing [DCA]	
05/11/2023	Notice	Notice of Supplemental Authority	Notice of Supplemental Authority

05/15/2023 Notice Notice of Agreed Extension of Time - Answer Brief Notice of Agreed Extension of Time - Answer Brief/ AB 90 days 8/29/23  
PayPal

05/23/2023 Record Index

05/23/2023 Notice Notice of Agreed Extension of Time - Answer Brief [Dr. Cousin]

05/24/2023 Order Order on Motion to Stay

05/25/2023 Notice Notice of Agreed Extension of Time AB 90 days/ AB 90 days 8/29/23  
Bay County Health System LLC

05/25/2023 Record Record on Appeal Redacted Record on Appeal Redacted - pages 1-860 - Part 1

05/25/2023 Record Record on Appeal Redacted Record on Appeal Redacted - pages 861-1387 - Part 2

05/30/2023 Motions Extensions Motion for Extension of Time to Serve Initial Brief Motion for Extension of Time to Serve Initial Brief

05/30/2023 Notice Notice of Supplemental Authority [me]

05/31/2023 Misc. Events Miscellaneous Docket Entry Entitled Plaintiff's Exhibit - AARP COVID 19

06/01/2023 Order Order Striking Stipulation for Extension Order Striking Stipulation for Extension

06/26/2023 Order Order on Motion for Extension of Time to Serve Initial Brief Order on Motion for Extension of Time to Serve Initial Brief

06/26/2023 Motions Extensions Motion for Extension of Time Motion for Extension of Time [Dr. Cousin]

06/29/2023 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - Plaintiff's Inclusion of Further Factual Information [me]

07/05/2023 Brief Reply Brief Reply Brief [me]

07/05/2023 Brief Supplemental Reply Brief Supplemental Reply Brief [me]

07/12/2023 Order Order Striking Filing

07/12/2023 Order Order Striking Filing

07/25/2023 Order Order to File Status Report

07/31/2023 Misc. Events Status Report [me]

07/31/2023 Notice Amended Notice of Appeal Amended Notice of Appeal certificate of service for status report [me]

08/28/2023 Order Order on Motion for Extension of Time

08/29/2023 Brief Answer Brief [Bay County Health System LLC]

08/29/2023 Brief Answer Brief [PayPal]

09/01/2023 Motions Relating to Briefs Motion To File Enlarged Brief Motions & appeals of court orders and Extension of Time [me]

09/01/2023 Brief Answer Brief [Lloyd Logue]

09/04/2023 Misc. Events Status Report [me]

09/04/2023 Response Response Response to 8/28/23 order [me]

09/12/2023 Brief Reply Brief Reply Brief to Dr. Billingsley and Lloyd Logue's AB [me]

09/22/2023 Brief Reply Brief Reply Brief to Paypal's AB [me]

09/26/2023 Brief Reply Brief amended Reply Brief to Bay County Health System LLC [me]

09/26/2023 Order Order

09/26/2023 Brief Reply Brief Reply Brief to Bay County Health System LLC's AB [me]

09/26/2023 Misc. Events Miscellaneous Docket Entry attachment to Reply Brief to Bay County Health System LLC's AB [me]

09/26/2023 Notice Notice of Filing Notice of Filing - correction to RB [me]

09/29/2023 Order Order Directing Service of Filing

09/29/2023 Brief Reply Brief Extended Reply Brief to Bay County Health System LLC's AB [me]

10/02/2023 Brief Reply Brief Reply Brief part 3 [me]

10/02/2023	Motions Relating to Briefs	Motion to Amend Brief	Motion to Amend Brief [me]
10/02/2023	Brief	Reply Brief	Reply Brief Part 4 Bay Co. Health Systems [me]
10/03/2023	Notice	Amended Notice of Appeal	Amended Notice of Appeal certificate of service to RB
10/03/2023	Brief	Reply Brief	Reply Brief Part 5
10/03/2023	Brief	Reply Brief	Reply Brief Part 6 Bay Co. Health Systems
10/04/2023	Brief	Reply Brief	Reply Brief part 7 Bay Co. Health Systems
10/05/2023	Motions Other	Miscellaneous Motion	Motion for leave of court
10/06/2023	Order	Order	CORRECTED Order (of 9/26 order)
10/06/2023	Order	Order	The Court denies any relief requested in Appellant's motion and appeal of court orders filed September 1, 2023.
10/06/2023	Misc. Events	Miscellaneous Trial Court Order	Miscellaneous Trial Court Order order denying first objection to case dismissal
10/06/2023	Notice	Notice of Filing	Notice of Filing Lower Tribunals' Order Denying Plaintiff's First Objection to Case Dismissal Which the Court Treats as a Timely Filed Motion for Rehearing [PayPal]
10/09/2023	Motions Other	Motion for Reconsideration/Rehearing of an Order	Motion for Reconsideration/Rehearing of an Order [me]
10/09/2023	Brief	Reply Brief	Reply Brief to Dr. Billingsley, Bay County Health LLC and PayPal
10/10/2023	Misc. Events	Miscellaneous Trial Court Order	Miscellaneous Trial Court Order order denying first objection to case dismissal, certified
10/13/2023	Brief	Reply Brief	Reply Brief Part 2 to Dr. Billingsley, Bay County Health LLC and Paypal
10/13/2023	Brief	Reply Brief	Reply Brief Part 3 DR. Billingsley, Bay County Health LLC and Paypal
10/17/2023	Brief	Reply Brief	Reply Brief Part 4 to Dr. Billingsley, Bay County Health LLC and Paypal
11/02/2023	Brief	Reply Brief	Reply Brief
11/08/2023	Brief	Reply Brief	Reply Brief - Addition
11/09/2023	Brief	Reply Brief	Reply Brief - Addition
11/27/2023	Misc. Events	Certificate of Service	Certificate of Service to additional facts
11/27/2023	Misc. Events	Miscellaneous Docket Entry	additional material facts of the time frames as evidence
11/27/2023	Order	Order on Motion for Substitution of Counsel	Order on Motion For Substitution of Counsel
<b>11/29/2023</b>	<b>Disposition by Opinion Affirmed</b>	<b>Affirmed in part and dismissed in part</b>	<b>[ APPENDIX B]</b>
12/14/2023	Post-Disposition Motions	Motion for Rehearing	Motion for Rehearing, Request Extended Brief Size Limit of Time
12/18/2023	Post-Disposition Motions	Motion for Rehearing	Motion for Rehearing
<b>12/19/2023</b>	<b>Order</b>	<b>Order on Motion for Rehearing</b>	<b>Order on Motion for Rehearing [ APPENDIX D]</b>
<b>12/29/2023</b>	<b>Order</b>	<b>Order on Motion for Rehearing</b>	<b>Order on Motion for Rehearing [ APPENDIX C]</b>
01/02/2024	Misc. Events	Miscellaneous Docket Entry	Miscellaneous Docket Entry - LT Filings
01/02/2024	Misc. Events	Miscellaneous Docket Entry	Miscellaneous Docket Entry - LT Filings
01/02/2024	Supreme Court	Notice to Invok. Disc. Jur. FSC	Notice to Invok. Disc. Jur. FSC
01/08/2024	Supreme Court	Acknowledged Receipt from Supreme Court	Acknowledged Receipt from Supreme Court - The FL SC has received the filed Plaintiff's Motion for Rehearing and other Matters reflecting a filing date of January 04, 2024,...
<b>01/18/2024</b>	<b>Mandate</b>	<b>Mandate</b>	<b>Mandate [APPENDIX A, also filed individually to SC]</b>
01/18/2024	Misc. Events	West Publishing	West Publishing
<b>01/18/2024</b>	<b>Misc. Events</b>	<b>Case Closed</b>	<b>Case Closed</b>

>>>

**DCA CASE NUMBER 1D2023-0358**

**02/12/2023 Notice Notice of Appeal**

02/23/2023 Misc. Events Docketing Statement  
04/11/2023 Motions Other Motion To Stay  
04/11/2023 Notice Notice of Inability  
04/26/2023 Order Order on Motion to Stay [denied]  
05/25/2023 Record Record on Appeal Redacted Record on Appeal Redacted - 940 pages  
05/26/2023 Motions Other Motion To Stay Motion To Stay, Postpone Appeal of Bay Co Health System, Dr. Billingsley, Lloyd Logue, and Paypal Motion to Dismiss Appeal to DCA, and Extension of time to File Brief  
05/30/2023 Notice Notice of Supplemental Authority

**06/06/2023 Brief Initial Brief**

06/29/2023 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry Plaintiff's Inclusion of Further Factual Information  
07/03/2023 Brief Reply Brief  
07/05/2023 Brief Supplemental Reply Brief  
07/05/2023 Brief Supplemental Reply Brief (part 2)  
07/11/2023 Order Order Striking Filing [court strikes for format compliance issue]  
07/11/2023 Brief Amended Answer Brief  
07/17/2023 Motions Other Miscellaneous Motion entitled Plaintiff's request for good cause shown consideration of brief  
07/19/2023 Order Order Striking Filing  
07/21/2023 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - Plaintiff's Additional Answer for Good Cause Shown Consideration of Facts  
07/21/2023 Notice Notice of Supplemental Authority Notice of Supplemental Authority  
07/28/2023 Motions Relating to Briefs Motion To File Enlarged Brief Motion To File Enlarged Brief  
08/28/2023 Order Order [grants parts]  
10/05/2023 Motions Other Miscellaneous Motion Motion for leave of court  
10/06/2023 Misc. Events Miscellaneous Trial Court Order Miscellaneous Trial Court Order order denying first objection to case dismissal  
10/13/2023 Brief Reply Brief Supplemental Reply Brief Part 2 to Dr. Billingsley, Bay County Health LLC and Paypal  
10/13/2023 Brief Supplemental Reply Brief Supplemental Reply Brief Part 3 to Dr. Billingsley, Bay County Health LLC and Paypal  
10/17/2023 Brief Reply Brief Reply Brief Part 4 to Dr. Billingsley, Bay County Health LLC and Paypal  
11/02/2023 Brief Reply Brief Reply Brief  
11/07/2023 Brief Reply Brief Reply Brief  
11/09/2023 Misc. Events Miscellaneous Docket Entry Plaintiff's Addition to Dr. Billingsley, Bay County Health LLC, PayPal and USAA FSB, State of Florida, Dr. Cousin Appeal(s)  
11/27/2023 Misc. Events Miscellaneous Docket Entry additional material facts of the time frames as evidence  
**11/29/2023 Disposition by Opinion Affirmed** Affirmed in part and dismissed in part  
12/14/2023 Post-Disposition Motions Motion for Rehearing Motion for Rehearing, Request Extended Brief Size Limit or Time  
12/18/2023 Post-Disposition Motions Motion for Rehearing Motion for Rehearing  
**12/19/2023 Order Order on Motion for Rehearing** Order on Motion for Rehearing [denied]  
**12/29/2023 Order Order on Motion for Rehearing** Order on Motion for Rehearing [denied]

01/02/2024 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - LT Filings  
 01/02/2024 Supreme Court Notice to Invok. Disc. Jur. FSC Notice to Invok. Disc. Jur. FSC  
 01/08/2024 Supreme Court Acknowledged Receipt from Supreme Court Acknowledged Receipt from  
 Supreme Court - The FL SC has received the filed Plaintiff's Motion for Rehearing and other Matters reflecting a  
 filing date of January 04, 2024,...

**01/18/2024 Mandate** Mandate Mandate [APPENDIX A, also filed individually to SC]

01/18/2024 Misc. Events West Publishing

**01/18/2024 Misc. Events Case Closed** Case Closed

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**DCA CASE NUMBER 1D2023-1518**

**06/23/2023 Notice Notice of Appeal**

07/13/2023 Notice Amended Notice of Appeal

07/13/2023 Notice Notice of Filing Notice of Filing order appealed

07/13/2023 Misc. Events Order Appealed [x]

07/21/2023 Misc. Events Docketing Statement

07/21/2023 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - to Question 5 of  
 DS

07/21/2023 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - to Question 3 of  
 DS

07/26/2023 Order Show Cause Timeliness (Appeal) Show Cause Timeliness (Appeal)

07/28/2023 Motions Extensions Motion for Extension of Time

08/04/2023 Response Response Response to 07/27 Order [filed by me, so my filing, from me]

08/09/2023 Brief Initial Brief

08/21/2023 Motions Relating to Briefs Motion To File Enlarged Brief Motion To File Enlarged Brief

**08/21/2023 Brief Initial Brief** Enlarged Initial Brief

10/05/2023 Motions Other Miscellaneous Motion Motion for leave of court

10/06/2023 Misc. Events Miscellaneous Trial Court Order Miscellaneous Trial Court Order order denying  
 first objection to case dismissal [me]

10/13/2023 Brief Supplemental Reply Brief Supplemental Reply Brief Part 2 to Dr. Billingsley, Bay  
 County Health LLC and Paypal [me]

10/13/2023 Misc. Events Certificate of Service Certificate of Service to Supplemental Reply Brief Part 2  
 [me]

10/13/2023 Brief Supplemental Reply Brief Supplemental Reply Brief Part 3 to Dr. Billingsley, Bay  
 County Health LLC and Paypal [me]

10/17/2023 Brief Reply Brief Reply Brief Part 4 to Dr. Billingsley, Bay County Health LLC and Paypal  
 [me]

11/02/2023 Brief Amended Reply Brief Amended Reply Brief to Dr. Billingsley, Bay County Health LLC,  
 Paypal and USAA FSB [me]

11/07/2023 Brief Reply Brief [me]

11/09/2023 Misc. Events Miscellaneous Docket Entry Plaintiff's Addition to Dr. Billingsley, Bay County  
 Health LLC, PayPal and USAA FSB, State of Florida, Dr. Cousin Appeal(s). [me]

11/27/2023 Misc. Events Miscellaneous Docket Entry additional material facts of the time frames as  
 evidence [me]

**11/29/2023 Disposition by Opinion Affirmed** Affirmed in part and dismissed in part [APPENDIX]

12/14/2023 Post-Disposition Motions Motion for Rehearing Motion for Rehearing, Request  
 Extended Brief Size Limit or Time [me]

12/18/2023 Post-Disposition Motions Motion for Rehearing Motion for Rehearing and other matters [me]

**12/19/2023 Order Order on Motion for Rehearing** Order on Motion for Rehearing

**12/29/2023 Order Order on Motion for Rehearing** Order on Motion for Rehearing

01/02/2024 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - LT Filings

01/02/2024 Misc. Events Miscellaneous Docket Entry Miscellaneous Docket Entry - LT Filings

01/02/2024 Supreme Court Notice to Invok. Disc. Jur. FSC Notice to Invok. Disc. Jur. FSC

01/08/2024 Supreme Court Acknowledged Receipt from Supreme Court Acknowledged Receipt from Supreme Court - The FL SC has received the filed Plaintiff's Motion for Rehearing and other Matters reflecting a filing date of January 04, 2024,...

**01/18/2024 Mandate** Mandate Mandate [APPENDIX A, also filed individually to SC]

01/18/2024 Misc. Events West Publishing West Publishing

**01/18/2024 Misc. Events Case Closed** Case Closed

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**Bay County Court Docket Index:**

**22001076CA - GORHAM, CURTIS M vs. LAVINE, DR GARY H**

There are various other filings of orders to dismiss on the docket and other filings not shown below but I don't waive their importance to this lawsuit herein, all right reserved. I have to file this appendix today.

**19 10/21/2022 COMPLAINT FILED**

50 11/14/2022 EP - DEFENDANT DR DANIEL COUSINS MOTION TO DISMISS OR IN THE ALTERNATIVE MOTION FOR MORE DEFINITE STATEMENT

72 11/15/2022 EP - MOTION TO DISMISS PLAINTIFFS COMPLAINT WITH PREJUDICE OR, IN THE ALTERNATIVE, TO STAY JUDICIAL PROCEEDINGS AS TO CLAIMS AGAINST PAYPAL, INC AND COMPEL ARBITRATION- PAYPAL HOLDINGS INC

**6 11/17/2022 EP - MOTION TO DISMISS DR EMILY BILLINGSLEY AND LLOYD G LOGUE**

Request 11/17/2022 EP - DEFENDANT BAY COUNTY HEALTH SYSTEM, LLC'S MOTION TO DISMISS PLAINTIFFS COMPLAINT, MOTION TO STRIKE AND/OR MOTION FOR MORE DEFINITE STATMENT

Request 11/17/2022 PLAINTIFFS MOTION TO STRIKE PERSONAL INFORMATION FILING BY DEFENSE FOR PRIVACY RULES VIOLATIONS

**6 11/18/2022 PLAINTIFFS MOTION TO STRIKE PERSON INFORMATION IN FILINGS BY DEFENSE FOR PRIVACY RULES VIOLATIONS**

4 11/18/2022 EP - STIPULATION AND JOINT MOTION TO REMOVE PERSONAL SENSITIVE INFORMATION FROM COURT FILING

3 11/21/2022 EP - ORDER GRANTING STIPULATION AND JOINT MOTION TO REMOVE PERSONAL SENSITIVE INFORMATION FROM COURT FILING

2 11/21/2022 EP - NOTICE OF HEARING

**26 11/22/2022 EP - MOTION TO QUASH SERVICE ON DEFENDANT JUNCO EMERGENCY PHYSICIANS**

4 12/14/2022 EP - ORDER REMOVING PERSONAL SENSITIVE INFORMATION FROM COURT FILINGS

**5 12/15/2022 EP - DEFENDANT USAA FEDERAL SAVINGS BANKS MOTION TO DISMISS PLAINTIFFS COMPLAINT**

**5 1/11/2023 EP - ORDER ON DEFENDANT DR COUNSIN'S MOTION TO DISMISS, OR IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT** - RECORDED (OR.4647.1398. / 2023001957)

6 1/17/2023 EP - MOTION TO VACATE THE JUDGES ORDER FOR VIOLATIONS- PLAINTIFF

8 1/25/2023 EP - MOTION TO STRIKE DEFENDANT DR COUSINS RESPONSE TO PLAINTIFFS MOTION TO VACATE

6 1/31/2023 EP - PLAINTIFFS MEMORANDUM OF LAW

7 2/2/2023 EP - EXHIBIT

4 2/5/2023 EP - PLAINTIFFS MOTION FOR EMERGENCY DISCOVERY

10 2/9/2023 EP - MOTION TO MAKE PLAINTIFF A VICTIM OR PREJUDICED

6 2/9/2023 EP - MOTION FOR REHEARING ON ORDER FOR DISMISSAL OF DR. COUSIN MOTION TO DISMISS

3 2/10/2023 EP - NOTICE OF APPEAL FROM CIRCUIT TO DCA

3 2/17/2023 EP - PLAINTIFFS EXHIBIT

7 2/24/2023 EP - MOTION FOR REHEARING ON ORDER FOR DISMISSAL OF DR COUSIN MOTION TO DISMISS

11 3/2/2023 EP - TRANSCRIPT OF HEARING FROM THE DEFENSES MOTION TO DISMISS OR MORE DEFINITIVE STATEMENT

3 3/6/2023 EP - PLAINTIFFS MOTION FOR LEAVE TO AMEND

3 3/6/2023 EP - NOTICE OF HEARING

22 3/6/2023 EP - PLAINTIFFS MOTION TO DISMISS OR SET ASIDE DEFENDANTS MOTIONS AT HEARING

3 3/9/2023 EP - ORDER CANCELLING ALL PENDING APRIL HEARINGS

3 3/10/2023 EP - ORDER GRANTING DEFENDANT BAY COUNTY HEALTH SYSTEM LLC'S MOTION TO DISMISS PLAINTIFFS COMPLAINT WITH PREJUDICE

3 3/10/2023 EP - ORDER OF DISMISSAL AS TO DEFENDANT PAYPAL INC WITHOUT PREJUDICE - RECORDED (OR.4666.1246. / 2023014790)

4 3/10/2023 EP - ORDER GRANTING DEFENDANT DR. BILLINGSLEY AND DR. LOGUE'S MOTION TO DISMISS PLAINTIFFS COMPLAINT WITH PREJUDICE

3 3/12/2023 EP - PLAINTIFFS NOTICE OF SIMILAR COMPLAINT VS DR JENKINS

6 3/14/2023 EP - PLAINTIFFS FIRST OBJECTION TO CASE DISMISSAL

7 4/10/2023 EP - PLAINTIFFS PETITION FOR COURT ORDER FINDING

14 5/16/2023 EP - DCA CASE LAW, MEMORANDUM OF LAW, POINTS OF AUTHORITY- FILED BY CURTIS GORHAM

5 5/18/2023 EP - ORDER ON PLAINTIFFS MOTION TO VACATE THE JUDGE'S ORDER FOR VIOLATIONS

4 5/19/2023 EP - ORDER GRANTING DEFENDANT, JUNCO EMERGENCY PHYSICIANS MOTION TO QUASH SERVICE

...

2 5/20/2023 EP - OBJECTION PART 5- CURTIS GORHAM

4 5/21/2023 EP - ORDER DENYING PLAINTIFFS REQUEST FOR REHEARING AS TO DEFENDANT BAY COUNTY HEALTH SYSTEM LLC

3 5/24/2023 DCA ORDER - GRANTING IN PART AND DENYING IN PART APPELLANTS MOTION TO STAY, POSTPONE APPEAL ID23-839

3 5/24/2023 EP - ORDER DENYING PLAINTIFFS MOTION FOR EMERGENCY DISCOVERY

3 5/24/2023 EP - ORDER GRANTING DEFENDANT USAA FEDERAL SAVINGS BANKS MOTION TO DISMISS PLAINTIFFS COMPLAINT - RECORDED (OR.4768.1210. / 2024004690)

3 5/30/2023 EP - PLAINTIFFS REQUEST FOR COURT ORDER TO ALTER JUDGMENT IN ORDER FOR MONEY

2 5/30/2023 EP - PLAINTIFFS OBJECTION TO DENIAL OF MOTION FOR DISCOVERY REQUEST FOR RECONSIDERATION

...

5 6/29/2023 EP - PLAINTIFFS INCLUSION OF FURTHER FACTUAL INFORMATION

11 7/4/2023 EP - PLAINTIFFS DCA REPLY BRIEF LEGAL PARADOX SUPPLEMENT

4 7/10/2023 EP - PLAINTIFFS EXHIBIT OF A MEDICAL BATTERY THAT HAPPENED TODAY

**4 10/2/2023 EP - ORDER DENYING PLAINTIFFS FIRST OBJECTION TO CASE DISMISSAL WHICH THE COURT TREATS AS A TIMELY FILED MOTION FOR REHEARING**

23 12/20/2023 EP - PLAINTIFFS MOTION TO DCA FOR REHEARING AND OTHER MATTERS  
Request 12/30/2023 EP - PLAINTIFFS MOTION FOR REHEARING AND OTHER MATTERS  
Request 1/8/2024 SUPREME COURT ACKNOWLEDGEMENT OF NEW CASE SC2024-0034 (1D23-0358)

6 1/18/2024 DCA MANDATE AND OPINION 1D23-1518 ISSUED 11-29-23 AND DISMISSED IN PART; AFFIRMED IN PART; WARNING ISSUED 1-18-24 - RECORDED (OR.4768.1240. / 2024004700)

6 1/18/2024 DCA MANDATE AND OPINION 1D23-839 ISSUED 11-29-23 DISMISSED IN PART; AFFIRMED IN PART; WARNING ISSUED 1-18-24 - RECORDED (OR.4768.1228. / 2024004698)

**6 1/18/2024 DCA MANDATE AND OPINION** 1D23-358 ISSUED 11-29-23 DISMISSED IN PART; AFFIRMED IN PART; WARNING ISSUED 1-18-24 - RECORDED (OR.4768.1234. / 2024004699)

>>>

**22000496CA - GORHAM, CURTIS M vs. JENKINS, MICHAEL ALAN**

Bay County Court lawsuit filed just prior to the Bay Medical hospital incident lawsuit.  
Dr. Jenkins, urologist Doctor and company and nurse.

**4 5/20/2022 COMPLAINT FILED**

23 6/8/2022 EP - MOTION TO DISMISS- ALL DFTS  
31 6/22/2022 PLTS OPPOSITION TO THE DFTS MOTION TO DISMISS WITH PREJUDICE - CURTIS M GORHAM

**2 7/5/2022 EP - ORDER GRANTING DFTS MOTION TO DISMISS- PLTF HAS 45 DAYS**

5 7/18/2022 OBJECTION OF PLTF TO COURT ORDER GRANTING MOTION TO DISMISS  
5 8/19/2022 MOTION REQUESTING THE COURT TO DETERMINE WHETHER THE DEFENSE DENIAL OF PTFS CLAIM RESTS ON A REASONABLE BASIS / CURTIS GORHAM PRO SE

2 8/30/2022 EP - NOTICE OF HEARING

3 11/7/2022 MOTION FOR EXTENSION OF TIME TO REFILE AMENDED COMPLAINT

9 11/7/2022 LAWSUIT APPEAL MOTION

2 11/7/2022 EP - ORDER DENYING PLTF'S MOTION REQUESTING THE COURT TO DETERMINE WHETHER THE DEFENSE DENIAL OF PLTF'S CLAIM RESTS ON A REASONABLE BASIS

3 11/8/2022 MOTION FOR JUDICIAL NOTICE

6 11/8/2022 EXHIBIT A TO MOTION FOR JUDICIAL NOTICE

11 11/9/2022 LAWSUIT MOTION OBJECTION TO HEARING DENIAL & FURTHER REQUESTS

3 2/21/2023 EP - PLTS EXHIBIT 2-21-23 DR JENKINS AND MOTION TO SET ASIDE/VACATE

2 2/21/2023 EP - PLT EXHIBIT 2/21/23 EMAIL CONVERSATION BETWEEN PLT AND A RADIOLOGY MEDICAL EXPERT

2 3/12/2023 EP - PLTS NOTICE OF SIMILAR COMPLAINT VS BAY MEDICAL CENTER HOSPITAL ET AL

11 7/4/2023 EP - PLAINTIFFS REPLY BRIEF LEGAL PARADOX SUPPLEMENT

**4 7/10/2023 EP - PLAINTIFFS EXHIBIT OF A MEDICAL BATTERY THAT HAPPENED TODAY**

Request 12/20/2023 EP - COPY OF PLAINTIFFS MOTION TO DCA FOR REHEARING AND OTHER MATTER FOR CASE 22-1076CA

29 12/30/2023 EP - NOTICE OF FLORIDA SUPREME COURT FILING

12 12/30/2023 EP - PLAINTIFFS MOTION FOR REHEARING AND OTHER MATTERS

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There are various exhibits and other filings but this is the basic legal process of law this all took place, with me filing a lot more exhibits and affidavits in the Bay Medical lawsuit not included here in this index, or DCA index.



Page 5 - Supreme Court Appendix Index

Cover Sheet

1D23-0358 DCA Filings:

There are obviously more motions, filings, these are mine relative to the Supreme Court wanting an Appendix.

0.) (x) Initial Brief – WILL NOT APPEAR FOR DOWNLOAD?

1.) 10\_13\_2023 Reply Brief Supplemental Reply Brief Part 2 to Dr. Billingsley, Bay County Health LLC and Paypal

2.) Brief - Supplemental Reply Brief 07\_05\_2023 pt1

It appears I filed the same part 1,2,3,4,5 type of filings in the DCA with all 3 case dockets? I don't have time today to figure it out.

**STRICKEN**

IN THE FIRST DISTRICT COURT OF APPEAL,  
OF THE STATE OF FLORIDA

**Appellant, Plaintiff,**

Curtis M. Gorham

**VS**

**Appellee, Defendants,**

Dr. Gary H. Lavine, Dr. Emily D. Billingsley,  
Kendrea Virgil, RN., Lloyd G. Logue, Donna  
Baird, Joseph R. Impiccicche (CEO),  
Junco Emergency Physicians, Bay County  
Health System LLC, The State of Florida,  
PayPal, Inc., USAA FSB, and other  
unknown people such as the orderly and  
radiology assistant,  
(Medical Expert) Dr. Daniel Cousin.

**FIRST DISTRICT COURT  
OF APPEAL**

) DCA Case No. 1D23-0839

) DCA Case No. 1D23-0358

) DCA Case No. 1D23-1518

) L.T. Case No. 22001076CA

) Bay County Civil  
District Court

) Date: 10/13/2023

**Plaintiff's Default Reply Brief(s) Part 2 to Dr. Billingsley, Bay County  
Health LLC and PayPal**

Plaintiff states that this is Reply Brief "Default Part 2" for case 1D23-0839 before the Florida First District Court of Appeals filed by the Plaintiff and or Appellant and two other appeals on various dates and all currently pending also have the same case involved with similar defendants as 0839; 1D23-0839, 1D23-0358, and 1D23-1518.

Plaintiff includes the 2 following matters for the court. Along with an extended amount of a document "PDF" sections that outline the answer to the question asked herein and provide the legal response that appears to be relevant to these matters in ways and includes underlining by Plaintiff to

highlight, and each section is indicated with a > symbol. This has to do with "Medical Experimentation" and "Rights."

> 1.) The Federalist Papers also provides some insight into the clause.

Madison's Federalist No. 42. Madison stated: "Those who come under the denomination of free inhabitants of a State, although not citizens of such State, are entitled, in every other State, to all the privileges of free citizens of the latter; that is, to greater privileges than they may be entitled to in their own State . . . ." In Federalist No. 80, Hamilton expressed his belief in the clause's importance when he wrote that the Privileges and Immunities Clause (the version in the Constitution) is "the basis of the union."

Because of the ambiguity of the clause, much debate surrounds the particular rights which the Privileges and Immunities Clause protects. Some scholars believe that it protects the traditional common law rights conferred by particular states to their citizens. The majority opinion in Corfield v. Coryell, however, gives a different approach, stating that the clause protected only certain "fundamental" rights: "Protection by the government; the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety; subject nevertheless to such restraints as the government may justly

prescribe for the general good of the whole."

The majority opinion enumerates a few specific rights (such as the right to live in and travel through states, **the right to sue in courts**, etc), but also notes that this is not a comprehensive list.

### **> Privileges and Immunities Clause**

The Privileges and Immunities Clause of Article IV, Section 2 of the Constitution states that "the citizens of each state shall be entitled to all privileges and immunities of citizens in the several states." This clause protects fundamental rights of individual citizens and restrains state efforts to discriminate against out-of-state citizens. However, the Privileges and Immunities Clause extends not to all commercial activity, but only to fundamental rights.

There has been a great deal of scholarly debate over the purpose of this constitutional provision. One source of insight as to the purpose of the privileges and immunities clause is its textual predecessor, Article IV of the the Articles of Confederation, which stated that "to secure and perpetuate mutual friendship and intercourse among the people of the different States in this Union, the free inhabitants of each of these States . . . shall be

entitled to all privileges and immunities of free citizens in the several States; and the people of each State shall free ingress and regress to and from any other State, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions, and restrictions as the inhabitants thereof."

> 2.) Plaintiff asks who defines what is "medical experimentation" that is, is that the job of the medical "expert" in radiology, he refuses to review the hospital radiology department as a whole as is evidenced by his other refusals or review anybody else really like the Defendant the "unknown male radiology assistant," or the ordering doctor or the unknown orderly, and so is it the Florida Department of Health that defines what medical experimentation is and the "Standard" which explains it? Is it case law? What makes a incident defined as a "medical experiment?" The State of Florida forbids medical experimentation.

A jury could be asked if it shocks the conscious and morals, jury agrees to that, and so seeing a mans genitals in x-ray when it is a middle spine T12 back injury would be that. There is no reason for it except that the radiologists wanted to do it and we don't know whay there are two entire deleted series of images, and so with their acts and omission that way despite agreement with Plaintiff not to do such an exam (we don't what

exam actually happened and how it could be further determined to be medical experimentation) with Plaintiff. Have they done it before? How can Plaintiff establish that if the case is dismissed? No discovery happening.

**> What is a medical experiment? [Google result]**

Medical experimentation refers to the testing and evaluation of a new drug or procedure on a human person in order gain generalizable knowledge that can be used for various purposes.

Medical Experimentation  
Harvard T.H. Chan School of Public Health

<https://www.hsph.harvard.edu/sites/2020/05>

May 17, 2020 — The use of experimentation on human subjects is a necessary method of advancing medical and public health knowledge.

<https://www.hsph.harvard.edu/wp-content/uploads/sites/580/2020/05/2004-Medical-Experimentation.pdf>

**> Page 4 - Sterilization Experiments**

These experiments, conducted on victims in Auschwitz, Ravensbrück, and other camps, were part of Nazi planning for genocide by the most efficient, scientific, and least conspicuous methods. The aim was to eliminate Russians, Poles, Gypsies, Jews, and other undesirable populations by using medicinal rather than surgical sterilization, primarily through injection of caladium sequinum and other substances. In addition, gland

transplantation was performed on fourteen inmates of Buchanwald, two of whom died. Others were subjected to sterilization by X-rays and castration. The aim was to prevent reproduction among Jews who were preserved from extermination in order to perform labor.

#### > Typhus and Other Virus Experiments

For nearly five years, until the end of the war, medical experiments were performed on inmates of Buchanwald and Natzweiler to test vaccines for typhus, yellow fever, smallpox, paratyphoid A and B, cholera, and diphtheria. For the typhus experiments, hundreds of prisoners were infected with typhus. Some of these had received an antityphus vaccine to be tested, the others were used as the control group or simply infected to provide a supply of the virus for further testing.

#### > Poison Experiments

Russian inmates of Buchanwald were injected with poisons, sometimes administered through poison bullets. The tests were designed to permit the Nazi doctors to observe the victims' reactions to the poison up to the point of death.

#### > Page 6 - The Nuremberg Code

The judgment of the tribunal included a section on "permissible medical experiments," in which the judges enumerated ten principles that "must be observed in order to satisfy moral, ethical, and legal concepts." Through these principles, the judges intended to identify "requirements which are purely legal in nature" and not to venture into the field of medicine, which they deemed a "field that would be beyond our sphere of competence." Nonetheless, the principles have come to be known as the "Nuremberg Code," and have had far-reaching significance for bioethics.

The Nuremberg Code begins with that core principle that "the voluntary consent of the human subject is absolutely essential." The other requirements are that any experiment on a human subject should be for the good of society; it should build on the results of animal experimentation and scientific knowledge. It should "avoid all unnecessary physical and mental suffering and injury"; there should be no "a priori reason to believe that death or disabling injury will occur" (with the possible exception of the experimental physicians serving as subject); the degree of risk should be proportionate to the humanitarian gain; adequate precautions should be taken "to protect the experimental subject against even remote possibilities of injury, disability, or death"; only scientifically qualified persons should conduct the experiment; the subjects



should be able to halt the experiment "if he has reached the physical or mental state where continuation of the experiments seems to him to be impossible;" and the lead scientist should be prepared to end the experiment at any stage "if he has probable cause to believe, in the exercise of the good faith, superior skill, and careful judgment required of him, that a continuation of the experiment is likely to result in injury, disability, or death to the experimental subject."

#### **> International Humanitarian and Human Rights Law**

As a result of the Nazi medical trial, the issue of medical experimentation and other biological experiments was a preoccupation of the drafters of the principal post–World War II instruments of international humanitarian and human rights law. Under the First and Second Geneva Conventions, the wounded, sick, and shipwrecked armed forces "shall not be . . . subjected to torture or to biological experiments" (Article 12 of each convention). Article 13 of the Third Geneva Convention, regarding the treatment of prisoners of war stipulates: "In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental, or hospital treatment of the prisoner concerned and carried out in his interest." In the Fourth Geneva Convention, regarding the protection of civilians in time of war, Article 32

bans "mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person." Protocol I, relating to the protection of victims of international armed conflicts (Article 11) states the following:

[I]t is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned and which is not consistent with generally accepted medical standards which would be applied under similar medical circumstances to persons who are nationals of the Party conducting the procedure and who are in no way deprived of liberty.

It further prohibits carrying out on such persons, even with their consent:

(a) Physical mutilations; (b) Medical or scientific experiments; (c) Removal of tissue or organs for transplantation." As for Protocol II, which deals with

the protection of victims of noninternational armed conflicts, it is similarly

"prohibited to subject the persons described in this Article to any medical

procedure which is not indicated by the state of health of the person

concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances."

This prohibition appears in Article 5.2, concerning internment or detention.

All four Geneva Conventions of 1949 list among the grave violations, which

all parties are required to punish, "willful killing, torture or inhuman treatment, including biological experiments."

Page 8 -

The 1998 Rome Statute of the International Criminal Court continues this trend in international law. It defines "war crimes" in Article 2 as:

Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention: . . . Torture or inhuman treatment, including biological experiments, [and] Willfully causing great suffering, or serious injury to body or health.

In addition, Article 2(b) lists the following as serious violations of the laws and customs applicable in international armed conflict: Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental, or hospital treatment of the person concerned, nor carried out in his or her interest, and which cause death to or **seriously endanger the health of such person** or persons.

Although the Genocide Convention does not specifically mention medical experimentation, the 1992 International Covenant on Civil and Political

Rights stipulates, in Article 7, "No one shall be subjected to torture or to cruel, **inhuman or degrading treatment** or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation." In its General Comment 7 on this article, the Human Rights Committee took special note, as follows:

[T]he reports of States parties have generally given little or no information on this point. It takes the view that at least in countries where science and medicine are highly developed, and even for peoples and areas outside their borders if affected by their experiments, more attention should be given to the possible need and means to ensure the observance of this provision. Special protection in regard to such experiments is necessary in the case of persons not capable of giving their consent.

The issue of experimentation was also included in principles for the protection of persons with mental illness and the improvement of mental health care, adopted by the UN General Assembly in 1991. Principle 11 stipulates the following:

Clinical trials and experimental treatment shall never be carried out on any patient without informed consent, **except that a patient who is unable to give informed consent may be admitted to a clinical trial or given**

experimental treatment, but only with the approval of a competent, independent review body specifically constituted for this purpose.

Finally, in the Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities, it is provided that "States

Parties shall prohibit, and protect persons with disabilities from medical or scientific experimentation without the free and informed consent of the person concerned, and shall protect persons with disabilities from forced interventions or forced institutionalization aimed at correcting, improving, or alleviating any actual or perceived impairment."

Through these normative developments since the trial of the Nazi doctors, the medical profession and authors of international treaties on human rights and humanitarian law have sought to draw lessons from the atrocities and wanton misuse of science during World War II and the disregard for welfare of human subjects involved in biological and medical experimentation in democratic societies in peacetime. Medical experimentation continues to be a critical step in improving human health but must come under strict limitations and control in accordance with the Kantian imperative (in his Metaphysical Foundations of Morals) to "act so as to treat man . . . always

as an end, never merely as a means."

> Page 7 - **The Nuremberg Code** (next last 2 paragraphs)

The Nuremberg Code sets a very high standard, for which it has sometimes been criticized, especially in relation to the absolute character of voluntary consent. It should be noted that it only deals with adult consent in the context of the Nazi experiments, and was not intended to cover all situations. The tribunal drew heavily on two expert witnesses, Andrew Ivy and Leo Alexander, who compiled historical precedents and proposed most of the points that were eventually incorporated into the judgment. Michael Grodin, an expert on the Nuremberg Code, has called it "the cornerstone of modern human experimentation ethics."

Since the tribunal's judgment, standard-setting regarding medical experimentation has followed two major trends. The first is the development of detailed ethical codes and procedures for protecting human subjects involved in experimentation. This has been accomplished primarily through the World Medical Association's Helsinki Declaration and the Council for International Organizations of Medical Sciences (CIOMS)'s Ethical Guidelines for Biomedical Research Involving Human Subjects. These **standards** are implemented primarily through national legislation.

and institutional review boards. The second is through the incorporation of provisions that ban impermissible medical experimentation in international humanitarian and human rights treaties.

**> Page 5 - The Trial of the Nazi Doctors**

The trial of the Nazi doctors, known as the United States of America vs. Karl Brandt et al, the Medical Case, or the Nazi Doctors Case, was based on the Agreement for the Prosecution and Punishment of the Major War Criminals of the European Axis, signed in London on August 8, 1945 by the United States, the United Kingdom, France, and the Soviet Union, which created the International Military Tribunal (IMT). The Nazi doctors were not tried by the IMT, but rather by a U.S. tribunal acting pursuant to Control Council Law No. 10, signed on 20 December 1945.

The trial of the Nazi doctors was officially Case No. 1 of Military Tribunal I, constituted on October 25, 1945, and consisting of Walter Beals, Harold Sebring, Johnson Crawford, and Victor Swearingen. Telford Taylor served as chief of counsel for the prosecution, and James McHaney was chief prosecutor. Taylor charged the defendants with "murder, tortures, and other atrocities committed in the name of medical science." There were four counts in his indictments:

1. Conspiracy to commit war crimes against humanity: The ordering, planning, and organization of the war crimes and crimes against humanity charged in counts two and three. Although all the defendants were charged on this count, the tribunal decided not to convict.

2. War crimes: The tribunal found fifteen defendants guilty on this charge and acquitted eight.

3. Crimes against humanity: Charged against all defendants. Fifteen were found guilty, eight were acquitted.

4. Membership in a criminal organization: Ten defendants were charged with membership in the SS. All were found guilty.

The trial began on December 9, 1946. The judgment was returned on August 19, 1947, and sentencing was pronounced on the following day.

The tribunal met 139 times, heard 85 witnesses, and examined 1,471 documents. There were twenty-three defendants, seven of whom were found guilty of war crimes and crimes against humanity and sentenced to death.

Four of these were physicians. Five other defendants were sentenced to life imprisonment. Seven were found not guilty and one was found guilty of the charge of belonging to the SS but not of crimes relating to medical



experimentation. Thirty-one lesser officials were put on trial and found guilty, of whom twenty-two were sentenced to death.

Taylor gave the opening statement for the prosecution, noting that "most of [the defendants] are trained physicians, and some of them are distinguished scientists." He set aside from the medical trial the charges of "euthanasia" and slaughter of tubercular Poles because they did not relate to actual medical experiments. The charges retained against the defendants related to experiments that constituted war crimes or crimes against humanity, and murder for so-called anthropological purposes. Some of these experiments were aimed at assisting the German Wehrmacht in coping with battlefield problems and diseases encountered in occupied territories. However, others, in Taylor's words, were not aimed at determining "how to rescue or to cure, but how to destroy and kill." Among the latter, he listed the sterilization experiments and shooting of poison bullets at prisoners in Buchanwald to see how quickly they died. He called these crimes "thanatology," or the science of producing death.

Certificate of Service for the titled filing above filed today 10/13/2023  
for case 1D23-0839.

CERTIFICATION OF FONT

This filing complies with the font and format requirements of Arial font and 14 point, double spaced.

CERTIFICATION OF SERVICE

I certify that on 10/013/2023 a copy of this filing has been provided to the First District Court of Appeal in Florida, via the E-Portal and also via regular mail or email to those not on the E-Portal and that the defendants, names and address are included below.

/s/ Curtis Gorham

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[USPS Letter] Dr. Gary H. Lavine

Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
Bay Medical Center Sacred Heart Health System., (in 2018)  
615 N Bonita Ave, Panama City, FL 32401

[USPS Letter] Kendrea Virgil, RN  
Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
Bay Medical Center Sacred Heart Health System., (in 2018)  
615 N Bonita Ave, Panama City, FL 32401

[USPS Letter] Donna Baird., Risk Manager  
Ascension Bay Medical Sacred Heart Hospital., (Ascension Sacred Heart)  
Bay Medical Center Sacred Heart Health System., (in 2018)  
615 N Bonita Ave, Panama City, FL 32401

[USPS Letter] Attorney for Dr. Gary Lavine and Junco Emergency  
Physicians., (in 2020), Junco now has has counsel but Dr. Lavine has not  
responded and doesn't seem to be represented by the hospitals counsel.  
Dennis, Jackson, Martin and Fontela, P.A.  
1591 Summit Lake Drive, Suite 200, Tallahassee, FL 32317

[USPS Letter] Joseph R. Impicciche, CEO (Bay Medical Center Sacred  
Heart Health System., (in 2018))  
101 South Hanley Rd., Suite 450, St. Louis, MO 63105

[USPS Letter] Office of the Attorney General., Ashley Moody.  
State of Florida, PL-01 The Capitol, Tallahassee, FL 32399-1050

IN THE FIRST DISTRICT COURT OF APPEALS  
OF THE STATE OF FLORIDA,

Curtis M. Gorham,  
Plaintiff,  
VS

Dr. Gary H. Lavine, Dr. Emily D. Billingsley, Kendrea Virgil., RN, Lloyd G. Logue,  
Donna Baird, Joseph R. Impicciche (CEO), Junco Emergency Physicians, Bay  
County Health System LLC, The State of Florida, PayPal Inc., USAA, and other  
unknown people such as the orderly and radiology assistant (Medical Expert)  
Dr. Daniel Cousin.  
Defendants,

Bay County Civil District Court  
Lower Tribunal Case No.: 22001076CA  
Date: 7/5/2023  
DCA Case No.: 1D23-0358 (Dr. Cousin)  
DCA Case No.: 1D23-0839 (Others)

Plaintiff's Reply Brief Dr. Cousin's Fraud Paradox Supplement:

Plaintiff/Appellant states that the law is asking Plaintiff to locate an expert and so Dr. Cousin was retained and done so to review the medical records which initially began with an email to Dr. Cousin stating "I was CT scanned many times in the pelvis (sacrum)." Dr. Cousin reviewed matters to arrive at a "Misdiagnosis" opinion as a result of a "creation of an Order" out of his own mind, that the emergency room physician allegedly ordered according to Dr. Cousin even though no such Order exist.

What this all means is that given Dr. Cousin wanted to review the Sacrum from the initiation of the email he made it a 'normal' thing to happen that a lower

back injury and middle back injury come along with a pelvic scan always.

Despite not presenting any evidence of the validity of such opinion, and in fact saying that the "wrong Order" was made as well, so how concrete of a claim is it to say that the lumbar is in fact the wrong order?

What has actually happened is that he was retained and or paid to identify any wrongs in the diagnosis of Plaintiff in regards to the back injury and he found evidence of that injury in the T12 region of the spine in the imaging exam but then said that such evidence isn't enough to be "negligence."

So what this actually means is that he has determined that no lower body error happened (no over-exposure) took place that also despite evidence of a upper back misdiagnosis that no negligence happened there either. So then ultimately he has dismissed the lower body aspects of the claims of Plaintiff as 'normal' while instead focusing on the upper body and then finding fault but saying that is also 'normal' (within standard) and so overall 'everything is normal' according to him despite the fact that if the upper is 'abnormal' then that means that there would be evidence of the lower body claims also being 'abnormal' in that one piece of evidence supports the other.

Rephrasing this is he refused the lower body and instead is saying lets

look higher for a misdiagnosis negligence and found that negligence but said that is also normal instead of saying well the lower body could be abnormal (retain me) for a review of the lower body and upper body and having evidence of both being abnormal (two entire deleted series of images as well, plus the meet and greet narrative Plaintiff presented in regards to meeting the radiology staff and telling them what was going on and asking for the copy of the Order and confirmation of no pelvic scanning which they confirmed no pelvic scanning and that they had the proper Order along with not telling Plaintiff what was going to happen in regards to actual exposure despite being asked and then lying about it and also not saying that a normal x-ray would be enough to make a diagnosis despite being asked), so Dr. Cousin as a "medical expert" in radiology is entirely dismissing anything that would be considered as "evidence" for the claims of negligence and taking what is actually evidence and contrast and comparing them in a way to render them moot as in saying both are normal when in fact both support a claim of being abnormal. He bait and switched them saying no pelvic thing done is wrong but maybe the upper spine is wrong however that isn't the radiologist fault and he then creates a fake piece of evidence to support that (the Order of the ER doctor).

His defense counsel then states that no "evidence" was admitted to prove

Dr. Cousin has done anything wrong. Plaintiff states that the literal email of Plaintiff, the literal medical records, and then the literal opinion created by Dr. Cousin are all the evidence that is needed to prove that which is stated herein. He wanted to be retained based on the email and phone conversation. The email is many pelvic scans took place and so he said pay me to review that and then said there is nothing wrong with that and further that "he is not a pay for opinion expert." Then saying that a misdiagnosis happened but not the radiologist fault. The evidence would seem to support that the narrative of Plaintiff and the misdiagnosis support that the pelvic scanning was wrong (we don't know how much scanning was truly done there are the two entire deleted series of images).

Plaintiff states that if you hold out your hand and say the left hand represents the email about many pelvic scans and the right hand represents the upper body misdiagnosis that you can tell this all herein with both hands and understand things more visually and accurately than has been presented herein. As in I want you to review this aspect in this hand, he says ok, and then says nothing wrong there in that hand it is the other hand, the misdiagnosis and no nothing wrong there either. He already took money to review both though? Then didn't want the left hand then also didn't want the right hand despite the



right hand supporting the left hand even more. It all makes perfect sense when presented in this way.

This is why it is a "fraud paradox" that Dr. Cousin can be an expert and refuse the narrative, refuse the evidence, refuse the facts, refuse the conspiracy, refuse the law, send a variety of emails that prove he is not willing to be a medical expert and other things stated of a bizarre nature and have a defense counsel say nothing was done wrong, then also he included things which are actually done wrong and claim it is normal (within standard) while his defense counsel includes things without a total context or argument presented. For example, why is the "narrative" something that your client doesn't have to address? What "Order" that mentioned as he included in his opinion is he talking about because no such Order exists? So the paradox is just lie, lie lie, ignore and have your defense counsel lie lie lie ignore.

-----  
Plaintiff swears that this information is true and correct and files it with the clerk of the First District Court of Appeals.

Respectfully submitted, Pro Se,  
Curtis M. Gorham

Signed: \_\_\_\_/s/\_\_\_\_Curtis Gorham

Date: 7/5/2023

---

**CERTIFICATION of SERVICE**

I hereby certify that on 7/5/2023 Plaintiff sent and or delivered, a copy of this Notice and or Motion to the defendants, and the Bay County Court via the E-Portal, no physical address is shown below since no non-digital defendant was served via regular mail or email as all who responded are on the e-portal.

Signed:       /s/        Curtis Gorham  
Date: 7/5/2023

**CERTIFICATION of FONT and SPACING**

This is filed with 14 point Arial font and double spaced.

Signed:       /s/        Curtis Gorham  
Date: 7/5/2023

---

Pro Se Plaintiff:  
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bccgorham@yahoo.com

# Supreme Court of Florida

MONDAY, FEBRUARY 5, 2024

Curtis M. Gorham,  
Petitioner(s)

v.

Dr. Gary H. Lavine, et al.,  
Respondent(s)

**SC2024-0034**

Lower Tribunal No(s).:

1D2023-0358;

032022CA001076CAXXXX

Curtis M. Gorham,  
Petitioner(s)

v.

Dr. Gary H. Lavine, et al.,  
Respondent(s)

**SC2024-0035**

Lower Tribunal No(s).:

1D2023-1518;

032022CA001076CAXXXX

Curtis M. Gorham,  
Petitioner(s)

v.

Dr. Gary H. Lavine, et al.,  
Respondent(s)

**SC2024-0036**

Lower Tribunal No(s).:

1D2023-0839;

032022CA001076CAXXXX

---

The above cases are hereby consolidated, on the Court's own motion, for all appellate purposes. From this date forward, all documents pertaining to the above consolidated cases should be filed using case number **SC2024-0034** only.

Petitioner's "Motion for Stay, Extension, Enlarged Brief & Counsel" is denied. To the extent the motion requests counsel be appointed, the request may be reconsidered if the Court accepts jurisdiction in these cases.

Petitioner's initial briefs on jurisdiction and the appendices to the briefs, filed with the Court on February 2, 2024, do not comply with the Florida Rules of Appellate Procedure and are stricken. Petitioner is directed to serve, on or before March 7, 2024, one amended brief on jurisdiction and one appendix addressing the consolidated cases.

The brief and appendix must comply with Florida Rules of Appellate Procedure 9.045, 9.120(d), 9.210, and 9.220. Petitioner's brief on jurisdiction shall contain, in the following order: a cover sheet, a table of contents, a table of citations, a statement of the issues, a statement of the case and of the facts, an argument, and a conclusion. The argument section of the brief should be limited solely to the issue of this court's jurisdiction, specifically how the district court's opinion on review expressly and directly conflicts with a decision of another district court of appeal or of this court on the same question of law. The brief must also include a certificate of service, immediately followed by a certificate of compliance. The brief may not exceed 2,500 words for computer-generated briefs or 10 pages for handwritten or typewritten briefs. The table of contents and citations, the statement of the issues, the certificates

**CASE NO.: SC2024-0034; SC2024-0035; SC2024-0036**

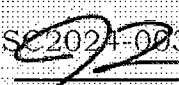
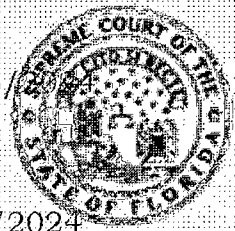
Page Three

of service and compliance, and the signature block for the brief's author may be excluded from the word count.

The appendix to the brief on jurisdiction shall contain only a copy of the opinion or order of the district court of appeal to be reviewed.

A True Copy

Test:

SC2024-0034; SC2024-0035; SC2024-0036 2/5/2024  
  
John A. Tomasino  
Clerk, Supreme Court  
SC2024-0034; SC2024-0035; SC2024-0036 2/5/2024  


LC

Served:

CIV LIT TLH ATTORNEY GENERAL

ERICA BAINES

JOSEPH EUGENE BROOKS

1DCA CLERK

BAY CLERK

CURTIS M. GORHAM

ELIZABETH VICTORIA PENNY

TARA LEE SAID

JACOB MILLER SALOW

HON. ELIJAH SMILEY

BRIAN L SMITH

**IN THE CIRCUIT COURT  
OF THE FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY, FLORIDA**

**CASE NUMBER: 03-2022-CA-001076-CA  
ESMILEY - Circuit Civil Division**

**CURTIS M GORHAM,  
Plaintiff,**

**-vs-**

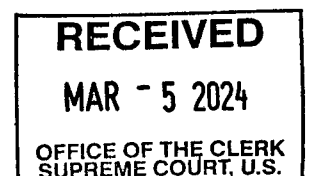
**DR GARY H LAVINE  
DR EMILY D BILLINGSLEY  
KENDREA VIRGIL  
LLOYD G LOGUE  
DONNA BAIRD  
JOSEPH R IMPICCICHE  
JUNCO EMERGENCY PHYSICIANS  
BAY COUNTY HEALTH SYSTEM LLC  
STATE OF FLORIDA  
PAYPAL  
USAA  
DR DANIEL COUSIN,  
Defendant.**

---

**ORDER DENYING**

Plaintiff's motion for leave to take depositions filed February 18, 2024 is denied without hearing or further comment.

**DONE AND ORDERED** in Panama City, Bay County, Florida, on Tuesday, February 20, 2024.



*ELI Smiley*

Elijah Smiley, Judge

03-2022-CA-001076-CA-02/20/2024 08:26:18 AM

**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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**The Attorney who submitted this proposed order to the court for approval is required to serve a copy of the signed order upon any party or beneficiary not registered to receive service via the e-portal.**

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator by mail at Post Office Box 1089, Panama City, FL 32402 or by phone at (850) 767-3550 at least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than seven (7) days. If you are hearing or voice impaired, please call 711.**

# **M A N D A T E**

from

**FIRST DISTRICT COURT OF APPEAL**

**STATE OF FLORIDA**

This case having been brought to the Court, and after due consideration the Court having issued its opinion;

YOU ARE HEREBY COMMANDED that further proceedings, if required, be had in accordance with the opinion of this Court, and with the rules of procedure, and laws of the State of Florida.

WITNESS the Honorable Chief Judge Timothy D. Osterhaus, Chief Judge, of the District Court of Appeal of Florida, First District, and the seal of said Court at Tallahassee, Florida, on this day.

January 18, 2024

Curtis Gorham,

Appellant,

v.

Dr. Gary H. Lavine; Dr. Emily D. Billingsley; Kendrea Virgil, RN; Lloyd G. Logue; Donna Baird; Joseph R. Impicciche (CEO); Junco Eemergency Physicians; Bay County Health System, LLC; Daniel Cousin; PayPal, Inc.; and State of Florida,

Appellees.

**DCA Case 1D2023-1518**

L.T. No.: 22001076CA

TH

Mandate and opinion to follow to: Hon. Bill Kinsaul

cc: (without opinion):

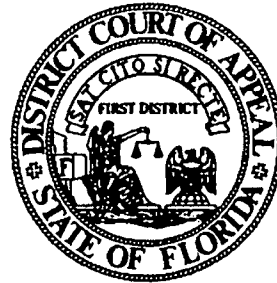
Mayasa Abdul-Rahman

**Case 1D2023-1518**

Page < 2 >

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Joseph Brooks  
Miriam Rebekkah Coles  
Alyssa Lynn Cory  
Bridget Dennis  
Curtis Gorham  
Justin T. Keeton  
Jami M. Kimbrell  
Hon. Bill Kinsaul  
Ashley Moody  
E. Victoria Penny  
Emily Plakon  
Ryan Reinert  
Gregory K. Rettig  
Tara Said  
Jacob Miller Salow  
Brian L. Smith  
Olestine Turenne  
Jessica K. Vander Velde

~~1D2023-1518 January~~ 18, 2024  
Kristina Samuels, Clerk  
1D2023-1518 January 18, 2024



FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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Nos. 1D2023-0358  
1D2023-0839  
1D2023-1518  
(Consolidated for disposition)

---

CURTIS GORHAM,

Appellant,

v.

DR. GARY H. LAVINE; DR. EMILY  
D. BILLINGSLEY; KENDREA  
VIRGIL, RN; LLOYD G. LOGUE;  
DONNA BAIRD; JOSEPH R.  
IMPICCICHE (CEO); JUNCO  
EMERGENCY PHYSICIANS; BAY  
COUNTY HEALTH SYSTEM, LLC;  
DANIEL COUSIN; PAYPAL, INC.;  
and STATE OF FLORIDA,

Appellees.

---

On appeal from the Circuit Court for Bay County.  
Elijah Smiley, Judge.

November 29, 2023

PER CURIAM.

We have consolidated these three appeals for disposition  
because they arise out of the same proceeding below. Appellant

filed suit primarily for medical malpractice against numerous healthcare providers and entities. In the same complaint, Appellant sued the expert witness he retained to furnish the statutorily required opinion that malpractice had occurred. The expert determined that there was no deviation from the medical standard of care and therefore that he could not give the requested opinion. Given that opinion, Appellant also sued PayPal for refusing to refund Appellant's payment to the expert. Appellant also sued the State of Florida for improperly enacting statutory requirements for malpractice suits. We address the three resulting appeals in the order in which they were filed.

**Case No. 1D2023-0358.**

Appellant challenges the order dismissing with prejudice all claims against the expert witness. This is a final and appealable order over which we have jurisdiction. On its merits, we affirm. To the limited extent we can derive a preserved legal argument from Appellant's filings, it appears he argues that this order is invalid because the trial court used Appellant's personal e-mail address in the order, rather than a separate e-mail address Appellant had provided for service. This argument is not supported by any legal authority, and it is meritless.

**Case No. 1D2023-0839.**

Appellant challenges four orders. One cancelled all pending hearings. This procedural order is not appealable, and we dismiss as to this order.

The second challenged order dismissed all claims against PayPal without prejudice. Such an order is not ripe for appeal. *See Hinote v. Ford Motor Co.*, 958 So. 2d 1009, 1010-11 (Fla. 1st DCA 2007) (explaining that a dismissal without prejudice is not appealable unless it is clear in the order that any further proceedings must be brought in a separate action). We dismiss as to this order as well.

The third order granted a motion to dismiss with prejudice claims against Bay County Health System, LLC. Because this order merely grants a motion and does not contain final language

actually dismissing the claims, it is not appealable. *See Johnson v. First City Bank of Gainesville*, 491 So. 2d 1217, 1218 (Fla. 1st DCA 1986) (explaining that an order granting a motion to dismiss with prejudice, but not actually dismissing the case, is not final and appealable); *see also* Fla. R. App. P. 9.110(l). We dismiss as to this order.

The fourth order dismissed with prejudice all claims against Drs. Billingsley and Logue. This order is final and appealable, and the notice of appeal was timely; therefore we have jurisdiction. We affirm on the merits.

It is undisputed that Appellant failed to comply with the medical malpractice presuit requirements, and that the time for doing so has long since passed, barring his action under the statute of limitations. He nevertheless appears to argue that he is exempt from these requirements under what he calls the “foreign body retainment” doctrine, since he “retained” radiation from his CT scan. There is no legal support for this absurd argument, which the trial court correctly rejected.

**Case No. 1D2023-1518.**

Appellant attacks the same non-appealable scheduling order challenged in Case No. 2023-0839. Further, this notice of appeal was untimely. We therefore dismiss Case No. 2023-1518 without further discussion.

**Court Warning to Appellant.**

Appellant’s filings have been abusively numerous and fractured, utterly failing to state valid arguments in a concise and cogent manner. This is improper. *See F.M.W. Props., Inc. v. Peoples First Fin. Sav. & Loan Ass’n*, 606 So. 2d 372, 377–78 (Fla. 1st DCA 1992) (“We note, however, that the failure to organize arguments under cogent and distinct issues on appeal presents sufficient reason for an appellate court to decline consideration of a matter.”). Appellant is warned that any further such filings will subject him to sanctions, including dismissal of all appeals without further opportunity to be heard, and potentially being barred from

appearing in this Court ever again unless represented by a lawyer in good standing with The Florida Bar.

Although Appellant has the procedural right to file a motion for rehearing or for rehearing en banc, in light of Appellant's history of abusive filings we direct that he must combine any such post-decision arguments in a single document. See Fla. R. App. P. 9.300(b). Any such motion may not merely repeat arguments already raised. Further, any such document shall not exceed 15 pages and must use an authorized font. All arguments presented must be substantively clear, concise, and organized, with citations to legal authority. Any other or additional filings not expressly authorized by the appellate rules, and any filing that does not comply with these requirements, will be stricken without further opportunity to be heard.

All pending motions are denied.

DISMISSED in part and AFFIRMED in part; WARNING issued.

KELSEY, M.K. THOMAS, and NORDBY, JJ., concur.

---

***Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.***

---

Curtis Gorham, pro se, Appellant.

Tara L. Said of Lloyd, Gray, Whitehead & Monroe, P.C., Pensacola, for Appellee Dr. Daniel Cousin; Joseph E. Brooks of Brooks Law, Tallahassee, for Appellee Junco Emergency Physicians; Erica Conklin Baines of Husch Blackwell LLP, Chicago, Illinois, for Appellee PayPal, Inc.; and Jacob M. Salow and E. Victoria Penny of Henry Buchanan, P.A., Tallahassee, for Appellees Dr. Emily Billingsley and Lloyd G. Logue, DO.

**IN THE CIRCUIT COURT  
OF THE FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY, FLORIDA**

**CASE NUMBER: 03-2022-CA-001076-CA  
ESMILEY - Circuit Civil Division**

**CURTIS M GORHAM,  
Plaintiff,**

**-vs-**

**DR GARY H LAVINE  
DR EMILY D BILLINGSLEY  
KENDREA VIRGIL  
LLOYD G LOGUE  
DONNA BAIRD  
JOSEPH R IMPICCICHE  
JUNCO EMERGENCY PHYSICIANS  
BAY COUNTY HEALTH SYSTEM LLC  
STATE OF FLORIDA  
PAYPAL  
USAA  
DR DANIEL COUSIN,  
Defendant.**

---

**ORDER DENYING PLAINTIFF'S FIRST OBJECTION TO CASE DISMISSAL WHICH  
THE COURT TREATS AS A TIMELY FILED MOTION FOR REHEARING.**

The Court has considered the arguments of the plaintiffs. Plaintiff's First Objection to Case Dismissal filed on March 14, 2023 is treated as a timely filed motion for rehearing, which is denied without further hearing.

**DONE AND ORDERED** in Panama City, Bay County, Florida, on Monday, October 2, 2023.



*ELJ Smiley*

Elijah Smiley, Judge

03-2022-CA-001076-CA 10/02/2023 10:58:40 AM

**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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**The Attorney who submitted this proposed order to the court for approval is required to serve a copy of the signed order upon any party or beneficiary not registered to receive service via the e-portal.**

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator by mail at Post Office Box 1089, Panama City, FL 32402 or by phone at (850) 767-3550 at least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than seven (7) days. If you are hearing or voice impaired, please call 711.**

**IN THE CIRCUIT COURT  
OF THE FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY, FLORIDA**

**CASE NUMBER: 03-2022-CA-001076-CA  
ESMILEY - Circuit Civil Division**

**CURTIS M GORHAM,  
Plaintiff,**

**-VS-**

**DR GARY H LAVINE  
DR EMILY D BILLINGSLEY  
KENDREA VIRGIL  
LLOYD G LOGUE  
DONNA BAIRD  
JOSEPH R IMPICCICHE  
JUNCO EMERGENCY PHYSICIANS  
BAY COUNTY HEALTH SYSTEM LLC  
STATE OF FLORIDA  
PAYPAL  
USAA  
DR DANIEL COUSIN,  
Defendant.**

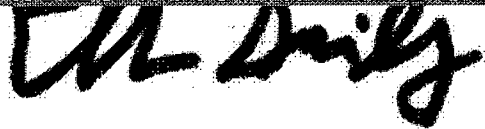
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**ORDER**

Plaintiff's motion for Insolvency filed June 21, 2023 is granted.

**DONE AND ORDERED** in Panama City, Bay County, Florida, on Thursday, July 6, 2023.

03-2022-CA-001076-CA 07/06/2023 12:15:40 PM



Elijah Smiley, Judge  
03-2022-CA-001076-CA 07/06/2023 12:15:40 PM

**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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Filing # 173845562 E-Filed 05/24/2023 08:37:13 AM

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR BAY COUNTY, FLORIDA**

CURTIS M. GORHAM,

Case No. 22001076CA

Plaintiff.

v.

DR. GARY H. LAVINE, DR. EMILY D.  
BILLINGSLEY, KENDREA VIRGIL.,  
RN, LLOYD G. LOGUE, DONNA  
BAIRD, JOSEPH R. IMPICCICHE  
(CEO), JUNCO EMERGENCY  
PHYSICIANS, BAY COUNTY HEALTH  
SYSTEM LLC, THE STATE OF  
FLORIDA, PAYPAL, USAA, and other  
unknown people such as the orderly and  
radiology assistant, (MEDICAL EXPERT)  
DR. DANIEL COUSIN,

Defendants.

---

**ORDER GRANTING DEFENDANT USAA FEDERAL  
SAVINGS BANK'S MOTION TO DISMISS PLAINTIFF'S COMPLAINT**

THIS CASE, having come before the Court for hearing on May 17, 2023 at 9:00 a.m. CST upon USAA Federal Savings Bank's Motion to Dismiss Plaintiff's Complaint (the "Motion"), and the Court having heard argument of counsel, reviewed the file and being otherwise fully advised in the premises, and for the reasons stated in open court, finds the Motion to be well taken. Accordingly, it is

**ORDERED and ADJUDGED** as follows:

1. The Motion is hereby **GRANTED**.



2. The Complaint filed by Curtis M. Gorham is dismissed as to Defendant USAA Federal Savings Bank, improperly named as USAA in the Complaint.

**DONE** and **ORDERED** in Chambers in Bay County, Florida this DDDD.

03-2022-CA-001076-CA 05/24/2023 07:36:07 AM

*EL Daily*

Elijah Smiley, Judge

03-2022-CA-001076-CA 05/24/2023 07:36:07 AM

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**IN THE CIRCUIT COURT OF THE  
FOURTEENTH JUDICIAL CIRCUIT, IN  
AND FOR BAY COUNTY, FLORIDA**

**CASE NO.: 22-1076-CA**

**CURTIS M. GORHAM,**

**Plaintiff,**

**vs.**

**DR. GARY H. LAVINE, DR. EMILY D.  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD,  
JOSEPH R. IMPICCICHE (CEO), JUNCO  
EMERGENCY PHYSICIANS, BAY  
COUNTY HEALTH SYSTEM, LLC, THE  
STATE OF FLORIDA, PAYPAL, USAA,  
AND OTHER UNKNOWN PEOPLE SUCH  
AS THE ORDERLY AND RADIOLOGY  
ASSISTANT, (MEDICAL EXPERT) DR.  
DANIEL COUSIN,**

**Defendants.**

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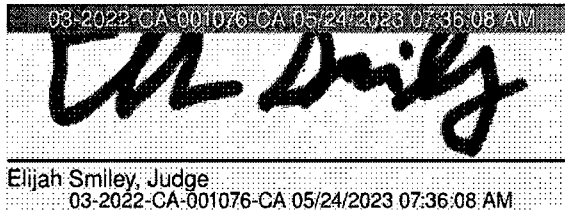
**ORDER DENYING PLAINTIFF'S MOTION FOR EMERGENCY DISCOVERY**

THIS CAUSE having come before the Court upon hearing on May 17, 2023, on Plaintiff's Motion for Emergency Discovery, filed February 5, 2023, and the Court having reviewed the Court's file, having considered argument from the Parties, and having been otherwise fully advised in the premises, it is hereby:

**ORDERED AND ADJUDGED:**

1. Plaintiff's Motion for Emergency Discovery, filed February 5, 2023, is denied as to Defendant, BAY COUNTY HEALTH SYSTEM, LLC.

**DONE AND ORDERED** this Wednesday, May 24, 2023 in Bay County, Florida.



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**DISTRICT COURT OF APPEAL, FIRST DISTRICT  
2000 Drayton Drive,  
Tallahassee, Florida 32399-0950  
Telephone No. (850) 488-6151**

May 24, 2023

Curtis M. Gorham,  
Appellant(s)

**Case No. - 1D23-0839**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil, RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System LLC, State of  
Florida, PayPal, USAA, and other  
unknown people such as the  
orderly and radiology assistant,  
(Medical Expert) Dr. Daniel Cousin,  
Appellee(s).

---

**BY ORDER OF THE COURT:**

The Court grants in part and denies in part Appellant's "Motion to Stay, Postpone Appeal of Bay County Health System, LLC., Dr. Billingsley, Lloyd G. Logue, and Payapl Motion to Dismiss Appeal to DCA, and Extension of Time to File Brief," filed on April 21, 2023.

The Court grants Appellant's request to hold the appeal in abeyance. Pursuant to Florida Rule of Appellate Procedure 9.020(h)(2)(C), the Court will hold this appeal in abeyance until the filing of a signed, written order disposing of Plaintiff's First Objection to Case Dismissal served March 14, 2023, and Plaintiff's Request for Rehearing served April 5, 2023.

Appellant shall notify this Court within ten days of the filing of the order in the lower tribunal and shall attach a copy of the order. In the absence of the filing of such a notice in the interim, Appellant shall file a status report concerning the disposition of the first objection to case dismissal and motion for rehearing within thirty days. If Appellant fails to timely respond to this order, the Court may dismiss the case without further opportunity to be heard. See Fla. R. App. P. 9.410.

This order tolls the time for performance of acts required by the Florida Rules of Appellate Procedure, including service of the initial brief, pending the filing of a signed, written order disposing of the first objection to case dismissal and motion for rehearing.

The Court denies all other relief requested in the motion filed April 21, 2023.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Dennis, Jackson, Martin and Jontela, P.A.

Curtis Gorham

Hall, Schieffelin & Smith, P.A.

Henry Buchanan P.A.

Jami M. Kimbrell

Hon. Bill Kinsaul

Ashley Moody

E. Victoria Penny

Tara L. Said

Jessica K. Vander Velde

CO

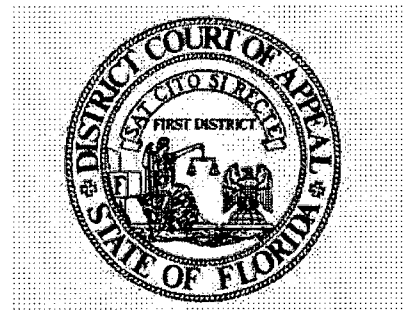
**Case No. - 1D23-0839**

Page < 3 >

1D2023-0839 May 24, 2023

Kristina Samuels, Clerk

1D2023-0839 May 24, 2023





**IN THE CIRCUIT COURT OF THE  
FOURTEENTH JUDICIAL CIRCUIT, IN  
AND FOR BAY COUNTY, FLORIDA**

**CASE NO.: 22-1076-CA**

**CURTIS M. GORHAM,**

**Plaintiff,**

**vs.**

**DR. GARY H. LAVINE, DR. EMILY D.  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD,  
JOSEPH R. IMPICCICHE (CEO), JUNCO  
EMERGENCY PHYSICIANS, BAY  
COUNTY HEALTH SYSTEM, LLC, THE  
STATE OF FLORIDA, PAYPAL, USAA,  
AND OTHER UNKNOWN PEOPLE SUCH  
AS THE ORDERLY AND RADIOLOGY  
ASSISTANT, (MEDICAL EXPERT) DR.  
DANIEL COUSIN,**

**Defendants.**

---

/

**ORDER DENYING PLAINTIFF'S REQUEST FOR REHEARING AS TO  
DEFENDANT, BAY COUNTY HEALTH SYSTEM, LLC**


THIS CAUSE having come before the Court upon hearing on May 17, 2023, on Plaintiff's Request for Rehearing(s), filed April 5, 2023, and the Court having reviewed the Court's file, having considered argument from the Parties, and having been otherwise fully advised in the premises, it is hereby:

**ORDERED AND ADJUDGED:**

1. Plaintiff's Request for Rehearing(s), filed April 5, 2023, is denied as to Defendant, BAY COUNTY HEALTH SYSTEM, LLC both (i) because Plaintiff's motion is untimely under

Fla. R. Civ. P. 1.530(b) and (ii) on the merits.

**DONE AND ORDERED** this Sunday, May 21, 2023 in Bay County, Florida.

03-2022-CA-001076-CA-05/21/2023 12:24:16 PM  
  
Elijah Smiley, Judge  
03-2022-CA-001076-CA-05/21/2023 12:24:16 PM

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Rebecca Wilt  
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IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY, FLORIDA

Curtis M. Gorham

Plaintiff,

CASE NO.: 22-001076-CA

v.

Dr. Gary H. Lavine, Dr. Emily D. Billingsley,  
Kendrea Virgil, RN, Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco Emergency  
Physicians, Bay County Health Systems LLC,  
The State of Florida, Paypal, USAA, and other unknown  
People such as the orderly and radiology assistant,  
(Medical Expert) Dr. Daniel Cousin

Defendants.

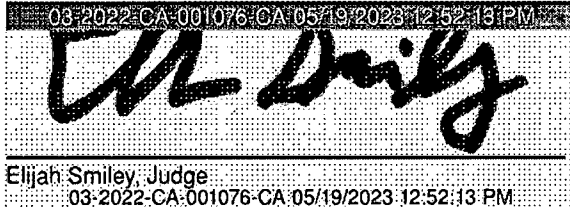
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**ORDER GRANTING DEFENDANT, JUNCO EMERGENCY PHYSICIANS'**  
**MOTION TO QUASH SERVICE**

**THIS CAUSE** having come before the Court on Defendant, Junco Emergency Physicians' Motion to Quash Service, and the Court having reviewed the Motion and Court file and having taken testimony on May 17, 2023, and being duly advised in the premises, it is:

**ORDERED AND ADJUDGED** that Defendant Junco Emergency Physicians' Motion is **GRANTED**.

**DONE AND ORDERED** in chambers, Bay County, Florida this DDD.



Copies to:

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PANAMA CITY, FL 32401

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**IN THE CIRCUIT COURT OF THE  
FOURTEENTH JUDICIAL CIRCUIT, IN  
AND FOR BAY COUNTY, FLORIDA**

**CASE NO.: 22-1076-CA**

**CURTIS M. GORHAM,**

**Plaintiff,**

**vs.**

**DR. GARY H. LAVINE, DR. EMILY D.  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD,  
JOSEPH R. IMPICCICHE (CEO), JUNCO  
EMERGENCY PHYSICIANS, BAY  
COUNTY HEALTH SYSTEM, LLC, THE  
STATE OF FLORIDA, PAYPAL, USAA,  
AND OTHER UNKNOWN PEOPLE SUCH  
AS THE ORDERLY AND RADIOLOGY  
ASSISTANT, (MEDICAL EXPERT) DR.  
DANIEL COUSIN,**

**Defendants.**

---

**ORDER GRANTING DEFENDANT, BAY COUNTY HEALTH SYSTEM, LLC'S  
MOTION TO REMOVE PERSONAL SENSITIVE INFORMATION FROM  
COURT FILINGS**

THIS CAUSE having come before the Court on Defendant, Bay County Health System, LLC's, Motion to Remove Sensitive Information from Court Filings, and the Court having reviewed the Motion and Court file, and being duly advised in the premises, it is hereupon:

ORDERED AND ADJUDGED as follows:

1. The Motion is GRANTED.
2. The Clerk of Court is directed to remove pages 15, 17, 23, and 30 from the Defendant's, Bay County Health System, LLC, Motion to Dismiss and put in its place page 15 that is attached hereto as Exhibit A, page 17 that is attached hereto as Exhibit B, page 23 that is attached hereto as Exhibit C, and page 30 that is attached hereto as Exhibit D; page 2 of

Defendant's, Bay County Health System, LLC, Notice of Appearance and put in its place page 2 that is attached hereto as Exhibit E; and page 2 of Defendant's, Bay County Health System, LLC, Notice of Compliance with Rule 2.516 and Designation of Email Address and put in its place page 2 that is attached hereto as Exhibit F.

3. All parties to this action that received a copy of the above referenced documents shall likewise do the same.

**DONE AND ORDERED** in chambers, Bay County, Florida, this Friday, May 19, 2023.

03-2022-CA-001076-CA 05/19/2023 08:18:46 AM  
*EL Daily*  
Elijah Smiley, Judge  
03-2022-CA-001076-CA 05/19/2023 08:18:46 AM

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Rebecca Wilt  
rebecca.wilt@quarles.com

state a cause of action, but also to put the Hospital on notice of the claims raised against it. See *Mobil Oil Corp. v. Bransford*, 648 So.2d 119 (Fla. 1995).

### **Conclusion**


49. Therefore, based on the presuit failures and numerous deficiencies of the Plaintiff's Complaint, the failure to comply with the service pleading requirements under Florida law, and failure to bring this suit in the applicable Statute of Limitations, BAY COUNTY HEALTH SYSTEM, LLC respectfully requests the Court to enter an Order dismissing Plaintiff's Complaint, directing that any future Complaint omit those portions which are identified above as immaterial, and require that the Plaintiff provides a more definite statement where the assertions are so vague, ambiguous, and non-specific that this Defendant cannot frame a response.

WHEREFORE, Defendant, BAY COUNTY HEALTH SYSTEM, LLC, respectfully requests this Honorable Court enter an Order consistent with the relief sought in this Motion and for such other and just relief that this Court deems appropriate.

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing has been furnished via the Florida Courts E-Filing Portal and by Electronic Mail, this 17<sup>th</sup> day of November, 2022, to Counsel on the Service List:

**Curtis M. Gorham, Esquire**  
3513 Rosewood Circle  
Lynn Haven, FL 32444  
[bccgorham@yahoo.com](mailto:bccgorham@yahoo.com)

  
*Pro Se Plaintiff*

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**Justin Keeton, Esquire**  
LLOYD, GRAY, WHITEHEAD &  
MONROE, P.C.  
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**E. Victoria Penny, Esquire**  
Henry Buchanan, P.A.  
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*Attorney for Defendant, Bay  
Radiology Associates & Dr.  
Logue* [tpenny@henryblaw.com](mailto:tpenny@henryblaw.com)

**Jessica Vander Velde, Esquire**  
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304 Indian Trace # 884

Weston, FL 33326

6/3/2020

**Radiology Consultation**

**In the Matter of Curtis**

**Gorham Date of incident:**

**10/21/2018**

Thank you for requesting my review of provided imaging examinations for **Mr. Curtis Gorham** (DOB [REDACTED]). I am asked to determine from a radiology basis if there is any breach in the standard of care for the medical services provided to Mr. Gorham on or around the time of the date of incident, 10/21/2018.

**Credentials:** I am a medical doctor licensed to practice medicine in the states of New York (license number 257693-1) and Florida (license number ME 103691 ). I am a board certified, fellowship-trained expert in Diagnostic Radiology. I have been licensed in the State of Florida since 2008 in the area of Radiology. I am certified by both the American Board of Radiology and also the National Board of Physicians and Surgeons. I am a board-certified fellowship-trained Diagnostic Radiologist. I am currently the Clinical Director for a private radiology practice in Florida. I majored in Cognitive Neuroscience and graduated Magna Cum Laude from Harvard University, from where I obtained my undergraduate degree.

Additionally, I did my residency at Yale University and at University of Florida. I did a fellowship at Columbia University. I was selected as Program Director of the Radiology Residency of Columbia University's Harlem Hospital affiliate.

**Materials reviewed:** I am in receipt of the following imaging exams:

## **EXHIBIT B**

**LETTER OF INTENT TO SUE**

From: Curtis M. Gorham [REDACTED]

Effective Date: November 9, 2020

RE: Notice of Intent to File Lawsuit

Dear Joseph R. Impicciche, JD, MHA (President and Chief Executive Officer, Ascension)  
(101South Hanley Rd., Suite 450, St. Louis, MO 63105)  
having been Owner/Licensee in 2018 of: Bay Medical Center Sacred Heart Health System  
(615 N Bonita Ave, Panama City, FL 32401, County: Bay)  
having Dr. Gary H. Lavine as a physician/ provider at the time, also having Dr. Emily D. Billingsley,  
Kendrea Virgil., RN, Donna Baird as Risk Management, an unknown orderly, and a radiology assistant, as  
well as at least one unknown nurse as employees and or employed and or authorized via contract to  
work for and or at the hospital located in Panama City Florida which is known as Bay Medical Center  
Sacred Heart Health System, aka, Bay Medical Hospital, aka, Bay Medical Sacred Heart, via the  
ownership, controlling interest and or the licensee of the hospital, by, Ascension.

This letter of intent to sue shall serve as a formal notice pursuant to Florida Medical Malpractice  
STATUTE 766, you are hereby given notice that (i) Curtis M. Gorham intends to initiate litigation against  
you and your insurance and that (i) intend to commence a lawsuit against you as well as other parties  
due to the following: Medical Malpractice, Negligence, Unnecessary Diagnostic Testing, Fraud,  
Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress, Conspiracy, Lack of  
Informed Consent, Failure to Diagnose, Medical Battery, Malicious Intent, Causing Delayed Diagnosis,  
Failure to Treat, Reckless Acts, Intentional Wrongful Conduct, Invasion of Privacy by Intrusion Upon  
Seclusion, Misrepresentation, False Light, Defamation, Conversion, Gross Negligence, Reckless  
Disregard, Nonfeasance, Malfeasance, Misfeasance, Extreme Malice, Malice Aforethought, Coercion,  
Collusion, Lewd or Lascivious Acts, and as Respondeat Superior.

This listing is not all inclusive of all the laws that have been violated, including violations of the Patient  
Bill of Rights, the doctors oath to do no harm, and any natural or common laws which may be applicable,  
however, no violations of Federal Law are allowed at this time in the State of Florida Civil Malpractice  
Claims process.

Pursuant to Florida Statute 766.103 "Florida Medical Consent Law." As well as, not only engaging in  
unnecessary diagnostic testing 766.111, also ordering unnecessary diagnostic testing.

It is my intention to initiate litigation and prevail with the facts and circumstances all leading to  
Negligence per se, as in inherently negligent involving the violation of statutes that is designed to  
protect the public from a specific type of harm. Hence the law regarding unnecessary diagnostic  
testing. Since it is unlawful or a violation of law, there is no need to establish a standard of care in  
these matters, as the standard is set by the statute.

This is in regards to a CT Scan performed at Bay Medical Hospital on 10/21/2018. I was given  
assurance no pelvic CT Scanning would occur and that the appropriate and acceptable scan would be

**EXHIBIT C**





**Hall, Schieffelin & Smith, P.A.**  
Attorneys at Law

February 9, 2021

**VIA CERTIFIED MAIL**

Curtis M. Gorham  
3513 Rosewood Circle  
Lynn Haven, FL 32444  
[REDACTED]

**Re: Curtis M. Gorham v. Bay Medical Center Sacred Heart Health System**

Dear Mr. Gorham:

Pursuant to your Letter of Intent to Sue dated November 9, 2020 to Bay Medical Center Sacred Heart Health System, my client has conducted a good faith investigation pursuant to *Florida Statutes* §766.106 and §766.203, of the potential claims for medical malpractice made against Bay Medical Center Sacred Heart Health System. The results of our investigation compel a rejection of your potential claims. Enclosed you will find the Affidavit of Robin M. Axtell, RN, BSN, LNCC together with her Curriculum Vitae, to serve as her verified written opinion which corroborates the basis for my client's position that the care rendered to you by the nursing staff and employees of Bay Medical Center Sacred Heart Health System was appropriate and did not negligently cause your alleged damages. Additionally, to the extent you intend to allege that the Hospital is vicariously liable for the alleged negligence of Gary H. Lavine, M.D. or Emily D. Billingsley, M.D., the Hospital denies that they were employees or agents of the Hospital at any time material to the dates outlined in your Letter of Intent, or that the Hospital is responsible for their alleged negligence in any way. Further, the Hospital hereby adopts and incorporates the rejections and Affidavits submitted by counsel for Dr. Lavine and Dr. Billingsley verifying their reasonable grounds to reject your claims directed at their conduct.

Additionally, as I notified you in my December 31, 2020 correspondence, should you elect to file a Complaint, my client intends to move to dismiss your Complaint based upon your failure to comply with *Florida Statutes* Chapter 766 including, but not limited to, your failure to conduct a reasonable presuit investigation pursuant to *Florida Statutes* §766.104 and failure to provide my client with proper notice pursuant to §766.106(2)(a).

You have failed to conduct a reasonable investigation "to determine that there are grounds for a good faith belief that there has been negligence in the care or treatment" of yourself pursuant to §766.104(1). Specifically, you have failed to provide an affidavit corroborating your allegations of negligence against Kendrea Virgil, RN, any employees of Bay Medical Center, and Gary H. Lavine, M.D. pursuant to §766.106. The written statement attached to your November 9, 2020 Letter of Intent to Sue executed by Daniel Cousin, M.D. is insufficient to corroborate alleged negligence of Ms. Virgil, any employees of Bay Medical Center, or Dr. Lavine pursuant to §766.102(5), because Dr. Cousin is a radiologist and, therefore, not qualified to render standard of care opinions regarding Ms. Virgil (an Emergency Department nurse), any employees of Bay

1030 West Canton Avenue, Suite 200, Winter Park, FL 32789  
407.628.4848 | [HSSLawGroup.com](http://HSSLawGroup.com)

## EXHIBIT D

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& MONROE, P.C.

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*Attorney for Defendant, PayPal, Inc.*

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Post Office Box 1090

Winter Park, FL 32790-

1090 Telephone: (407) 628-

4848

Facsimile: (407) 628-3848

By: /s/ Brian L. Smith

**BRIAN L. SMITH, ESQUIRE**

Florida Bar No. 0150827

**OLESTINE TURENNE, ESQUIRE**

Florida Bar No. 1018996

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1<sup>st</sup> Secondary email:

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## **EXHIBIT E**

2<sup>nd</sup> Secondary email:

KReeves@hsslawgroup.com

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 17<sup>th</sup> day of November 2022, a true and correct copy of the foregoing has been furnished via Florida E-Filing Portal and via Electronic Mail to:

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Lynn Haven, FL 32444  
bccgorham@yahoo.com

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**Tara L. Said, Esquire**

**Justin Keeton, Esquire**

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& MONROE, P.C.

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IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR BAY COUNTY, FLORIDA  
CIVIL DIVISION

CURTIS GORHAM,

Plaintiff,

v.

CASE NO.: 22-001076CA

GARY H. LAVINE; et al.

Defendants.


**ORDER DENYING PLAINTIFF'S REQUEST FOR REHEARING AS TO  
DEFENDANT PAYPAL, INC.**

THIS CAUSE having come before the Court upon hearing on May 17, 2023, on Plaintiff's Request for Rehearing(s), filed April 5, 2023, and the Court having reviewed the Court's file, having considered argument from the Parties, and having been otherwise fully advised in the premises, it is hereby:

**ORDERED AND ADJUDGED:**

1. Plaintiff's Request for Rehearing(s), filed April 5, 2023, is denied as to Defendant PayPal, Inc. ("PayPal") both (i) because Plaintiff's motion is untimely under Fla. R. Civ. P. 1.530(b) and (ii) on the merits.

**DONE AND ORDERED** this Friday, May 19, 2023 in Bay County, Florida.

03-2022-CA-001076-CA 05/19/2023 08:21:17 AM  
  
Elijah Smiley, Judge  
03-2022-CA-001076-CA 05/19/2023 08:21:17 AM

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Rebecca Wilt  
rebecca.wilt@quarles.com

**IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT OF THE  
STATE OF FLORIDA, IN AND FOR BAY COUNTY**

CURTIS M. GORHAM,

Plaintiff,

v.

DR. GARY LAVINE, DR. EMILY  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD, JOSEPH  
R. IMPICCICHE CEO, JUNCO EMERGENCY  
PHYSICIANS, BAY COUNTY HEALTH  
SYSTEM, LLC, STATE OF FLORIDA, PAYPAL,  
USAA, AND DR. DANIEL COUSIN,

Defendants.

CASE NO.: 22001076CA

**ORDER ON PLAINTIFF'S "MOTION TO VACATE THE JUDGE'S  
ORDER FOR VIOLATIONS"**

The Court, after having reviewed Plaintiff's Motion to Vacate the Judge's Order for Violations (docket #59) and Defendant Dr. Daniel Cousin's response (docket#61), and having heard argument, it is hereby,

**ORDERED AND ADJUGED** that Plaintiff's' Motion to Vacate the Judge's Order for Violations is denied with prejudice. This Court reserves jurisdiction to tax fees and costs.

**ORDERED** on this the Thursday, May 18, 2023

03-2022-CA-001076-CA 05/18/2023 07:52:18 AM  
*ELJ Smiley*  
Elijah Smiley, Judge  
03-2022-CA-001076-CA 05/18/2023 07:52:18 AM

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**Circuit Judge, Bay County, Florida**

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FIRST DISTRICT COURT OF APPEALS, FLORIDA.

Case Law, Memorandum of Law, Points of Authority.

Plaintiff/Appellant., Curtis M. Gorham., 05/04/2023

Case Number(s): 1D23-0839

DCA Case No. 1D23-0839 [2<sup>nd</sup> Appeal, Bay County Health System LLC, Dr. Billingsley, PayPal.]

DCA Case No. 1D23-0358 [1<sup>st</sup> Appeal, Dr. Daniel Cousin]

Lower Tribunal Case No. 22001076CA

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1 > CONSTITUTIONAL RIGHTS:

*Boyd v. United*, 116 U.S. 616 at 635 (1885)

Justice Bradley, "It may be that it is the obnoxious thing in its mildest form; but illegitimate and unconstitutional practices get their first footing in that way; namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of persons and property should be liberally construed. A close and literal construction deprives them of half their efficacy, and leads to gradual depreciation of the right, as if it consisted more in sound than in substance. It is the duty of the Courts to be watchful for the Constitutional Rights of the Citizens, and against any stealthy encroachments thereon. Their motto should be *Obsta Principiis*."

*Downs v. Bidwell*, 182 U.S. 244 (1901)

"It will be an evil day for American Liberty if the theory of a government outside supreme law finds lodgement in our constitutional jurisprudence. No higher duty rests upon this Court than to exert its full authority to prevent all violations of the principles of the Constitution."

*Gomillion v. Lightfoot*, 364 U.S. 155 (1966), cited also in *Smith v. Allwright*, 321 U.S. 649.644

"Constitutional 'rights' would be of little value if they could be indirectly denied."

*Mallowy v. Hogan*, 378 U.S. 1

"All rights and safeguards contained in the first eight amendments to the federal Constitution are equally applicable."

*Miranda v. Arizona*, 384 U.S. 426, 491; 86 S. Ct. 1603

"Where rights secured by the Constitution are involved, there can be no 'rule making' or legislation which would abrogate them."

*Norton v. Shelby County*, 118 U.S. 425 p. 442

"An unconstitutional act is not law; it confers no rights; it imposes no duties; affords no protection; it creates no office; it is in legal contemplation, as inoperative as though it had never been passed."

*Sherar v. Cullen*, 481 F. 2d 946 (1973)

"There can be no sanction or penalty imposed upon one because of his exercise of constitutional rights."

*Warnock v. Pecos County, Texas.*, 88 F3d 341 (5th Cir. 1996)

Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law.

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## 2 > CORRUPTION OF AUTHORITY:

*Butz v. Economou*, 98 S. Ct. 2894 (1978); *United States v. Lee*, 106 U.S. at 220, 1 S. Ct. at 261 (1882)

"No man [or woman] in this country is so high that he is above the law. No officer of the law may set that law at defiance with impunity. All the officers of the government from the highest to the lowest, are creatures of the law, and are bound to obey it."

\**Cannon v. Commission on Judicial Qualifications*, (1975) 14 Cal. 3d 678, 694 [also]

\**Gonzalez v. Commission on Judicial Performance*, (1983) 33 Cal. 3d 359, 371, 374

Acts in excess of judicial authority constitutes misconduct, particularly where a judge deliberately disregards the requirements of fairness and due process.

\**Geiler v. Commission on Judicial Qualifications*, (1973) 10 Cal.3d 270, 286

Society's commitment to institutional justice requires that judges be solicitous of the rights of persons who come before the court.

*Olmstad v. United States*, (1928) 277 U.S. 438

"Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy."

*Owen v. City of Independence*

"The innocent individual who is harmed by an abuse of governmental authority is assured that he will be compensated for his injury."

*Perry v. United States*, 204 U.S. 330, 358

"I do not understand the government to contend that it is any less bound by the obligation than a private individual would be..." "It is not the function of our government to keep the citizen from falling into error; it is the function of the citizen to keep the government from falling into error."

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## 3 > DISMISSAL OF SUIT:

*Note: [Copied verbiage; we are not lawyers.] It can be argued that to dismiss a civil rights action or other lawsuit in which a serious factual pattern or allegation of a cause of action has been made would*



itself be violating of procedural due process as it would deprive a pro se litigant of equal protection of the law vis a vis a party who is represented by counsel.

Also, see *Federal Rules of Civil Procedure, Rule 60 - Relief from Judgment or Order (a) Clerical Mistakes and (b) Mistakes; Inadvertence; Excusable Neglect; Newly Discovered Evidence; Fraud, etc.*

*Warnock v. Pecos County, Texas*, 88 F3d 341 (5th Cir. 1996)

Eleventh Amendment does not protect state officials from claims for prospective relief when it is alleged that state officials acted in violation of federal law.

*Walter Process Equipment v. Food Machinery*, 382 U.S. 172 (1965)

... in a "motion to dismiss, the material allegations of the complaint are taken as admitted". From this vantage point, courts are reluctant to dismiss complaints unless it appears the plaintiff can prove no set of facts in support of his claim which would entitle him to relief (see *Conley v. Gibson*, 355 U.S. 41 (1957)).

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#### 4 > EQUAL PROTECTION UNDER THE LAW:

*Cochran v. Kansas*, 316 U.S. 255, 257-258 (1942)

"However inept Cochran's choice of words, he has set out allegations supported by affidavits, and nowhere denied, that Kansas refused him privileges of appeal which it afforded to others. \*\*\* The State properly concedes that if the alleged facts pertaining to the suppression of Cochran's appeal were disclosed as being true, ... there would be no question but that there was a violation of the equal protection clause of the Fourteenth Amendment."

*Duncan v. Missouri*, 152 U.S. 377, 382 (1894)

Due process of law and the equal protection of the laws are secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

*Giozza v. Tiernan*, 148 U.S. 657, 662 (1893), *Citations Omitted*

"Undoubtedly it (the Fourteenth Amendment) forbids any arbitrary deprivation of life, liberty or property, and secures equal protection to all under like circumstances in the enjoyment of their rights... It is enough that there is no discrimination in favor of one as against another of the same class. ...And due process of law within the meaning of the [Fifth and Fourteenth] amendment is secured if the laws operate on all alike, and do not subject the individual to an arbitrary exercise of the powers of government."

*Kentucky Railroad Tax Cases*, 115 U.S. 321, 337 (1885)

"The rule of equality... requires the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances".

*Truax v. Corrigan*, 257 U.S. 312, 332

"Our whole system of law is predicated on the general fundamental principle of equality of application to the law. 'All men are equal before the law,' 'This is a government of laws and not of men,' 'No man is above the law,' are all maxims showing the spirit in which legislatures, executives, and courts are expected to make, execute and apply laws. But the framers and adopters of the (Fourteenth) Amendment were not content to depend... upon the spirit of equality which might not be insisted on by local public opinion. They therefore embodied that spirit in a specific guaranty."

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## 5 > JUDICIAL IMMUNITY:

Note: Judges have no judicial immunity for their administrative/ministerial duties, or for violating a citizen's constitutional rights. When a judge has a duty to act, he does not have discretion - he is then not performing a judicial act; he is performing a ministerial act.

Nowhere was the judiciary given immunity, particularly nowhere in Article III; under our Constitution, if judges were to have immunity, it could only possibly be granted by amendment (and even less possibly by legislative act), as Art. I, Sections 9 & 10, respectively, in fact expressly prohibit such, stating, "No Title of Nobility shall be granted by the United States" and "No state shall... grant any Title of Nobility." Most of us are certain that Congress itself doesn't understand the inherent lack of immunity for judges.

Article III, Sec. 1, "The Judicial Power of the United States shall be vested in one supreme court, and in such inferior courts, shall hold their offices during good behavior."

Tort & Insurance Law Journal, Spring 1986 21 n3, p 509-516, "Federal tort law: judges cannot invoke judicial immunity for acts that violate litigants' civil rights." - Robert Craig Waters.

*Ableman v. Booth*, 21 Howard 506 (1859)

"No judicial process, whatever form it may assume, can have any lawful authority outside of the limits of the jurisdiction of the court or judge by whom it is issued; and an attempt to enforce it beyond these boundaries is nothing less than lawless violence."

*Chandler v. Judicial Council of the 10th Circuit*, 398 U.S. 74, 90 S. Ct. 1648, 26 L. Ed. 2d 100

Justice Douglas, in his dissenting opinion at page 140 said, "If (federal judges) break the law, they can be prosecuted." Justice Black, in his dissenting opinion at page 141) said, "Judges, like other people, can be tried, convicted and punished for crimes... The judicial power shall extend to all cases, in law and equity, arising under this Constitution".

*Cooper v. Aaron*, 358 U.S. 1, 78 S. Ct. 1401 (1958)

*Note: Any judge who does not comply with his oath to the Constitution of the United States wars against that Constitution and engages in acts in violation of the supreme law of the land. The judge is engaged in acts of treason.*

The U.S. Supreme Court has stated that "no state legislator or executive or judicial officer can war against the Constitution without violating his undertaking to support it". See also *In Re Sawyer*, 124 U.S. 200 (188); *U.S. v. Will*, 449 U.S. 200, 216, 101 S. Ct. 471, 66 L. Ed. 2d 392, 406 (1980); *Cohens v. Virginia*, 19 U.S. (6 Wheat) 264, 404, 5 L. Ed 257 (1821).

*Cooper v. O'Conner*, 99 F.2d 133

There is a general rule that a ministerial officer who acts wrongfully, although in good faith, is nevertheless liable in a civil action and cannot claim the immunity of the sovereign.

*Davis v. Burris*, 51 Ariz. 220, 75 P.2d 689 (1938)

A judge must be acting within his jurisdiction as to subject matter and person, to be entitled to immunity from civil action for his acts.

*Forrester v. White*, 484 U.S. at 227-229, 108 S. Ct. at 544-545 (1987); *Westfall v. Erwin*, 108 S. Ct. 580 (1987); *United States v. Lanier* (March 1997)

Constitutionally and in fact of law and judicial rulings, state-federal "magistrates-judges" or any government actors, state or federal, may now be held liable, if they violate any Citizen's Constitutional rights, privileges, or immunities, or guarantees; including statutory civil rights.

A judge is not immune for tortious acts committed in a purely Administrative, non-judicial capacity.

*Hoffsommer v. Hayes*, 92 Okla 32, 227 F. 417

"The courts are not bound by an officer's interpretation of the law under which he presumes to act."

*Marbury v. Madison*, 5 U.S. (2 Cranch) 137, 180 (1803)

"... the particular phraseology of the constitution of the United States confirms and strengthens the principle, supposed to be essential to all written constitutions, that a law repugnant to the constitution is void, and that courts, as well as other departments, are bound by that instrument."

"In declaring what shall be the supreme law of the land, the Constitution itself is first mentioned; and not the laws of the United States generally, but those only which shall be made in pursuance of the Constitution, have that rank".

"All law (rules and practices) which are repugnant to the Constitution are VOID".

Since the 14th Amendment to the Constitution states "NO State (Jurisdiction) shall make or enforce any law which shall abridge the rights, privileges, or immunities of citizens of the United States nor deprive any citizens of life, liberty, or property, without due process of law, ... or equal protection under the law", this renders judicial immunity unconstitutional.

*Piper v. Pearson*, 2 Gray 120, cited in *Bradley v. Fisher*, 13 Wall. 335, 20 L.Ed. 646 (1872)

"Where there is no jurisdiction, there can be no discretion, for discretion is incident to jurisdiction."

*Pulliam v. Allen*, 466 U.S. 522 (1984); 104 S. Ct. 1781, 1980, 1981, and 1985

In 1996, Congress passed a law to overcome this ruling which stated that judicial immunity doesn't exist; citizens can sue judges for prospective injunctive relief.

"Our own experience is fully consistent with the common law's rejection of a rule of judicial immunity. We never have had a rule of absolute judicial immunity. At least seven circuits have indicated affirmatively that there is no immunity... to prevent irreparable injury to a citizen's constitutional rights..."

"Subsequent interpretations of the Civil Rights Act by this Court acknowledge Congress' intent to reach unconstitutional actions by all state and federal actors, including judges... The Fourteenth Amendment prohibits a state [federal] from denying any person [citizen] within its jurisdiction the equal protection under the laws. Since a State [or federal] acts only by its legislative, executive or judicial authorities, the constitutional provisions must be addressed to those authorities, including state and federal judges..."

"We conclude that judicial immunity is not a bar to relief against a judicial officer acting in her [his] judicial capacity."

*Scheuer v. Rhodes*, 416 U.S. 232, 94 S. Ct. 1683, 1687 (1974)

*Note: By law, a judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When a judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect.*

The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the supreme authority of the United States."

*Zeller v. Rankin*, 101 S.Ct. 2020, 451 U.S. 939, 68 L.Ed 2d 326

When a judge knows that he lacks jurisdiction, or acts in the face of clearly valid statutes expressly depriving him of jurisdiction, judicial immunity is lost.

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## 6 > JURISDICTION:

*NOTE: It is a fact of law that the person asserting jurisdiction must, when challenged, prove that jurisdiction exists; mere good faith assertions of power and authority (jurisdiction) have been abolished.*

*Albrecht v. U.S.*

*Balzac v. People of Puerto Rico*, 258 U.S. 298 (1922)

"The United States District Court is not a true United States Court, established under Article 3 of the Constitution to administer the judicial power of the United States therein conveyed. It is created by virtue of the sovereign congressional faculty, granted under Article 4, 3, of that instrument, of making all needful rules and regulations respecting the territory belonging to the United States. The resemblance of its jurisdiction to that of true United States courts, in offering an opportunity to nonresidents of resorting to a tribunal not subject to local influence, does not change its character as a mere territorial court."

*Elliot v. Piersol*, 1 Pet. 328, 340, 26 U.S. 328, 340 (1828)

Under federal Law, which is applicable to all states, the U.S. Supreme Court stated that "if a court is without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void, and form no bar to a recovery sought, even prior to a reversal in opposition to them. They constitute no justification and all persons concerned in executing such judgments or sentences are considered, in law, as trespassers."

*Howlett v. Rose*, 496 U.S. 356 (1990)

Federal Law and Supreme Court Cases apply to State Court Cases.

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## 7 > PEACEFUL ASSEMBLY (DEMONSTRATIONS):

*Elrod v. Burns*, 427 U.S. 347; 6 S. Ct. 2673; 49 L. Ed. 2d (1976)

"Loss of First Amendment Freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury."

*Miller v. U.S.*, 230 F. 2d. 486, 490; 42

"There can be no sanction or penalty imposed upon one, because of his exercise of constitutional rights."

*Murdock v. Pennsylvania*, 319 U.S. 105

"No state shall convert a liberty into a license, and charge a fee therefore."

*Shuttlesworth v. City of Birmingham, Alabama*, 373 U.S. 262

"If the State converts a right (liberty) into a privilege, the citizen can ignore the license and fee and engage in the right (liberty) with impunity."

*United States Constitution, First Amendment*

Right to Petition; Freedom of Association.

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8 > PROBABLE CAUSE:

*Draper v. U.S.* (1959)

Probable cause is where known facts and circumstances, of a reasonably trustworthy nature, are sufficient to justify a man of reasonable caution in the belief that a crime has been or is being committed. Reasonable man definition; common textbook definition; comes from this case.

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9 > PRO SE RIGHTS:

*Brotherhood of Trainmen v. Virginia ex rel. Virginia State Bar*, 377 U.S. 1; *v. Wainwright*, 372 U.S. 335; *Argersinger v. Hamlin*, Sheriff 407 U.S. 425

Litigants can be assisted by unlicensed laymen during judicial proceedings.

*Conley v. Gibson*, 355 U.S. 41 at 48 (1957)

"Following the simple guide of rule 8(f) that all pleadings shall be so construed as to do substantial justice"... "The federal rules reject the approach that pleading is a game of skill in which one misstep by counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits." The court also cited Rule 8(f) FRCP, which holds that all pleadings shall be construed to do substantial justice.

*Davis v. Wechler*, 263 U.S. 22, 24; *Stromberg v. California*, 283 U.S. 359; *NAACP v. Alabama*, 375 U.S. 449

"The assertion of federal rights, when plainly and reasonably made, are not to be defeated under the name of local practice."

*Elmore v. McCammon* (1986) 640 F. Supp. 905

"... the right to file a lawsuit pro se is one of the most important rights under the constitution and laws."

*Haines v. Kerner*, 404 U.S. 519 (1972)

"Allegations such as those asserted by petitioner, however inartfully pleaded, are sufficient"... "which we hold to less stringent standards than formal pleadings drafted by lawyers."

*Jenkins v. McKeithen*, 395 U.S. 411, 421 (1959); *Picking v. Pennsylvania R. Co.*, 151 Fed 2nd 240; *Pucket v. Cox*, 456 2nd 233

Pro se pleadings are to be considered without regard to technicality; pro se litigants' pleadings are not to be held to the same high standards of perfection as lawyers.

*Maty v. Grasselli Chemical Co.*, 303 U.S. 197 (1938)

"Pleadings are intended to serve as a means of arriving at fair and just settlements of controversies between litigants. They should not raise barriers which prevent the achievement of that end. Proper pleading is important, but its importance consists in its effectiveness as a means to accomplish the end of a just judgment."

*Picking v. Pennsylvania Railway*, 151 F.2d. 240, Third Circuit Court of Appeals

The plaintiff's civil rights pleading was 150 pages and described by a federal judge as "inept". Nevertheless, it was held "Where a plaintiff pleads pro se in a suit for protection of civil rights, the Court should endeavor to construe Plaintiff's Pleadings without regard to technicalities."

*Puckett v. Cox*, 456 F. 2d 233 (1972) (6th Cir. USCA)

It was held that a pro se complaint requires a less stringent reading than one drafted by a lawyer per

Justice Black in *Conley v. Gibson* (see case listed above, Pro Se Rights Section).

*Roadway Express v. Pipe*, 447 U.S. 752 at 757 (1982)

"Due to sloth, inattention or desire to seize tactical advantage, lawyers have long engaged in dilatory practices... the glacial pace of much litigation breeds frustration with the Federal Courts and ultimately, disrespect for the law."

*Sherar v. Cullen*, 481 F. 2d 946 (1973)

"There can be no sanction or penalty imposed upon one because of his exercise of Constitutional Rights."

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#### 10 > A CASE APPEAL/FILING/PLEADING USED FOR EXAMPLE BY PLAINTIFF:

In *Guebard*, the court went on to hold as follows: The authorities appear uniformly to agree that where an unauthorized surgeon operates, he commits a technical trespass to the patient resulting the intentional tort of battery. (Citing *Pratt v. Davis*, 224 Ill. 300). *Guebard v. Jabaay*, 72 Ill. Dec. 498, 503.

It is the absence of consent that supports the action for battery. In *Gragg v. Calandra*, (2nd Dist. 1998) 196 Ill.App.3d 669, 231 Ill.Dec. 711, 716, the court quoted *Guebard v. Jabaay* for the following holding:

(T)he court held that where an unauthorized surgeon operates, he commits a technical trespass to the patient resulting in the intentional tort of battery. It is not the hostile intent of the defendant but rather the absence of consent by the plaintiff that is that the core of an action for battery.

A claim for medical battery is not medical malpractice or "healing art malpractice." In *Gragg v. Calandra*, (2nd Dist, 1998). 196 Ill. App. 3d 669, 231 Ill. Dec. 711 at 716, the Second District stated as follows:

By stating that surgery and treatment were performed without consent, plaintiff has stated a claim for medical battery. (Citations omitted). Moreover, it is clear that plaintiff does not allege any deviation from the appropriate medical standards. Plaintiff's claim under Count I against the hospital is not based on medical malpractice. Consequently, it is unnecessary to provide a Section 2-622 report.

In *Kenner v. Northern Illinois Medical Center*, (2nd Dist, 1987), 164 Ill. App. 3d 366, 115 Ill. Dec. 451, the court was considering an action for medical battery and false imprisonment. The court stated that punitive damages would be allowed under the following circumstances:

Punitive damages may be recovered when the wrongful act complained of is characterized by fraud, malice, oppression, willfulness or wantonness. 115 Ill. Dec. 451 at 458.

Plaintiff makes specific allegations of fact that would amount to willful and wanton conduct or fraudulent conduct. For purposes of Defendant's Motion, those allegations should be taken as true.

The case cited by Defendants, *Williams v. Chicago Osteopathic Medical Center*, 173 Ill. App. 3d 125, 122 Ill. Dec. 911, (1st Dist, 1988) is not authority to the contrary. The trial court in *Williams* certified the following question for appeal:

Does the statutory prohibition of punitive damages in healing art malpractice cases (Section 5/2-1115, ILCS) apply to an intentional fraud action arising from the provision of medical services by health care providers? 122 Ill. Dec. at 912.

Based on the wording of the certified question, the court felt compelled to answer the question in the affirmative. The court felt that the phrase "provision of medical services by healthcare providers" contained in the certified question, came within the phrase "healing art malpractice" used in Section 2-1115. In reaching that decision, the court relied on *Lyon v. Hasbro Industries, Inc.*, 156 Ill. App. 3d 649 at 655, 109 Ill. Dec. 41 (1987, for the proposition that the nature of the act alleged should determine

whether the act is healing art malpractice. The court defined malpractice as incorrect or negligent treatment of the patient by a person responsible for his healthcare. In Count V, the allegations relate not to negligent or incorrect treatment but failing to obtain consent and allowing Dr. Joo, an unauthorized surgeon, to perform surgery. This is not an issue of medical treatment; it is an issue of law and ethics of the medical profession. Paragraph 8. 16 of the Current Opinions of the Council on Ethical and Judicial Affairs of the American Medical Association (cited in paragraph 14A of the amendment), it is stated as follows:

A surgeon who allows a substitute to operate on his or her patient without the patient's knowledge and consent is deceitful. The patient is entitled to choose his or her physician and should be permitted acquiesce to or refuse the substitution.

#### IV CONCLUSION

Plaintiff prays that his Motion to Amend be allowed; if allowed, Plaintiff prays that summary judgment be entered in his favor and against the Defendant on Count V; further, that the word "negligence" appearing in the first line of paragraph 13 of the Amended Complaint be stricken and that the word "conduct" be substituted therefore.

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Medical battery first found definition in Illinois through Pratt v. Davis , 224 Ill. 300, 305, 79 N.E. 562 (1906). As stated in Curtis v. Jaskey, 326 Ill. App. 3d. 90, 259 Ill. Dec. 901, 903, "No right is held more sacred, or is more carefully guarded by the common law, than the right of every individual to the possession and control of his own person, free from all restraint or interference of others, unless by clear and unquestionable authority of law." In the same opinion, the court noted that the Illinois Legislature has recognized this right at 755 ILCS 40/5 ;

All persons have a fundamental right to make decisions relating to their own medical treatment, including the right to forego life sustaining treatment.

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#### 11 > BINDING PRECEDENT:

Plaintiff's claim include and or rests on "lack of informed consent" which equals "medical battery" and or "conduct" which is "misconduct." Therefore, jurisdiction provides that no medical expert is required for one example according to 766.102(2)(b) which reads as follows; "(b) The provisions of this subsection shall apply only when the medical intervention was undertaken with the informed consent of the patient in compliance with the provisions of s. 766.103."

Plaintiff also believes that "foreign body retainment" is also applicable to these matters being injection of unknown unwanted fluids through an IV and use of ionizing-radiation, under 766.102(3)(b) which reads as follows; "[...] However, the discovery of the presence of a foreign body, such as a sponge, clamp, forceps, surgical needle, or other paraphernalia commonly used in surgical, examination, or diagnostic procedures, shall be prima facie evidence of negligence on the part of the health care provider."

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#### 12 > COMMON KNOWLEDGE:

There are several caselaw examples noted here as follows for the "common knowledge" exception to expert testimony:

(a) Hubbard ex rel. Hubbard v. Reed, 774 A.2d 495, 500-01 (N.J. 2001)

("It has long been settled that pulling the wrong tooth is negligent as a matter of common knowledge.");

(b) *Durocher v. Rochester Equine Clinic*, 629 A.2d 827 (N.H. 1993)

(holding that no medical expert testimony was necessary to determine whether defendant-veterinarian was negligent in allegedly operating on the wrong horse, which falls within the common knowledge of laymen).

(c) The court agreed with the plaintiff that “as to the events following the termination of the test, she did not need to use expert testimony to show a breach of the standard of care.” *Id.* at 669. The court explained that:

[T]he average non-physician layperson knows that when the condition of a patient is altered unexpectedly during a medical procedure, a medical provider must determine the status of the patient and the cause of the alteration in order to know whether the matter involves an emerging threat to the life or condition of the patient. We believe that this is so obviously a responsibility of medical providers that it cannot be questioned.

(d) *Patterson v. Arif*, 173 S.W.3d 8, 12 (Tenn. Ct. App. 2005)

(“The ‘common knowledge’ exception to the general rule is applicable when ‘the medical negligence is as blatant as a “fly floating in a bowl of buttermilk” so that all mankind knows that such things are not done absent negligence.”

(d1) (quoting *Murphy v. Schwartz*, 739 S.W.2d 777, 778 (Tenn. Ct. App. 1986));

(e) *Martin v. Sizemore*, 78 S.W.3d 249, 272-73 (Tenn. Ct. App. 2001)

(“[T]he professional negligence must be ‘as plain as a fly floating in a bowl of buttermilk’ to trigger the common knowledge exception.”

(e1) (quoting *German v. Nichopoulos*, 577 S.W.2d 197, 202 (Tenn. Ct. App. 1978)).

(f) *DOBBS*, *supra* note 37, at 648-49

(“In a few cases, courts have considered the negligence of a physician . . . to be so obvious or gross that a jury should be allowed to find negligence even without expert medical testimony, either because gross and obvious negligence is an independent exception or because *res ipsa loquitur* can be invoked in such cases.”);

(g) *O. Fayrell Fun, Jr. & Karolyn Furr Ohanesian, Medical and Health Professionals*, in 27 *SOUTH CAROLINA JURISPRUDENCE* § 32 (Johnson et al. eds., 1996)

(recognizing the exception);

(h) *Nelson*, *supra* note 37, § 29.03[1][a], § 29.03[1][a] n.1, at 29-42.33

(“[I]n those situations where the the [sic] physician’s conduct is so grossly negligent, or the treatment is of such a nature that the common knowledge of laypersons is sufficient for appraisal, the plaintiff is not required to present expert testimony to make out a *prima facie* case.”);

(i) *ThomasJ. Hurney, Jr. & Rob J. Aliff, Medical Professional Liability in West Virginia*, 105 W. VA. L. REV. 369, 401 (2003)

(“In medical malpractice cases where lack of care or one of skill is so gross, so as to be apparent, or the alleged breach relates to noncomplex matters of diagnosis and treatment within the understanding of lay jurors by resort to common knowledge and experience, failure to present expert testimony on the accepted standard of care and degree of skill under such circumstances is not fatal to a plaintiff’s *prima facie* showing of negligence.”

(i1) (quoting *McGraw v. St. Joseph’s Hosp.*, 488 S.E.2d 389 (W. Va. 1997));

(j) *Syfu v. Quinn*, 826 N.E.2d 699, 703 (Ind. Ct. App. 2005)



("Application of this exception is limited to situations in which the physician's conduct is so obviously substandard that one need not possess medical expertise in order to recognize the breach of the applicable standard of care.").

(k) *Baker v. Allen*, No. Civ. 03-2600, 2006 WL 1128712, at \*12 (D.N.J. Apr. 24, 2006)

(stating that whether the "common knowledge exception" applies depends on whether "these matters [were] readily apparent to anyone of average intelligence and ordinary experience");

(l) *Carver v. United States*, Nos. 3:04-0234, 3:04-0991, 2005 WL 2230025, at \*7 (M.D. Tenn. Aug. 30, 2005)

("[I]f the common knowledge exception is applicable, a plaintiff does not have to prove his case by expert testimony.");

(m) *Garaffa v. JFK Med. Ctr.*, No. A-4105-04T24105-04T2, 2006 WL 2033752, at \*4 (N.J. Super. Ct. App. Div. July 21, 2006)

("The doctrine of common knowledge serves as an exception to the general rule requiring expert testimony, and thus an affidavit of merit, when 'the experience possessed by lay persons, without the explanations of experts, would enable a jury to determine that a defendant acted without reasonable care.'")

(m1) (quoting *Estate of Chin v. St. Barnabas Med. Ctr.*, 734 A.2d 778, 786 (N.J. 1999));

(n) *Carter v. State*, No. 104863, 2006 WL 1029686, at \*3 (N.Y. Ct. Cl. Mar. 22, 2006)

(stating that medical negligence cases can be established "without the necessity of expert testimony" when the alleged negligence "can be readily determined by the fact finder using common knowledge");

(o) *Taliaferro v. S. Pointe Hosp.*, No. 86999, 2006 WL 832510, at \*2~3 (Ohio Ct. App. March 30, 2006)

("We recognize that Ohio courts have infrequently applied the common knowledge exception to obviate the need for expert testimony in medical negligence cases. ... Upon our review of the record, we find that this case falls within the common knowledge exception.").

(p) *Ward v. Shawnee County Bd. of Comm'rs*, 103 P.3d 993, 2005 WL 81551, at \*3 (Kan. Ct. App. 2005)

(unpublished table decision)

(stating that the plaintiff "assumes that classifying a cause of action as ordinary negligence or medical malpractice is determinative of whether expert testimony is required," but the "test, however, does not depend on the cause of action but rather whether the subject matter is outside the common knowledge of the jurors").

(q) *Szydel v. Markman*, 117 P.3d 200, 204 (Nev. 2005)

(holding, in case where one of the surgical needles was left inside the patient during her breast lift operation, that the statutory requirement of an affidavit from a medical expert was unnecessary in light of the statute stating that expert testimony is not required when a foreign substance is found in the patient's body following surgery);

(r) *Hubbard ex rel Hubbard v. Reed*, 774 A.2d 495, 497 (N.J. 2001)

(holding that "an affidavit need not be provided in common knowledge cases when an expert will not be called to testify" on the standard of care);

(s) *Mosberg v. Elahi*, 605 N.E.2d 353, 354 (N.Y. 1992)

(holding that affidavit of merit was required in medical malpractice actions "except as to matters within

the ordinary experience and knowledge of laypersons”);

(t) *Musser v. Gentiva Health Servs.*, 356 F.3d 751, 760 (7th Cir. 2004)

(t1) (citing *Gold v. Ishak*, 720 N.E.2d 1175, 1183 (Ind. Ct. App. 1999))

(“[E]xpert testimony is not required because a fire occurring during surgery where an instrument that emits a spark is used near a source of oxygen is not beyond the realm of the lay person to understand.” (alteration in *Musser*)).

(u) *Todd v. Shankel*, 83 F. App’x 952, 954 (9th Cir. 2003)

(noting that the common knowledge exception is rare in application);

(v) *Taliaferro v. S. Pointe Hosp.*, No. 86999, 2006 WL 832510, at \*2 (Ohio Ct. App. March 30, 2006)

(“We recognize that Ohio courts have infrequently applied the common knowledge exception to obviate the need for expert testimony in medical negligence cases.” (emphasis added));

(x) *Ullrich v. Jefferson Parish Hosp. Serv. Dist.* No. 2, 867 So. 2d 7, 8, 12 (La. Ct. App. 2004)

(holding that the common knowledge exception applied in conjunction with *res ipsa loquitur* where “[t]he plaintiff alleged that as a result of inadequate care provided by the surgery staff and anesthesiologists, one of her teeth was knocked out . . . during surgery [and] . . . lodged in her lung”);

(y) *Bryant v. Oakpointe Villa Nursing Ctr.*, 684 N.W.2d 864, 867, 876 (Mich. 2004)

(holding in case where nursing home resident died from positional asphyxiation, and where “[p]laintiff’s claim that defendant failed to take action after its employees found Ms. Hunt entangled in her bedding on the day before her asphyxiation,” “[a] fact-finder relying only on common knowledge and experience can readily determine whether the defendant’s response was sufficient”);

(z) *Howell v. Macomb MRI*, No. 260774, 2005 WL 2514262, at \*2 (Mich. Ct. App. Oct. 11, 2005)

(holding that, in case where a 75 year-old man rolled off a table while being positioned for an MRI examination, “the reasonableness of the MRI technician’s action is within ‘the realm of common knowledge and experience,’ and can be evaluated by lay jurors without expert testimony on the standard of care and the medical issues presented”) (citation omitted);

-----

### 13 > LEAVE-TO-AMEND DOCTRINE WITH RESPECT TO DISMISSALS:

*Rizzo v. Dawson*, 778 F.2d 527, 529-30 (9th Cir. 1985); cf. *Denton v. Hernandez*, 504 U.S. 25, 34 (1992)<sup>102</sup>

(suggesting that if the complaint’s deficiencies could be remedied by amendment, then it may be abuse of discretion to dismiss complaint without granting leave to amend). The plaintiff must also be given some notice of the complaint’s deficiencies prior to dismissal. See *Cato*, 70 F.3d at 1106; cf. *Denton*, 504 U.S. at 34 (declining to address the Ninth Circuit’s notice and leave-to-amend rule for frivolous complaints).

(*Watson*, 668 F.3d at 1112. T)

“Dismissal is proper only if it is clear that the plaintiff cannot prove any set of facts in support of the claim that would entitle him to relief.”

### THE CASE THE SUPREME COURT OF ILLINOIS RULED ON NO EXPERT

(*Advincula v United Blood Services*, 678 NE 2d 1009 (Ill 1996)

## Standard of Radiologic Care

In a recent decision, the Illinois Supreme Court addressed the concept of standard of care as it applies to professionals: "In instances, however, where the professional's conduct is so grossly negligent or the treatment so common that a lay-person could readily appraise it, no professional expert testimony or other such relevant evidence is required." )

## Florida Supreme Court Tries To Draw Line On Malpractice Cases

Posted Friday, April 27, 2018 5:02 am

[<http://www.newsdaytonabeach.com/stories/florida-supreme-court-tries-to-draw-line-on-malpractice#cases,4397>]

Florida - In a case stemming from an injury to a child who was deaf and had been diagnosed with psychiatric conditions, the Florida Supreme Court on Thursday tried to resolve questions about when lawsuits deal with medical malpractice --- or ordinary negligence.

"While it is true that the hospital failed to confine the patient to her locked unit, the estate's claim arose out of the hospital employee leaving her badge and keys unattended where the patient could access them, not out of any act directly related to medical care or services that required the use of professional judgment or skill," the Supreme Court opinion said. "Thus, contrary to the First District's conclusion, medical expert testimony on the professional standard of care would not be necessary for the estate to prove its negligence claim."

For the reasons that follow, we hold that, where the facts regarding the presuit expert's qualifications are unrefuted, the proper standard of review of a trial court's dismissal of a medical malpractice action based on its determination that the plaintiff's presuit expert witness was not qualified is *de novo*. Additionally, we hold that, before a medical malpractice action can be dismissed based on a trial court's finding that the plaintiff or plaintiff's counsel failed to comply with the informal presuit discovery process for medical malpractice actions, the trial court must find that such noncompliance prejudiced the defendant. This holding is consistent with our *Lofs* precedent, which makes clear that before an action can be dismissed for a plaintiff's failure to comply with discovery, the trial court must find that the plaintiff's noncompliance prejudiced the defendant.

See, e.g.,

*Ham v. Dunmire*, 891 So.2d 492, 499 (Fla. 2004);

*Kukral v. Mekras*, 679 So.2d 278, 279 (Fla. 1996).

On appeal, the reviewing court should determine whether there was, in fact, a discovery violation and whether that violation prejudiced the defendant. To hold otherwise would not only deprive plaintiffs of their constitutional right to access the courts but would also frustrate the Legislature's intent in enacting the medical malpractice statutory scheme.

Florida's medical malpractice statutory scheme, codified in chapter 766, Florida Statutes, contains an elaborate presuit process for prospective medical malpractice plaintiffs, including a presuit investigation component.

See *id.* § 766.201(2).

As we have explained, the presuit process was created to "facilitate the expedient, and preferably amicable, resolution of medical malpractice claims."

*Williams*, 62 So. 3d at 1133 n.1 (citation omitted);

see § 766.201(2), Fla. Stat. (2011)

("It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence

claims.”). The Legislature’s intent notwithstanding, we have stated that the presuit process “restrict[s] plaintiffs’ ability to bring medical malpractice claims.” *Dockswell v. Bethesda Mem’l Hosp., Inc.*, 210 So. 3d 1201, 1205 (Fla. 2017).

Therefore, the requirements of the presuit process must be “interpreted liberally so as not to unduly restrict a Florida citizen’s constitutionally guaranteed access to the courts.” *Kukral*, 679 So. 2d at 284.

§ 766.201(2), Fla. Stat. (2011)

(“It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence claims.”).

Second, this Court must construe the medical malpractice presuit screening requirements “in a manner that favors access to courts.” *Patry v. Capps*, 633 So. 2d 9, 13 (Fla. 1994) (citing *Weinstock v. Groth*, 629 So. 2d 835,

838 (Fla. 1993)).

For the reasons that follow, we hold that, where the facts regarding the presuit expert’s qualifications are unrefuted, the proper standard of review of a trial court’s dismissal of a medical malpractice action based on its determination that the plaintiff’s presuit expert witness was not qualified is *de novo*. Additionally, we hold that, before a medical malpractice action can be dismissed based on a trial court’s finding that the plaintiff or plaintiffs counsel failed to comply with the informal presuit discovery process for medical malpractice actions, the trial court must find that such noncompliance prejudiced the defendant. This holding is consistent with our precedent, which makes clear that before an action can be dismissed for a plaintiff’s failure to comply with discovery, the trial court must find that the plaintiff’s noncompliance prejudiced the defendant.

See, e.g., *Ham v. Dunmire*, 891 So. 2d 492, 499 (Fla. 2004);

*Kukral v. Mekras*, 679 So. 2d 278, 279 (Fla. 1996).

On appeal, the reviewing court should determine whether there was, in fact, a discovery violation and whether that violation prejudiced the defendant. To hold otherwise would not only deprive plaintiffs of their constitutional right to access the courts but would also frustrate the Legislature’s intent in enacting the medical malpractice statutory scheme.

*Id.* at 351 (Swanson, J., dissenting). Judge Swanson stated that “Dr. Thompson’s affidavit on its face clearly established that she met all of the statutory requirements,” *id.* At 352, explaining:

On a motion to dismiss challenging a plaintiff’s compliance with the statutory presuit requirements in a medical malpractice action, this court applies the *de novo* standard of review and must consider all factual allegations in a light most favorable to the plaintiff.

end.

**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

April 25, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicicche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

---

**BY ORDER OF THE COURT:**

The Court grants in part and denies in part Appellant's motion filed February 24, 2023.

Within ten days, Appellant shall comply with the Court's order dated February 14, 2023, directing Appellant to file conformed copies of the order from which the appeal is being taken, any order entered on a timely motion postponing rendition of the order appealed, and any motion that postpones rendition. Appellant shall include copies of the motion for rehearing filed February 9, 2023, the motion to vacate the judge's order for violations, filed January 17, 2023, the motion to appoint guardian ad litem for plaintiff's litigation, filed January 19, 2023, and the motion to make plaintiff a victim or prejudiced, filed February 9, 2023. Alternatively, Appellant may file a response showing cause why this appeal should not be dismissed for failure to comply with the order dated February 14, 2023.

Within thirty days, Appellant shall ensure preparation and transmittal of the record on appeal. See Fla. R. App. P. 9.110(e). The parties and lower tribunal are advised that Florida Rule of Appellate Procedure 9.200(d)(3) requires the lower tribunal clerk to prepare and transmit to the Court a copy of the record on appeal which is redacted pursuant to Florida Rule of General Practice and Judicial Administration 2.420(d). Pursuant to Florida Rule of General Practice and Judicial Administration 2.425(b)(3), rule 2.425 does not apply to the record in appellate proceedings, and "sensitive" information under that rule is not required to be redacted during preparation of the record on appeal. Only information deemed confidential under rule 2.420(d)(1)(B) must be redacted from the record on appeal before transmittal to this Court.

The Court grants Appellant's request for extension of time to file the initial brief, and the time for service of the initial brief is extended to thirty days from the date the record on appeal is transmitted to the Court by the clerk of the lower tribunal. All other relief requested in the motion filed February 24, 2023, is denied.

If Appellant fails to timely comply with this order, the Court may impose sanctions, which may include dismissal of the appeal, without further opportunity to be heard. See Fla. R. App. P. 9.410.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Dr. Daniel Cousin

Dennis Jackson Martin & Fontela

Curtis Gorham

Hall Schieffelin & Smith, P.A.

Henry Buchanan, P.A.

Jami M. Kimbrell

Hon. Bill Kinsaul

**Case No. - 1D23-0358**

Page < 3 >

Hon. Ashley Moody

PayPal

E. Victoria Penny

Jacob Salow

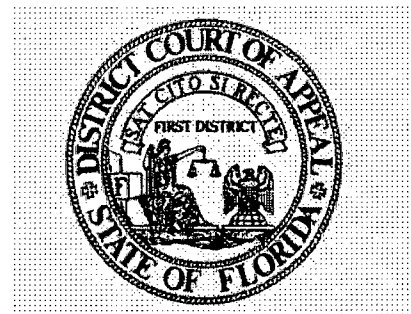
USAA

CO

~~1D2023-0358~~ April 25, 2023

*Kristina Samuels*  
Kristina Samuels, Clerk

1D2023-0358 April 25, 2023



IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR BAY COUNTY, FLORIDA

Curtis M. Gorham  
Appellant

22001076CA

Vs

Dr. Gary H. Lavine, et al.  
Appellee

---

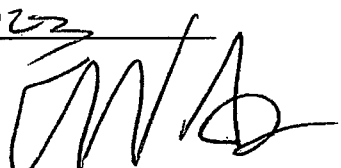
**ORDER OF INSOLVENCY**

Having reviewed the Appellant's Application for Determination of Civil Indigent Status and the Clerk's Certificate of Indigence, the Court finds as follows:

The Appellant is indigent and is entitled to proceed with the appeal without payment of the appeal filing fee.

DATED

4-11-2023

  
Circuit Court Judge

CC:  
Parties of record  
Court file



**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR BAY COUNTY, FLORIDA**

**CURTIS M. GORHAM,**

**Plaintiff,**

**v.**

**Case No.: 2022-CA-001076**

**DR. GARY H. LAVINE; DR. EMILY D.  
BILLINGSLEY; KENDREA VIRGIL, RN;  
LLOYD G. LOGUE; DONNA BAIRD;  
JOSEPH R. IMPICCICHE (CEO);  
JUNCO EMERGENCY PHYSICIANS;  
BAY COUNTY HEALTH SYSTEM, LLC;  
THE STATE OF FLORIDA; PAYPAL;  
USAA, and other unknown people such  
As the orderly and radiology assistant,  
(Medical Expert); Dr. Daniel Cousin,**

**Defendants.**

---

**ORDER GRANTING DEFENDANTS DR. BILLINGSLEY AND DR. LOGUE'S  
MOTION TO DISMISS PLAINTIFF'S COMPLAINT WITH PREJUDICE**

THIS CAUSE comes before the Court on Defendants', Dr. Emily D. Billingsley (Dr. Billingsley) and Lloyd G. Logue (Dr. Logue), Motion to Dismiss Plaintiff's Complaint With Prejudice (the Motion) filed on November 17, 2022. The Court, having considered the Motion and being otherwise fully advised in the premises, finds as follows:

1. On October 21, 2022, Plaintiff filed a Complaint, alleging medical malpractice against Dr. Billingsley and Dr. Logue for medical care and treatment Plaintiff received on or about October 21, 2018. Prior to filing the Complaint, Plaintiff served NOIs on Dr. Billingsley and Dr. Logue that did not include a valid, verified written medical expert opinion corroborating reasonable grounds to initiate medical malpractice claims against Dr. Billingsley or Dr. Logue.


2. Plaintiff did not cure the deficiencies prior to filing his Complaint against Dr. Billingsley and Dr. Logue. Therefore, Plaintiff's Complaint must be dismissed for failure to comply with the presuit requirements set forth in Chapter 766, Florida Statutes. See §§ 766.106, 766.202-206, Fla. Stat. (2022).

3. Based on the allegations contained within the four corners of Plaintiff's Complaint, the two-year statute of limitations on Plaintiff's claims against Dr. Billingsley and Dr. Logue has expired. See § 95.11(4)(b), Fla. Stat. Therefore, Plaintiff's can no longer cure the deficiencies stated herein. Accordingly, Plaintiff's claims against Dr. Billingsley and Dr. Logue must be dismissed with prejudice.

4. This Court did not make rule upon the other grounds for dismissal contained in these Defendants' Motion to Dismiss filed on November 17, 2022.

BASED ON THE FOREGOING, it is hereby **ORDERED AND ADJUDGED** that Defendants' Motion to Dismiss Plaintiff's Complaint with Prejudice is hereby **GRANTED** and the claims against these Defendants are hereby **DISMISSED WITH PREJUDICE**.

**DONE AND ORDERED** in Chambers on this Friday, March 10, 2023.

03-2022-CA-001076-CA 03/10/2023 10:54:01 AM  
  
Elijah Smiley, Judge  
03-2022-CA-001076-CA 03/10/2023 10:54:01 AM

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Filing # 168447928 E-Filed 03/10/2023 08:54:54 AM

IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR BAY COUNTY, FLORIDA  
CIVIL DIVISION

CURTIS GORHAM,

Plaintiff,

v.

CASE NO.: 22-001076CA

GARY H. LAVINE; et al.

Defendants.

---

**ORDER OF DISMISSAL OF CLAIMS AS TO DEFENDANT PAYPAL, INC.**  
**WITHOUT PREJUDICE**

THIS CAUSE having come before the Court upon hearing on March 7, 2023, on Defendant PayPal, Inc.'s ("PayPal") Motion to Dismiss Plaintiff's Complaint With Prejudice or, in the Alternative, to Stay Judicial Proceedings as to Claims Against PayPal, Inc. and Compel Arbitration, and the Court having reviewed the Court's file, having considered argument from the Parties, and having been otherwise fully advised in the premises, it is hereby:

**ORDERED AND ADJUDGED:**

1. Plaintiff's claims against Defendant PayPal are hereby dismissed without prejudice.
2. Plaintiff and Defendant PayPal are to bear their respective attorney's fees and costs as to the claims Plaintiff brought against Defendant PayPal.

**DONE AND ORDERED** this Friday, March 10, 2023 in Bay County, Florida.

03-2022-CA-001076-CA 03/10/2023 07:50:48 AM

*ELL Daily*

Elijah Smiley, Judge

03-2022-CA-001076-CA 03/10/2023 07:50:48 AM

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IN THE CIRCUIT COURT OF THE  
FOURTEENTH JUDICIAL CIRCUIT, IN  
AND FOR BAY COUNTY, FLORIDA

CASE NO.: 22-1076-CA

CURTIS M. GORHAM,

Plaintiff,

vs.

DR. GARY H. LAVINE, DR. EMILY D.  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD,  
JOSEPH R. IMPICCICHE (CEO), JUNCO  
EMERGENCY PHYSICIANS, BAY  
COUNTY HEALTH SYSTEM, LLC, THE  
STATE OF FLORIDA, PAYPAL, USAA,  
AND OTHER UNKNOWN PEOPLE SUCH  
AS THE ORDERLY AND RADIOLOGY  
ASSISTANT, (MEDICAL EXPERT) DR.  
DANIEL COUSIN,

Defendants.

---

/

**ORDER GRANTING DEFENDANT, BAY COUNTY HEALTH SYSTEM, LLC'S  
MOTION TO DISMISS PLAINTIFF'S COMPLAINT WITH PREJUDICE**

THIS CAUSE having come before the Court on Defendant, BAY COUNTY HEALTH SYSTEM, LLC'S, Motion to Dismiss Plaintiff's Complaint, Motion to Strike and/or Motion for More Definite Statement and after hearing argument and being duly advised in the premises, it is hereupon:

ORDERED AND ADJUDGED as follows:


1. The Motion to Dismiss Plaintiff's Complaint is GRANTED WITH PREJUDICE.
2. The basis for the ruling granting BAY COUNTY HEALTH SYSTEM, LLC'S Motion to Dismiss Plaintiff's Complaint with Prejudice is based upon both the Statute of



Limitations and the failure to comply with the presuit requirements imposed under Chapter 766 of the Florida Statutes.

3. This Court did not rule upon the other grounds for dismissal contained in the November 17, 2022 Motion to Dismiss. Additionally, the Court did not rule upon BAY COUNTY HEALTH SYSTEM, LLC'S Motion to Strike and/or Motion for Definite Statement.

**DONE AND ORDERED** in chambers, Bay County, Florida, this Friday, March 10, 2023.

03-2022-CA-001076-CA 03/10/2023 07:50:50 AM  
  
Elijah Smiley, Judge  
03-2022-CA-001076-CA 03/10/2023 07:50:50 AM

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LYNN HAVEN, FL 32444

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cyndi.trotti@quarles.com  
docketfl@quarles.com

**IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT OF THE  
STATE OF FLORIDA, IN AND FOR BAY COUNTY**

CURTIS M. GORHAM,

Plaintiff,

**V.**

DR. GARY LAVINE, DR. EMILY  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD, JOSEPH  
R. IMPICCICHE CEO, JUNCO EMERGENCY  
PHYSICIANS, BAY COUNTY HEALTH  
SYSTEM, LLC, STATE OF FLORIDA, PAYPAL,  
USAA, AND DR. DANIEL COUSIN,

CASE NO.: 22001076CA

**Defendants.**

## ORDER CANCELLING ALL PENDING APRIL HEARINGS

The Court, after having reviewed Defendant's Bay County Health System, LLC's and PayPal, Inc.'s Motion to Dismiss Plaintiff's Complaint with Prejudice or, in the Alternative, to Stay Judicial Proceedings as to Claims Against PayPal, Inc. and Compel Arbitration, and after hearing arguments of the attending parties in chambers via zoom on March 7, 2023, rules as follows:

1. Cancellation of future hearings scheduled for April 4<sup>th</sup> and 11<sup>th</sup>, 2023.
2. The Court has coordinated a future date and time to accommodate all pending Motions to be heard in coordination with available of all attending counsels. The hearing will take place on May 17, 2023, from 9:00 a.m. until 11:00 a.m., central standard time. A zoom link will be provided prior to the hearing.

**ORDERED** on this the Thursday, March 9, 2023

*EL Daily*

Elijah Smiley, Judge

03-2022-CA-001076-CA 03/09/2023 09:13:37 AM

**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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**The Attorney who submitted this proposed order to the court for approval is required to serve a copy of the signed order upon any party or beneficiary not registered to receive service via the e-portal.**

In cases wherein one party is unrepresented (*pro se*), it is the responsibility of the sole attorney in the case to serve within five business days this Order/Judgment upon any *pro se* party who does not have access to and is not a registered user of Florida Court's e-Filing Portal.

copies furnished to:

All registered users with the Clerk of Courts by using the Florida Courts e-filing Portal System and to:

Pro se litigant:  
Curtis Gorham  
3513 Rosewood Circle  
Lynn Haven, FL 32444

**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

February 14, 2023

**CASE NO.: 1D23-0358**  
L.T. No.: 22001076CA

Curtis M. Gorham

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al

---

Appellant / Petitioner(s),

Appellee / Respondent(s)

**BY ORDER OF THE COURT:**

Appellant has filed a notice of appeal in the lower tribunal without the entry of an order of insolvency or deposit of the statutory filing fee. Accordingly, Appellant shall, within 30 days from the date of this order, either file a certified copy of the lower tribunal's order of insolvency for appellate purposes as required by Florida Rule of Appellate Procedure 9.430 or pay to the clerk of this Court the sum of \$300.00 as the appellate filing fee required by the applicable rule of procedure and Section 35.22(2)(a), Florida Statutes (2018). If Appellant seeks a waiver of the filing fee on the grounds of indigency, Appellant shall file a motion and affidavit of indigency with the clerk of the lower tribunal (the court, agency, officer, board, commission, or body whose order is to be reviewed) for a determination by the lower tribunal of whether an order of insolvency should be issued pursuant to Rule 9.430 and Section 57.081(1) or 57.085(2), Florida Statutes (2018), as applicable.

This appeal shall not proceed until the order of insolvency is filed or the fee is paid. Failure to comply with this order will result in the dismissal of this case without further opportunity to be heard. Florida Rule of Appellate Procedure 9.410.

**I HEREBY CERTIFY** that the foregoing is (a true copy of) the original court order.

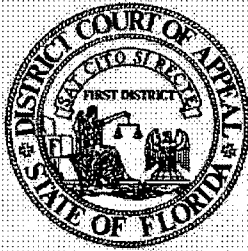
Served:

Dennis Jackson Martin & Fontela  
Henry Buchanan, P.A.  
PayPal  
Curtis Gorham  
Hon. Bill Kinsaul, Clerk

Hall Schieffelin & Smith, P.A.  
Hon. Ashley Moody, AG  
USAA  
Dr. Daniel Cousin

cp

  
KRISTINA SAMUELS, CLERK



**DISTRICT COURT OF APPEAL, FIRST DISTRICT  
2000 Drayton Drive  
Tallahassee, Florida 32399-0950  
Telephone No. (850) 488-6151**

February 14, 2023

**CASE NO.: 1D23-0358**  
L.T. No.: 22001076CA

Curtis M. Gorham

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al

---

Appellant / Petitioner(s),

Appellee / Respondent(s)

**BY ORDER OF THE COURT:**

Upon the Court's own motion, pursuant to Florida Rules of Appellate Procedure 9.110(d) and/or 9.130(c), appellant is directed to file within 10 days from the date of this order conformed copies of the order(s) of the lower tribunal from which the appeal is being taken, together with any order entered on a timely motion postponing rendition of the order(s) appealed. The appellant shall also file a copy of the motion that postpones rendition. The copy of the motion shall include the original dated certificate of service. The conformed copies shall be filed by the appellant with a notice of filing which contains a certificate of service reflecting service on all counsel or parties in the case. Florida Rule of Appellate Procedure 9.420(c). The failure of appellant to timely comply with this order could result in the imposition of sanctions, including dismissal of the appeal/petition without further opportunity to be heard. Florida Rule of Appellate Procedure 9.410.

**I HEREBY CERTIFY** that the foregoing is (a true copy of) the original court order.

Served:

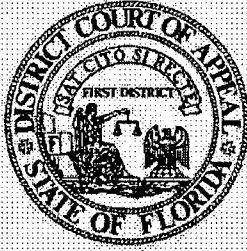
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Henry Buchanan, P.A.  
PayPal  
Curtis Gorham  
Hon. Bill Kinsaul, Clerk

Hall Schieffelin & Smith, P.A.  
Hon. Ashley Moody, AG  
USAA  
Dr. Daniel Cousin

cp



Kristina Samuels  
KRISTINA SAMUELS, CLERK



**IN THE CIRCUIT COURT  
OF THE FOURTEENTH JUDICIAL CIRCUIT,  
IN AND FOR BAY COUNTY, FLORIDA**

**CASE NUMBER: 03-2022-CA-001076-CA  
ESMILEY - Circuit Civil Division**

**CURTIS M GORHAM,  
Plaintiff,**

**-VS-**

**DR GARY H LAVINE  
DR EMILY D BILLINGSLEY  
KENDREA VIRGIL  
LLOYD G LOGUE  
DONNA BAIRD  
JOSEPH R IMPICCICHE  
JUNCO EMERGENCY PHYSICIANS  
BAY COUNTY HEALTH SYSTEM LLC  
STATE OF FLORIDA  
PAYPAL  
USAA  
DR DANIEL COUSIN,  
Defendant.**

---

**ORDER DENYING MOTION TO APPOINT COURT REPORTER OR FILING OC  
COURT REPORTER's REPORT.**

This is a civil proceeding. The Court does not provide a court reporter or transcripts of hearings in circuit civil proceedings. The parties are responsible for hiring a court reporter, if desired.

The motion to appoint court reporter is denied without hearing.

**DONE AND ORDERED** in Panama City, Bay County, Florida, on Thursday, January 26,

2023.

03-2022-CA-001076-CA 01/26/2023 11:22:12 AM

*ELJ Smiley*

Elijah Smiley, Judge

03-2022-CA-001076-CA 01/26/2023 11:22:12 AM

**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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**The Attorney who submitted this proposed order to the court for approval is required to serve a copy of the signed order upon any party or beneficiary not registered to receive service via the e-portal.**

**If you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the ADA Coordinator by mail at Post Office Box 1089, Panama City, FL 32402 or by phone at (850) 767-3550 at least seven (7) days before your scheduled court appearance, or immediately upon receiving this notification if the time before the scheduled appearance is less than seven (7) days. If you are hearing or voice impaired, please call 711.**

Filing # 164521838 E-Filed 01/11/2023 11:17:03 AM

**IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT OF THE  
STATE OF FLORIDA, IN AND FOR BAY COUNTY**

CURTIS M. GORHAM,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
DR. GARY LAVINE, DR. EMILY	)	CASE NO.: 22001076CA
BILLINGSLEY, KENDREA VIRGIL, RN,	)	
LLOYD G. LOGUE, DONNA BAIRD, JOSEPH	)	
R. IMPICCHICHE CEO, JUNCO EMERGENCY	)	
PHYSICIANS, BAY COUNTY HEALTH	)	
SYSTEM, LLC, STATE OF FLORIDA, PAYPAL,	)	
USAA, AND DR. DANIEL COUSIN,	)	
	)	
Defendants.	)	

---

**ORDER ON DEFENDANT DR. COUSIN'S MOTION TO DISMISS, OR IN THE  
ALTERNATIVE, MOTION FOR MORE DEFINITE STATEMENT**

---

The Court, after having reviewed Defendant Dr. Daniel Cousin's Motion for To Dismiss or in the alternative, Motion for More Definite Statement, and review of the record evidence submitted in this case, and after hearing argument of the parties in chambers via zoom on January 10, 2023, rules as follows:

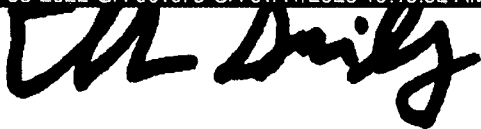
1. Plaintiff alleges in his complaint an action for civil theft, breach of contract, contract violation, fraud, professional negligence and malpractice, extortion, and conspiracy. The complaint must set out the elements and the facts that support the claims so that the court and the defendant can clearly determine what is being alleged. *Barrett v. City of Margate*, 743 So.2d 1160, 1162 (Fla. 4<sup>th</sup> DCA 1999). Furthermore, a pleading is deemed to be insufficient if it contains mere statements of opinions or conclusions unsupported by specific, ultimate facts. Fla. R. Civ. Pro. 1.110(b)(2).
2. In response to the allegation of civil theft, Plaintiff must show that a contractual relationship exists, and that any civil theft must go beyond and be independent from a failure to comply with the contractual Terms. *Walker v. Figarola*, 59 So.3d 188 (Fla. 3<sup>rd</sup> DCA 2011). While there is evidence of a contractual relationship, the complaint failed to

set forth any factual allegation to support any theft or attempt to conduct civil theft by the Defendant.

3. Plaintiff alleges an action for breach of contract and contract violation by the Defendant. The complaint reflects that the Plaintiff engaged the services of Defendant in a bargained for exchange for which valuable consideration was paid to secure an expert radiological opinion as to whether, from a radiology standpoint, there was a breach of the standard of care for radiological medical services received by the Plaintiff on or around October 21, 2018. Defendant provided an opinion and as such, there are no factual allegations to support that the Defendant breached his contractual duties.
4. To establish a claim for fraud, Plaintiff must show (1) a false statement concerning a specific material fact; (2) the maker's knowledge that the representation is false; (3) an intention that the representation induces another's reliance; and (4) consequent injury by the other party acting in reliance on the representation. *Wadlington v. Cont'l Med. Services, Inc.*, 904 So.2d 631, 632 (Fla. 4<sup>th</sup> DCA 2005). Plaintiff failed to plead the required elements of fraud.
5. A claim was made for professional negligence and malpractice against the Defendant. The Complaint clearly establishes that there is no doctor-patient relationship between the parties and as such, there can be no claim for medical malpractice or professional negligence.
6. As for the allegations of extortion and conspiracy, the complaint fails to allege sufficient facts in support of either claim.
7. This judgment is entered on behalf of the Defendant Dr. Daniel Cousin and the claims against Dr. Cousin are dismissed with prejudice.
8. This Court reserves jurisdiction to tax fees and costs.

**ORDERED** on this the Wednesday, January 11, 2023

03-2022-CA-001076-CA 01/11/2023 10:16:52 AM



Elijah Smiley, Judge  
03-2022-CA-001076-CA 01/11/2023 10:16:52 AM

**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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Lynn Haven, FL 32444  
[Juneboat21@gmail.com](mailto:Juneboat21@gmail.com)

**IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT OF THE  
STATE OF FLORIDA, IN AND FOR BAY COUNTY**

CURTIS M. GORHAM,

Plaintiff,

v.

DR. GARY LAVINE, DR. EMILY  
BILLINGSLEY, KENDREA VIRGIL, RN,  
LLOYD G. LOGUE, DONNA BAIRD, JOSEPH  
R. IMPICCICHE CEO, JUNCO EMERGENCY  
PHYSICIANS, BAY COUNTY HEALTH  
SYSTEM, LLC, STATE OF FLORIDA, PAYPAL,  
USAA, AND DR. DANIEL COUSIN,

Defendants.

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CASE NO.: 22001076CA

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**ORDER REMOVING PERSONAL SENSITIVE INFORMATION FROM  
COURT FILINGS**

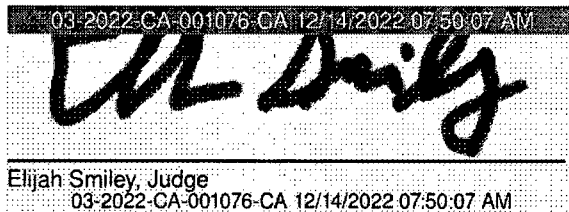
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THIS CAUSE having come before the court on Defendant, Dr. Daniel Cousin's ("Cousin"), Motion to Remove Personal Information from Court Filing ("The Motion"), and the court having reviewed the Motion and Court file and being otherwise duly advised in the premises hereby ORDERED AND ADJUDGED as follows:

1. The Motion is APPROVED.
2. The Clerk of Courts is directed to remove the exhibits attached to the Motion to Dismiss filed by Cousin (Doc.24) and replace the Exhibits with the attached proposed redacted Exhibits.

3. All parties to this action that received copies of Cousin's original Motion to Dismiss shall likewise remove the attached Exhibits to Cousin's Motion to Dismiss and replace them with the attached Exhibits.

**ORDERED** on this the Wednesday, December 14, 2022



**ELIJAH SMILEY, M.B.A., C.P.A.**  
**Circuit Judge, Bay County, Florida**

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**The Attorney who submitted this proposed order to the court for approval is required to serve a copy of the signed order upon any party or beneficiary not registered to receive service via the e-portal.**

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IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT  
IN AND FOR BAY COUNTY, FLORIDA  
CIVIL DIVISION

CURTIS GORHAM,

Plaintiff,

CASE NO.: 22-001076CA

v.

GARY H. LAVINE; EMILY D.  
BILLINGSLEY; KENDREA VIRGIL;  
LLOYD G. LOGUE; DONNA BAIRD;  
JOSEPH R. IMPICCICHE; JUNCO  
EMERGENCY PHYSICIANS; BAY  
COUNTY HEALTH SYSTEM LLC;  
STATE OF FLORIDA; PAYPAL INC.;  
USA; and DANIEL COUSIN,

Defendants.

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**AGREED ORDER GRANTING STIPULATION AND JOINT MOTION TO REMOVE  
PERSONAL SENSITIVE INFORMATION FROM COURT FILING**

THIS CAUSE having come before the Court on Plaintiff, Curtis Gorham (“Gorham”), and Defendant, PayPal, Inc. (“PayPal”) Stipulation and Joint Motion to Remove Personal Sensitive Information from Court Filing (the “Stipulation”), and the Court having reviewed the Stipulation and Court file and being otherwise duly advised in the premises hereby by ORDERS AND ADJUDGES as follows:

1. The Stipulation is APPROVED.
2. The Clerk of Court is directed to remove Page 5 of the Motion to Dismiss Plaintiff’s Complaint with Prejudice or, In the Alternative, to Stay Judicial Proceedings as to Claims Against PayPal, Inc. and Compel Arbitration found at entry number 26 on the Court’s docket and replace said Page 5 with the document attached hereto.

3. All parties to this action that received a copy of PayPal's original Motion to Dismiss shall likewise remove Page 5 and replace it with the attached Page 5.

DONE AND ORDERED this Monday, November 21, 2022 in Panama City, Bay County, Florida.

03-2022-CA-001076-CA 11/21/2022 08:10:51 AM  
  
Elijah Smiley, Judge  
03-2022-CA-001076-CA 11/21/2022 08:10:51 AM

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IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

---

<b>Plaintiff,</b>	)	
Curtis M. Gorham	)	<b>Bay County Civil District Court</b>
<b>VS</b>	)	
<b>Defendants,</b>	)	<b>Case No. <u>22001076CA</u></b>
Dr. Gary H. Lavine, Dr. Emily D. Billingsley,	)	
Kendrea Virgil., RN, Lloyd G. Logue, Donna Baird,	)	<b>Date: 10/21/2022</b>
Joseph R. Impicciche (CEO), Junco Emergency	)	
Physicians, Bay County Health System LLC,	)	
The State of Florida, Paypal, USAA, and other unknown	)	
people such as the orderly and radiology assistant,	)	
(Medical Expert) Dr. Daniel Cousin.	)	

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**Lawsuit**

This is a lawsuit against a hospital, its staff or contractors and the staffing agency along with the State of Florida and the Florida Statutes regarding medical malpractice within Chapter 766 and any Rules in relation and association with those statutes. Along with the people, medical providers and corporate entities that contributed to plaintiff being harmed and contributed to harms after the fact. Such as the retainment of a medical expert through banking entities which resulted in fraud and failure to charge back the lost money to that fraud.

Plaintiff states that after hurricane Michael on 10/6/2018 on 10/21/2018 during a visit to the Bay Medical Sacred Heart hospital emergency room and also the radiology department CT scan room with the staff of the hospital in Panama City, Florida plaintiff Curtis M. Gorham became injured in several ways. Plaintiff believes a duty was owed and harm was caused due to either negligent and or intentional acts and omissions, as well to include premise liability, corporate negligence, personal injury, medical malpractice and the associated corporate members for negligence in hiring and training and as (under the legal theory of) respondeant superior. The hospital claims in its terms to be responsible for medical malpractice. The Risk Manager of the hospital also refused to help plaintiff despite saying she would look into it and made lies and these parties appear to have been playing the "opposite game" actually for reasons unknown to plaintiff. The medical malpractice aspect is being taken up as a legal matter under the "common knowledge" doctrine exception.

Given the circumstances of the incident(s) it is obvious what took place and can be understood as a eugenics effort potentially, a medical experimentation effort and or a conspiracy to cover-up the efforts of others who can be seen to have done things in a negligent and also intentional way. The risk manager of the hospital was in contact with plaintiff shortly later and did an investigation and said she found that the staff did what plaintiff wanted, which is a lie. That is really an admission by the staff then that they know what they did was wrong as things were done which were agreed to not happen but the staff did it anyway. Meaning the staff lied to plaintiff directly and they did the things

anyways and then claim they did what plaintiff wanted. This is what the evidence shows. There is a witness also.

It is like parents tell a child not to have a party while they are out of town and then the child does and when asked claims no party happened despite the obvious appearance of a party. This is the type of lies and attempts at deception that took place at the hospital and later by the risk manager who legitimately claimed to plaintiff that there was no lower body CT scanning done and also then within the same moments of that conversation claim that the "sacrum" bone is not within the pelvis because it is a part of the lower spine 'and therefore not a pelvic bone regardless of location.' Which required to plaintiff to further inform the risk manager that plaintiff's legs had been imaged with the ionizing radiation used on plaintiff. As well this follow-up conversation which really only was a admission of guilt by the providers involved was also a denial of plaintiff's claims to the risk manager who was informed what the staff did to plaintiff and so the return phone call after her investigation really was only to deny all claims based on her investigation. Which makes her earlier request to plaintiff of "tell me what happened so I can help you" seem pretty disingenuous and fraudulent, in a tell me what happened so I can cover it all up way.

The hospital never provided a copy of the "order" despite it being requested and so the risk manager refusing to help plaintiff anymore is clearly evidence of the cover-up by a hospital who claims to be responsible for "medical malpractice" in their terms. A notice of intent to initiate litigation was sent to the hospital and medical providers involved back when the covid-19 virus pandemic began to happen. These legal matters are being taken up now by plaintiff four years later on 10/21/2022 within the statute of limitations.

A medical expert in radiology was retained and was a fraud and basically invalidated his own opinion and participation in the legal process in a contract violation way and malpractice and professional negligence way. He did make some important findings during his review however there is no actual "merit" from him granted to the various medical malpractice claims presented to him which is his fraud and he refused to participate with obvious causes of action. However, there are also the "common knowledge doctrine" exception in case law and the "foreign body retainment doctrine" exception that makes the "opposite game" parties liable for their acts and omissions and doesn't require expert testimony in addition to what is already common knowledge because the staff engaged in a conspiracy and cover-up. Which means that the experts findings are of use despite him not wanting to be involved as an expert.

The medical expert (Dr. Daniel Cousin) literally said he can not create an "affidavit" only an attorney can do that. He is a state registered medical expert who provides reviews, opinions and affidavits so how can he not be able to provide an affidavit without an attorney participating, that is not what his services are being offered as from a fundamental basis? That providing merit to various matters and an affidavit is not the service(s) he was advertising or retained to do is crazy and evidence of a fraud.

He initially emailed plaintiff and his staff saying that plaintiff was pro se. It adds more evidence that the definition in Florida Statutes Chapter 766 about medical expert review being something an attorney does really does mean it is only a regulation for attorneys to retain medical experts if Dr.

Cousin believes he is incapable of providing an affidavit.

Meaning even when plaintiff retained an expert he ultimately would be of no use and wouldn't do anything without an attorney. The radiology medical expert found that the wrong body part was CT scanned (medical battery and unnecessary diagnostic testing among others) of the pelvic "sacrum" bone and that the misdiagnosed (failure to diagnose) injury in plaintiff's back was present at the time of the CT scan. Plaintiff informed staff no pelvic injury existed and staff said they understood that yet they CT scanned plaintiff's entire sacrum bone anyway. The sacrum is a bone in-between the hips that connects to each hip bone as the only bone bridge between the hips and then connects to the lower spine segment known as the lumbar spine. This area of the body is also referred to as the "lumbo-sacral" region and the sacrum (hip-bone) region is further known as the "sacred site" in radiology since the region of the body contains the radio-sensitive parts of the human reproductive anatomy, and are thus "sacred" so it is known as the sacred site.

Plaintiff received unwanted exposure and or over-exposure without consent and it is unknown how much actual ionizing radiation was used during the CT scan both above and below the actual injured areas of the spine and or body. The exam went far below what was agreed and was far more exposure than wanted, expected or known at the time or agreed to and plaintiff also believes that the higher images were apparently deleted and over-all plaintiff was a subject of either intentional consented medical experimentation or absolute incompetence and negligence of staff and the facility which resulted in a cover-up effort that is obviously fraudulent.

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## **Part 2:**

Plaintiff was suspiciously discharged from the hospital emergency room after a brief conversation with the emergency room physician (Dr. Gary Lavine) who stated that the radiology CT scan didn't reveal any broken bone or misalignment in the spine and he noted that he didn't see any further need for more evaluation, however it was weeks later shown on an x-ray that a "compression fracture" (broken bone) existed in the T12 vertebrae and the medical expert agrees he is able to identify the location in the remaining images of the CT scan that show "soft tissue stranding" in area just below the lower part of the T12 vertebrae which indicates the injury was present on the night of 10/12/2018 during the CT scan. Dr. Cousin the retained medical expert apparently doesn't fault the radiologist for the over-sight despite being able to identify it himself as well as another provider consulted was able to identify the "soft tissue stranding." Ultimately Dr. Cousin has refused to be an expert without an attorney and has totally failed to address the issues involved in regards to the record and plaintiff's narrative of what actually happened. Dr. Cousin is treating it initially as a matter for him of only looking at the images and despite seeing fault he refuses to grant merit, apparently because of correlation with damages of plaintiff as a result of the misdiagnosis and or failure to diagnose.

The emergency room physician refused to provide a back brace as well the nurse talked with shortly later and both informed plaintiff to visit a back doctor for further evaluation. Plaintiff was given a lower back exercise routine to do in a series of papers within a folder given at discharge along with a small amount of narcotics in a prescription and a large pain pill was finally taken by plaintiff went sent

home. Plaintiff had refused narcotics until an "x-ray" was taken so no injury would happen being unable to feel the issues in the spine moving around during the evaluation process. There was great fear of a great injury to the spine by plaintiff. The issue of a back brace was raised several times and discussion of surgery and what could be wrong and how to manage it all of which managed to get a CT scan evaluation and narcotics but no diagnosis and only narcotics and a referral to a back doctor.

Ultimately the staff didn't address plaintiff's injury properly and did do specifically stated and agreed to not happen unwanted exams using dangerous and damaging ionizing radiation without consent for injuries that were known and or stated not to exist in the pelvic region. As well the nurse Kendrea Virgil inserted an unwanted IV into plaintiff's arm when she was not supposed to and use asked to use a needle as agreed to and then again she did what was unwanted by plaintiff by injecting plaintiff with an unknown fluid. Claiming that "she had to" or else the IV would be clogged. Yes well she asked many times to draw blood and was refused then a back and forth about the use of a "butterfly" needle was had and so agreement was made something similar could be used yet she inserted an unwanted IV and then when noticed plaintiff said wow looks like an IV and don't inject me with anything. She shouldn't have used an IV and should have removed it when finished since she did and her injection is alleged to have caused problems to plaintiff. Specifically, plaintiff developed skin discoloration and erectile dysfunction and the fluid had a bad odor to it. It is her repeated requests to draw blood along with the unwanted aspects that really highlight her negligent acts and the associated harms.

Equally of harm is the erectile dysfunction and lower body damages caused by the radiology department who actually deleted two entire series of images from the CT scan. The actual total amount of images do not add up correctly. They were spoken with about what was to be done before the exam and or study and what was not to be done in regards to lower body scanning and upper body scanning and asked by plaintiff to provide a shielding which was said to not be needed and a "copy of the order" from the emergency room physician and all was agreed except after a look around by the doctor (Dr. Emily Billingsley) and her unknown assistant they had no way to provide a copy and so the agreement was made despite not having the copy of the order and they caused harm to plaintiff. It is possible to allege intentional acts as well negligent acts and omission.

This incident really strips away the myth that medical providers are trained and want to help and despite the amount of conversation had in this matter with the providers that no diagnosis was made and that they did what could only be considered cartoon-ish. If an audio recording existed that could be presented it would feature plaintiff speaking at length with the nurse and not getting much of a reassurance of the problem and the same with the emergency room physician and radiologists yet they were all well aware of the problem going on and hence the narcotics and CT scan.

The nurse asked a lot about getting blood drawn and getting into the bed despite plaintiff saying no thanks don't want to injure the back doing it and it would be painful so lets just get an x-ray. The nurse and doctor asked about hitting head falling down and pain in the lower body but it was all denied by plaintiff who had lower middle back pain as stated yet the records were morphed into an impossibly described fall on the butt which isn't true and there is a witness who was there when plaintiff fell and the nurse and doctor were explained at length exactly what happened by plaintiff

falling flat backwards into a concrete sewer enclosure and not down onto the butt but backwards and landing basically flat and on a tilted slab around the sewer.

When plaintiff fell there was an explosion of 'neurons' firing off instantly in the lower spine area radiating outwards to the side of the body and up to the point of the T12 and then an extreme pain in the T12 vertebrae. It was the T12 vertebrae that is the thing plaintiff said "my back is hurt" and the pains within the lumbar were at first thought to be the last thing plaintiff would feel before having no feeling as if the spinal cord was damaged in the fall yet shortly later it was just suspected to be potentially caused by the belt of the jeans hitting the concrete during the fall but it could be pain coming down from the T12 also and or just general you fell down pains and so it was unsure what exactly was the problem if there was two problems or only the one at T12 which was the major motivating factor to go the emergency room to get diagnosed as time passed it was more and more painful to move and exist and that was because the T12 vertebrae (the lower part of the middle thoracic spine, hence the "T" in T12) had a compression fracture and the lower lumbar was just painful for no diagnosed reason apparently. The radiologist CT scan exam and or study went below the lumbar spine into the pelvis to CT scan the entire "sacrum" bone from top to bottom looking for an injury that was not stated to exist in the records and no symptoms of any pelvic injury noted. The radiologists were informed of the circumstances and agreed to not do any pelvic scanning it was only going to be from the belt line upwards to an exact location unknown in the thoracic spine or lumbar spine unknown to plaintiff at the time but the staff was aware where it was believed because of various discussion and pointing at the area. Ultimately the T12 was only imaged on the lower part of the T12 and the actual fracture was between the T12 and the next vertebrae up the T11.

It is very suspicious there are now missing entire series of images if you look at the top left corner it shows the image number and the series number and there are two entire series missing which could thousands of images and or the T12 and T11 imaged but deleted. There are reasons alleged included herein as to why the radiologist deleted those images and why they exam was what it was. Primarily it is possible that if not intentional over-exposure then the negligent aspect of things took over the staff and they tried to cover it all up but each has a few way to be understood regardless. It is perfectly evident from the record and facts involved that not only was the extra examination not needed but also not wanted.

This lawsuit is a "together, all the way" type of lawsuit since it involves action by various medical providers and the risk manager of the hospital. Plaintiff requested preservation of medical records and the video which shows plaintiff walking around which highlights a back injury and not a pelvic injury. Plaintiff also has a picture standing in the emergency room taken by the family member witness who was there when plaintiff fell standing right in front of plaintiff helping plaintiff when plaintiff fell backwards and was also in the emergency room with plaintiff the entire time witness to speaking with the nurse and doctor.

Finally, there was also a unknown 'orderly' present before and after the CT scan happened that escorted plaintiff from the emergency room to the radiology department CT scan room to get the order and find out about the order and was present for the initial discussion with the radiology doctor and her unknown male assistant and then when the CT scan was finished the orderly returned and

managed alone to “yank” on plaintiff to try to get plaintiff off of the CT scan table (bed). Later the radiology assistant arrived to also help plaintiff get off the table (bed). This incident is a level of incompetence that caused a lot of pain and is unbelievable lack of training and effort by the staff of a patient with a stated back injury who doesn't know how the mechanics of a back injury works and was very cautious that night about it all and then to be yanked on in this way was a form of medical battery and negligence that is unimaginable. Plaintiff returned to the emergency room in extreme pain as a result of the yank by the orderly (resulting in plaintiff having to scream and stop the orderly) and the raising of the arms during the CT scan was potentially also a contributing factor since it was a uncomfortable position and the radiologist nudged plaintiff up against the ring as well moving the table further and further as plaintiff was already pressed up against the ring.

In summary the emergency room physician failed to diagnose and treat plaintiff's back injury and the radiology staff failed to diagnose the back injury properly and appear to have done more than is properly evidenced in the records in regards to radiation over-exposure and without consent as well and the nurse also played a role in it all it appears and injected plaintiff without consent and the orderly and exam caused more back pain and overall was a harmful and traumatizing experience that didn't result in a correct diagnosis or records or back brace or instruction on how to live with a compression fracture in the lower middle spine and instead plaintiff was given instruction on how to exercise the lower back.

There is a lot that makes no sense when everything is reviewed and there are still unanswered questions. The staff just didn't take “no” for an answer but acted like they did. It's odd plaintiff spent the night saying how damaged the back was then didn't get diagnosed despite the CT scan and telling staff specifically the nurse and doctor that there is still pain why is that and they said well go to the back doctor then the expert later saying he can see how the back was injured in the area that wasn't diagnosed and then at the end of the night plaintiff got narcotics.

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#### **Paypal and USAA as Parties:**

Paypal and USAA both were contacted in regards to the money sent from a USAA credit card through Paypal to the State Registered radiology (Medical Expert) Dr. Daniel Cousin. Paypal claimed that the money could not returned because the money was sent as a “personal payment” instead of a “business payment.” Dr. Cousin's requested the money to be sent in this way so that the additional fee associated with the money transfer would be incurred by plaintiff. USAA also refused a return of the money after an investigation and appeal process that had plaintiff describe the incident and attach all of the emails and documents. Paypal was also made aware of the incident in some detail.

Plaintiff wrote a good deal about Dr. Cousin which will be cited and filed as part of this lawsuit but would add about 10 pages to this initial lawsuit filing and be more information than most anybody would want to read. [cite]

Dr. Cousin and plaintiff spoke on the phone after plaintiff sent him an email asking if he could provide a review of medical records, opinion and affidavit which email plaintiff believes briefly outlined the incident at the hospital. Dr. Cousin made a phone call to plaintiff shortly later to discuss the matter(s)

and plaintiff informed him how the staff did things against the agreement with plaintiff (the narrative), over-exposed plaintiff to what extent unknown and also failed to diagnose plaintiff which is all pretty crazy conspiracy stuff to include changing of records involved. Dr. Cousins agreed to be retained yet his review didn't get into the details of the matter or address the causes of action and really just be a work product of an expert in radiology. Instead it appears he was interested in getting paid making a flawed opinion out of his consultation he claimed to be a report only and refused to fix it or refund plaintiff or grant merit to anything. He really appears to not only wanted to be paid but for his friend to also be paid by plaintiff as another retained expert as a emergency room physician and then maybe with an attorney also he would have given things merit but was of the opinion as stated to plaintiff "who is going to object" at a deposition or trial "you?"

Everything to say about Dr. Cousin is actually plaintiff doing the work for the medical expert and explaining how all the things he could have done should have been done about the incident which explains the acts and omissions of the parties involved such as the doctors and assistant. He essentially invalidated himself as an expert and attempted to get plaintiff caught up in a money scheme and really leave plaintiff to get caught up with "technicalities" when it comes to the lawsuit. His observation is valid that plaintiff was injured and obviously plaintiff was misdiagnosed and also the "wrong body part was scanned" he says but Dr. Cousin ultimately held up plaintiff from proceeding with these legal matters in an attempt to collect more time and money from plaintiff. Meaning he and the Paypal and USAA have inherited the damages of plaintiff that the lawsuit would have been since they failed to properly handle the matters.

As in if plaintiff transports an item from Point A to Point B with insurance and the item is stolen en-route then the insurance must pay for the item. Plaintiff attempted to use Dr. Cousin as an expert who failed due to fraud and so he and the money changers involved who further complicated things must pay plaintiff back for plaintiff no longer having an item due to fraud (theft by Dr. Cousin). Dr. Cousin was essentially reviewing the material to then have plaintiff also retain his friend and his resulting work is evidence of that as it is incomplete and hastily finished with errors of exams and doctors names and only framed in a single manner of "was plaintiff ever injured" and not as a comprehensive medical expert in radiology review of the entire aspects involved. It's a back of the napkin review sort of thing that he didn't even get that right.

To be perfectly clear. Dr. Cousin was asked to provide a review, an opinion and a affidavit that was the financial ability plaintiff had to make that happen and Dr. Cousin agreed and then in the end he claimed plaintiff was trying to "extort" him because of plaintiff wanting the expert to add the appropriate information to his narrowly focused review and opinion. If he was paid to do a review and provide an opinion then plaintiff can't be alleged to extort him for asking him to do that which he was retained to do. There can not be a difference of opinion on this matter that he was only going to be retained but only retained to then provide partial review and partial opinions and no affidavit ever without an attorney. The first email to plaintiff and his staff was plaintiff is representing himself "pro se" so obviously Dr. Cousin made things as difficult as could be for plaintiff to try to hold things up for an attorney that obviously wasn't ever going to be retained and so Dr. Cousin is well aware of the facts and claimed just the opposite basically to be true all along. He jeopardized plaintiff's legal matters.

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### **Unnamed Parties:**

Plaintiff contacted a variety of people and government departments after the incident in an effort to secure a investigation given that the actual amount of radiation is unknown and what was done was obviously unnecessary. There is a lot of parties herein these matters already and adding further government entities seems to plaintiff to be more than a pro se plaintiff can handle; however if the court would like to allow for a leave to amend the complaint and the other parties also wish to include such other parties the efforts made by plaintiff will be made available. Plaintiff is interested in the outcome of such parties being included. To the point of why do patients have no recourse if a CT scanner is causing harm and there is nobody willing to actually investigate things properly.

One outcome was a medical expert opinion by the Florida Department of Health which stated that plaintiff "didn't know what was going on" in regards to the CT scan. Which means what happened to plaintiff was obviously unnecessary. There is also a lack of informed consent and there is the medical battery cause of action also which are civil lawsuits for plaintiff and the government investigation done that resulted in that opinion didn't result in any further action by the Florida Department of Health and they sealed the complaint.

They have also filed away various other complaints by plaintiff but this Bay Medical hospital incident is one that made it into the investigation phase being a very long process that never made it out of the final phase. Plaintiff can suspect it was the radiology assistant who required plaintiff remove the jeans for the CT scan that gave the whole exam a grain of truth and also the way the medical providers coordinated the medical records, yet it still makes no sense in the medical records and that a sacrum injury got CT scanned without symptoms in the records and then there is no sacrum injury at all. Inside and outside up and down the entire sacrum and there is no injury. That's because it was a compression fracture much higher at the T12 and apparently radiating downwards and or just hurting from the fall in the lumbar area above down to above just about the belt line area. The stated lumbar pain was general pain and the T12 pain was an actual spot of known damage and the pelvic injury was denied and the doctor even patted plaintiff on the butt and asked does your butt hurt? Plaintiff must imagine that the incorrect nurse notes confused the doctor who was informed like the nurse what happened to the back area only and that is why he said he was writing an order to not have any pelvic scanning and hence plaintiff asked the radiology department about the order.

That all makes perfect sense. Anything else doesn't. Such as why not MRI a pelvic injury if there was one or a suspected injury as there is no ionizing radiation involved in an MRI and that a similar exam but with radiation in a CT scanner causes infertility and cancer and deterministic effects? Something happened that wasn't supposed to with this incident and plaintiff specifically spoke to the staff at length about it all as well which makes it all the more worse. The doctor was asked for an x-ray as well and he said no.

Additionally, This may even be why the radiology assistant had plaintiff put his legs over the triangle pillow (regardless that the claimed exam was a damaged sacrum – lets manipulate that damages bone up over a large triangle pillow – being the same act as yanking on plaintiff by the orderly to get plaintiff off the table (bed) and the nurse always asking about getting into the bed) so that the pants

pockets would be even closer to the CT scan ring for imaging and they could do the exam and it appear less obscene then if the legs were flat since plaintiff asked you mean pelvic exam like down by my pockets pelvic exam yeah I don't want or need that the injury is up here. So plaintiff suspects the staff thought plaintiff was recording or a had a weapon in his pocket and hence the leg images.

Meaning all the efforts by staff were "self-serving" if not for one theory reason it is for the cover up reason and negligence reasons and intentional medical experimentation such reasons it certainly wasn't for plaintiffs benefit. If it was going to be for plaintiff then the nurse would have given plaintiff the medical records she had written and were requested and the orderly or radiology staff would have given plaintiff the copy of the doctor's order. And the nurse wouldn't have used an IV and injected plaintiff. And plaintiff wouldn't have been yanked on on the CT scan table and a diagnosis would have been made and a back brace likely provided as it was requested and a larger narcotics prescription given.

Plaintiff doesn't know who the male radiology assistant was or the orderly. Assuming a conspiracy by the hospital there are likely other people involved. There is also the continued conspiracy efforts after this incident and what people are involved in that are both known and unknown.

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#### **The State of Florida and Statutes as a Party:**

The State of Florida has statutes which enable such acts and omissions by staff and are challenged here regarding Chapter 766 and also the aspect involving "medical experts" the statutes remain silent what to do when there is no financial way to afford experts. Plaintiff assumes the court can use the authority a judge and jury have as "finders-of-fact" to call in opinions and testimony if it is needed since the legislature says the Chapter 766 are not meant to deny citizens access to the courts. Thus any pre-suit notice of intent statutes are regulations for attorneys it appears not only financially and in reality but also because the definition of who retains an expert is "attorneys." These statutes are all in question here. It can not be expected that a poor citizen investigate the uses of ionizing radiation in a conspiratorial way by a corporation that is refusing to cooperate when a variety of state and federal laws and regulations prohibit the use of ionizing radiation in such ways. Additionally the attorney aspect is difficult because many advertise contingency fee representation but refuse representation. Leaving citizens without means to prosecute litigation for harms caused with no way to seek remedies for medical malpractice that are not "common knowledge" matters.

The State of Florida is made a party to this matter primarily for "Injunctive Relief" purposes but can allow liability if they so choose in regards to this being a petition for a redress of grievances. The reasoning is that a variety of attorney's have stated through denial letters to plaintiff that the "Medical Expert(s)" described in FL Statutes Chapter 766 are a "requirement" for all matters described in the "Notice of Intent" sent to them by plaintiff. Being that plaintiff can not afford legal representation and Chapter 766 "defines" those who are supposed retain experts as "something a attorney does" and also a variety of experts only work with attorneys along with the "common knowledge" doctrine exception and the "foreign body retainment" doctrine exception and fact that a court judge "finder of fact" and or jury can request opinion testimony to arrive at fact, plaintiff is particularly susceptible to the defense attorney's legal knowledge being abused in regards to something like "color of law" as in

not using the actual FL Statutes but instead the attorney's own interpretation which doesn't come from similar case matters but other diverse case law which is not applicable here, and or should not be applied here given the extreme circumstances and dangers to the public. Given the fact nobody really knows anything about radiation over-exposure and poisoning and even worse the potential for medical experimentation. It is a matter of great public concern.

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**Jurisdiction:**

The 14<sup>th</sup> Circuit Bay County Court of Florida has Jurisdiction because the incident happened in Panama City Florida within Bay County and the parties operated services within the county and state however the hospital was at the time owned by several parties and include out of state owners which it seems doesn't make them a diverse party to potentially have the case removed to federal court. The incident took place at a hospital in 2018 which has since changed owners and names. At the time of the incident in 2018 it was; Bay Medical Center Sacred Heart Health System, 615 North Bonita Ave, Panama City, FL 32401, (850) 769-1511.

**Owner/Licensee in 2018:**

- (1) Bay County Health System, LLC, One Burton Hills Boulevard Suite 250, Nashville, TN 37216
  - (2) (CEO) Joseph R. Impicciche, JD, MHA, President and Chief Executive Officer, Ascension, 101 South Hanley Rd., Suite 450, St. Louis, MO 63105,
- 

**The Ultimate Facts:**

The emergency room physician, Dr. Gary Lavine, the emergency room nurse Kendrea Virgil, RN and the radiology doctor and the unknown assistant of Dr. Emily Billingsley along with the unknown orderly (Defendants) created an environment in which Plaintiff became injured in several ways including physically injured. The injury(s) are consistent with medical malpractice statutes, personal injury statutes, premise liability statutes and corporate negligence.

There are incidents of note caused by other medical providers after this 2018 incident that appear to be influenced by these matters, as a continual conspiracy. Plaintiff's medical records at the hospital are not correct and plaintiff was over-exposed and it seems poisoned and was also refused proper and accurate diagnosis or treatment of a back injury, and the doctor also failed to provide a back brace or refill a narcotics prescription. Due to the injury(s) such as pain and suffering plaintiff is entitled to relief.

The ultimate questions or central questions herein in regards to the physical injury is was it the doctor alone or together with the nurse or together with the radiology staff and orderly and or did they all make it happen and did the nurse have something to do with it all alone or is it all attributable to premise liability generally and negligent staff playing an opposite game and trying to cover it all up, and in which case was the doctor and nurse and radiology staff even being responsible at the time the injury happened. There are a lot of ways to look at things when one staff members actions appear to be helping another staff member and causing plaintiff harm.

This lawsuit isn't something that the legal system and Florida Chapter 766 Statutes are apparently manufactured to handle especially in regards to a plaintiff like myself without endless amounts of attorneys to throw at the problem here. As an example; plaintiff discovered through legal research that "complex litigation" is a thing that a matter like this can be assigned as in the court manages it as "complex" but then with further research plaintiff later discovered that actually complex litigation sets definite time limits to get things done. Sure maybe with a team of attorneys complex litigation would be ok but plaintiff has no attorney and doesn't need any added pressure as a pro se litigant to do things in a specific time frame. There are already twelve defendant parties. Each one is supposed to be mailed a hard copy of all progress in the case such as motions and depositions. It will take a good amount of time in the day just to fill out the three post office things to mail something, such as return receipt, certified mail, and the address all needing to be re-written for each party three times just to send something. Plaintiff doesn't have that kind of time or money as plaintiff already has a backlog of lawsuits and currently one is pending before the court right now.

It is believed that the emergency room nurse poisoned plaintiff. She was very insistent to draw blood over the course of the initial first half of the visit to the hospital emergency room and when she got the chance eventually to go ahead and take blood she disobeyed an agreement about needles and used an IV and then disobeyed plaintiff "to not inject me with anything" and used a large syringe filled with unknown stinky fluid and pushed almost half of it into plaintiff. Claiming she "had to." No she didn't plaintiff literally just told her not to do that.

She instead of using a "butterfly" used an IV which is the opposite in regards to a butterfly it is a small needle and a IV is a giant tube inserted into the arm. They are in no way similar as she claimed she would be able to use something similar. The butterfly is a needle connected always to a tubing and an IV is a inject-able type of device with a port and she didn't use any tubing just connected blood vials. So there is no actual similarity. Makes plaintiff believe the harms are a result of the use of this unknown fluid and an agenda of the nurse to inject plaintiff with it since she asked a lot about taking blood. Or she didn't do anything wrong and it is all attributable to the other staff members acts of over-exposure to radiation, however plaintiff did develop skin discoloration in the arm afterwards.

Personally plaintiff has a vast number of legal causes of action such as multiply the parties here by 4 to get close to a real number of medical providers after this incident and others that have caused a tortious harm which have both harmed plaintiff physically and also in regards to time and money required to seek relief. Essentially can also be understood as the creation of "legal advantages" and avoidance of libaility by the people involved in the incidents. What is one medical expert to retain really it is not a impossible problem one would imagine but what about a vast number of medical experts in a short period of time, that's not going to happen by anybody.

The takeaway point at the end of all of this on-going and pending litigation is mistreatment by law enforcement and medical providers. So far the defense attorneys are arguing the perception of the civil administrative litigation 'rules of engagement' rather than the issues inflicted upon plaintiff. Those same statutes outline how attorneys are supposed to investigate as well. Plaintiff isn't safe now because of the on-going conspiracy happening.

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**Elements:** Causes of Action include, but are not limited to or may be limited to,

- |   |                                    |                                |
|---|------------------------------------|--------------------------------|
| 1.) Medical Malpractice,                          | 11.) Causing Delayed Diagnosis,    | 23.) Extreme Malice,           |
| 2.) Negligence,                                   | 12.) Reckless Acts,                | 24.) Coercion,                 |
| 3.) Improper Treatment,                           | 13.) Wrongful Conduct,             | 25.) Conversion,               |
| 4.) Intentional Infliction of Emotional Distress, | 14.) Intentional Wrongful Conduct, | 26.) Corporate Negligence,     |
| 5.) Negligent Infliction of Emotional Distress,   | 15.) Misrepresentation,            | 27.) as Respondeat Superior,   |
| 6.) Missed Diagnosis,                             | 16.) Defamation,                   | 28.) Lack of Informed Consent, |
| 7.) Failure to Diagnose,                          | 17.) Gross Negligence,             | 29.) Conspiracy,               |
| 8.) Failure to Treat,                             | 18.) Reckless Disregard,           | 30.) Fraud,                    |
| 9.) Medical Battery,                              | 19.) Willful and Wanton,           | 31.) HIPPA Violation(s),       |
| 10.) Malicious Intent,                            | 20.) Nonfeasance,                  | 32.) Pain and suffering.       |
|   | 21.) Malfeasance,                  |                                |
|   | 22.) Misfeasance,                  |                                |

Claim for “medical negligence” or “claim for medical malpractice” means a claim, arising out of the rendering of, or the failure to render, medical care or services.

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**Time:**

Plaintiff visited Bay Medical 10/21/2018 according to records. Afterwards plaintiff was in contact with the hospital risk manager and sent a Letter of Preservation in 2018 or 2019. Plaintiff sent a Letter of Intent to various parties in November of 2020. Plaintiff got a Denial Letter from attorneys. Plaintiff got a 90-Day Extension. The Covid-19 global pandemic began around this time. Plaintiff is filing this lawsuit on 10/21/2022. Which is four years later.

Additionally, plaintiff contacted hundreds and hundreds of attorneys without any taking any cases involved here or other matters. It was a period of time over many years. Plaintiff has “excusable negligence” claim(s) to be made as to the filing of this matter with the courts. Such as the Covid-19 global pandemic and extensive medical problems with legal problems being involved. There have always been financial limitations involved and plaintiff has had to suffer through endless amounts of time researching what turned out to be ultimately pointless efforts again and again.

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**Damages:**

The following is a long listing of “damages” which may seem redundant but much of this is because of the complex nature of things. One thing to note is plaintiff has a hard time actually having willing medical providers ever since this incident.

1.) The emergency room doctor prescribed a handful of narcotic pain pills which he didn't provide a refill for when requested and was not enough for the back pain. He didn't diagnose the injury and noted that he sees no further reason for further exams which is fraud. Plaintiff specifically asked why is my back hurting after being informed the CT scan was negative for injury and he said go to the referred back doctor but noted no need for further exams. Appears the doctor was trying to cover-up the sacrum scan and or whatever other reasons. He also failed on a basic clinical diagnosis level of working out exactly where the pain was. Such as saying in the records it is at about the T11 area down

to the lumbar area also hurting but generally with the T11 or T12 area being the major problem that brought plaintiff to the emergency room. That is how the nurses notes should have read and plaintiff watched her type those words in. The doctor failed to provide a back brace. As a result plaintiff has suffered a lot of pain and suffering.

2.) The nurse failed to keep proper notes in the medical record. The nurse used an IV without consent and also injected plaintiff with a unknown fluid when she was requested to not do that before she did. The nurse failed to provide a back brace. Nurse Kendrea Virgil appears to have caused a crafty effort to poison plaintiff. Lack of consent and as a result plaintiff has suffered a lot of pain and suffering. She instead of using a "butterfly" needle used an IV which is the opposite in regards to a butterfly it is a small needle and a IV is a giant tube inserted into the arm.

3.) Negligent infliction of emotional distress. As a result plaintiff has suffered a lot of pain and suffering.

4.) Intentional infliction of emotional distress. As a result plaintiff has suffered a lot of pain and suffering.

5.) Pain sitting down. Difficulty with urological systems. As a result plaintiff has suffered a lot of pain and suffering.

6.) Chest pains ('cancer') believed to be associated with the chest CT scanning which was deleted. Plaintiff had to get chest x-rays which returned a negative for cancer but also returned a negative as routine chest x-rays which were stated as also looking for lung infection and so the true validity of the study is in question. As a result plaintiff has suffered a lot of pain and suffering.

7.) Future Medical Expenses - Damages are economic and non-economic. As a result plaintiff has and will suffer a lot of pain and suffering and future expenses.

8.) Disfigurement - What has been done can not be undone. The skin is different and the exterior and interior parts of the body have shown signs of changes. There was a black shadow on plaintiff's thigh after the CT scan.

9.) Lost Earnings Potential -

10.) Diabetic – nerve damage focused on the sacrum, and genitals and stomach and spine creates a basic arthritis of the body and other harms which along with diabetes creates a very bad mix of problems for plaintiff including vision problems and fatigue from radiation.

11.) Lose of companionship -

12.) Infertility and the need to clone ones self – children are susceptible to radiation as offspring and so it is necessary to preserve plaintiff for a future when cancer isn't a worry anymore along with sperm storage since infertility has been a documented medical record matter and happens with radiation exposure.

13.) Vitiligo – skin discoloration.

14.) Chronic Back Pain - arthritis

15.) Vision Problems – after being the CT scan table without vision protection a eventual decline in vision took place and radiation is noted as causing glaucoma which is again another diabetic issue as well.

16.) Stomach Problems - plaintiff had a long term stomach pain that a gastroenterologist was consulted about.

17.) Plaintiff has a ongoing anal issue which may be the cause of radiation exposure since men are always dying from anal problems in the area of the sacrum the radiation exposure sure hasn't helped and there has only been a new development happening all the time.

18.) The radiology staffed took visual images of plaintiff genitals without consent causing a sense of embarrassment and violation of privacy and humiliation. Various other medical providers and people including the actual defendants had to be furnished copies of the CT scan for litigation purposes.

19.) The CT scan report says that the hospital uses “the lowest amount of radiation possible or achievable (LARA)” and also the medical expert says the radiologist CT scanned the wrong body part in part and managed to not see the injury impact. It's basically simple over-exposure to ionizing radiation in part but it is also a question of actually how much radiation was used and what actually was the intent of staff since there was agreement and two entire series of images were deleted it appears the harms caused are because of a lot of over-exposure.

20.) Hippa Violation, what happens there, is it medical malpractice, if it is it requires a medical expert to say that the other provider was negligent, as in say don't tell me that and then take no action on what was said,

21.) Castration entails foreign body retainment, and since they have used unknown amounts of ionizing radiation it is consistent with castration, and that can only be done via medicine or surgery acts, and so use of radiation as a way to achieve castration equals foreign body retainment.

22.) Lung cancer is suspected despite a normal chest x-ray not showing any tumors since 2019 which is odd because the CT scan ends at the Lumbar scan despite plaintiff being in the CT machine up to the armpits which may be related to x-ray cone spread and or the deleted series of images. Eye problems vision problems since the CT with vision being impacted along with a local eye doctor damaging plaintiff's eyes recently which is alleged to not have happened if not for the Bay Medical incident and other providers incidents. Plaintiff has developed urological problems and gastrointestinal being urination, defecation, and stomach problems along with testicular problems. Plaintiff it is believed has developed various harms from the ionizing radiation exposure and whatever the nurse injected plaintiff with including harms by other providers since as a continuation of the conspiracy. Plaintiff

wrote a 38 page document that outlined everything but it was a bit much to submit as a lawsuit filing though it will be made available to the parties. There are some redundant aspects in that document like there are in this lawsuit but the main idea is the "opposite game" and harm being a applicable feature to it all. Like for example telling the eye doctor that I didn't want to do anything to harm my eyes and then she did.

23.) The "Elements" section here outlines the causes of action and the damages align with each. A back injury not diagnosed has caused a chronic back pain and other problems. The nurse's injection injury has caused problems that are also coincidentally similar to the radiation harms. The records being fraudulent either created the failed back injury diagnosis or the lower body exams and otherwise still unknown medical battery using the ionizing radiation machine. All such medical provider and hospital staff appear to have not only caused a conspiracy at the hospital but made it carry over to other providers outside the hospital as a continued effort to harm plaintiff and deny plaintiff care, treatment and or diagnostics. Seemingly all done in a effort to gain legal advantage and cause harm.

24.) The "injuries" herein are unique in a few ways in that the staff and other since played the "opposite game" it appears when applied to the incidents and things like that are "common knowledge" wrong to do and or fraud and they changed the records which again anybody can do and it is obvious that the records are wrong. Is a pro se plaintiff supposed to get an expert to say the standard of care is violated because the records are wrong and filled with omission, plaintiff doesn't believe so as it is "common knowledge" when all the elements and the circumstance of the incident are understood. Playing the "opposite game" has caused plaintiff harm and suffering.

Such as for one example how can a patient as stated in the records fall and hit their butt and their head and have a mid-back injury all at the same time and the records say incorrectly that plaintiff fell down on his butt which plaintiff didn't and the staff didn't diagnose a compression fracture in the mid-spine which was the entire reason for being there that they were all aware of and not any type of pelvic injury? Once all the stuff is presented it is really obvious in many ways what happened. Plaintiff went to great lengths to inform the staff what happened and great lengths to learn from the staff and provide "trust" and they only managed to ruin everything either through negligence, omission, intentional acts or otherwise like the opposite game the staff had no interest in doing what was proper it can be understood and in that was a total waste of time that not only caused harm then but also later with other providers. The overall experience for the past four years has been medical providers creating legal advantages and causing harms to plaintiff. One person with limited resources can only do so much and each new visit created a new harm and legal advantage overall. The doctor and nurse should have corrected the medical records and not let them be incorrect despite plaintiff asking the nurse for them even and all that was said. It appears the opposite game can be to blame.

25.) The orderly yanked on plaintiff which caused pain and was a wrong thing to do and the hospital and hiring companies didn't train their staff or create a safe environment for patients and instead just created a sign-in contract that says patients agree to everything that happens basically while also claiming in that same contract to be responsible for medical malpractice when it happens and the the risk manager says after and investigation that staff did what plaintiff wanted. Which is not what is



meant by the hospital is responsible for medical malpractice apparently because the risk manager was covering up for staff and was lying saying that the sacrum bone isn't even in the pelvis and that no pelvic examination even took place. Which as she said that plaintiff was actually looking at images of plaintiff's legs and the entire exam is halfway made of lower body exams so her investigation was likely nothing and she was also lying about basic human anatomy. She asked previously tell me what is wrong and I can help. She called back to terrorize plaintiff. Also can be understood as more of the opposite game.

26.) **Paypal** – The defense is likely going to be that this lawsuit should be filed in “contract” tort law court but a contract requires “consideration” and plaintiff wasn't aware that no financial protection or responsibility would be available by the Paypal financial institution for the money transfer to the medical expert for sending it as a “personal payment” and not sending it as a “business payment.” This is a corporate negligence matter it appears to refusing to address fraud.

In which case plaintiff apparently would have had to have paid twice the fees for the same service as a “business payment” being the fee for the transfer amount percentage and the fee to make it the appropriate amount to the expert. Such as sending \$100 will result in a fee of \$2 so \$98 arrives but the expert wanted \$100 so plaintiff would have had to have spent \$104 or more. When dealing with medical expert fees in the thousands of dollars the associated transfer fees add up and plaintiff was following the medical experts guidance to transfer as a “personal payment” to have plaintiff pay the fees and avoid the inappropriate fees as he is a single business man and not a corporation with its fee structure built into the sale price.

Paypal was made aware of the fraud going on but refused to take action. If the money was recovered seems it was going to be returned by the expert or re-filtered (charge back) back through Paypal by the credit card company maybe or potentially a statement credit. Because nobody would refund the money it became a matter of the expert appears to be aware his advice to use Paypal would shield him, as in why send cash or check when plaintiff can send via Paypal with some expected protection for this internet advertising business man payment but little did plaintiff know there was no actual protection which should have been in place by Paypal for fraud. They instead entirely “disclose” any responsibility for “personal payments” and instead also make it even more costly to use “business payments” which is a negligent thing to do for a global financial institution like Paypal. Bottom line is Paypal did charge plaintiff a fee for the transfer but no protection and that was expected in obvious cases of fraud like this medical expert.

27.) **USAA** – They refused to refund or “charge back” the money on the credit card. Again like Paypal the bottom line is USAA collect a fee for the transfer but no protection and that was expected in obvious cases of fraud like this medical expert.

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#### **Pray for Relief:**

1.) A demand for judgment for the relief to which the Plaintiff deems himself entitled. The amount of one million dollars or any equitable relief equal to one million dollars or otherwise. One million dollars is the cap for medical malpractice without adding punitive damages or otherwise. Premise

liability and personal injury and corporate negligence are not a part of the one million dollar medical malpractice pray for relief and are of a value of an additional of three million dollars.

2.) A demand for the records to be corrected and also removed from the hospital in regards to pelvic CT scanning which contains images of plaintiff's legs and genitals. Along with a identification of exactly how much radiation was actually used during the exam and why there are two entire deleted series of images. Meaning series 1, image 1, 2, 3... going up to series 8 but no series 5 or 6 and it doesn't make sense. The staff CT scan exams were without good cause to do so. There is no documented record of symptoms as to why they think plaintiff had a pelvic injury. It really only makes sense in a context of the obvious omissions and wrongful acts of the staff and or negligent staff and cover-up.

3.) The Florida Statutes to be considered for what is appropriate in regards to time and experts and common knowledge and applicability of those sorts of statutes to this obviously simple yet obviously complex matter. Which could actually include a vast number of other later medical providers as well to be amended into this complaint. There is too much litigation to handle it all with multiple lawsuits.

4.) Anything in the Bay Medical hospital terms of service agreement to be thrown out as not something anybody considered in regards to "contract consideration." The actual contract says that the patient agrees to sue the hospital within one year. They reduced the two year limit to one year and reduced the four year limit there as well. The contract also says they are responsible for "medical malpractice" but the risk manager said staff did what plaintiff wanted so her investigation was a lie.

5.) The Statute of Limitations Issue:

The State Attorney of Florida was sent a Notice of Claim many months ago and it outlined the incidents taking place. Should the State wish to file a defense of 'they never got a Notice of Claim' the State did. Additionally, plaintiff sent all defendants herein a "Notice of Intent" accordingly with the Chapter 766 Statutes however it was at the time the Covid-19 pandemic was beginning to happen and so to avoid getting everybody killed plaintiff didn't file this lawsuit back then. Many millions of people have died globally because of the Covid-19 virus and or the Corona virus.

6.) Maybe the State Attorney General can issue a writ of mandamus or opinion to have the court handle these matters properly. It is obvious that the staff did things "contrary" to Chapter 766 medical malpractice statutes but the medical expert retained doesn't believe CT scanning the wrong body part with many hundreds and hundreds of x-rays is a breach of the "standard of care" for radiologists. It is not even known how much ionizing radiation was actually used. Maybe the expert could change his mind if the actual exposure was known and the ordering physicians "order" was available. Did he negligently order a pelvic exam or was it the radiologists negligence or both?

7.) Plaintiff requests that Dr. Cousin, Paypal and USAA pay the costs involved and in the event of losing the lawsuit for the medical malpractice and related matters that they become liable for the lost remedy as the ones who had the opportunity to remedy the situation before.

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Plaintiff swears that this information is true and correct and files it with the clerk of the Bay County court.

Judge:

Respectfully submitted, Pro Se,  
Curtis M. Gorham

CURTIS GORHAM

**CERTIFICATION of SERVICE**

I hereby certify that on 10/21/2022 I sent and or delivered, a copy of this lawsuit to the defendants, address is shown below.

CURTIS GORHAM

-- Pro Se Plaintiff:

Curtis M. Gorham  
3513 Rosewood Circle  
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bccgorham@yahoo.com

-- 1.) ~~Joseph R. Impicciche, (Ascension CEO)~~

Joseph R. Impicciche, JD, MHA (President and Chief Executive Officer, Ascension)

~~(401 South Hanley Rd., Suite 450, St. Louis, MO 63105)~~ 615 N Bonita Ave, Panama City, FL 32401

having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

-- 2.) ~~Corporation Service Company, (1201 Hays Street, Tallahassee, FL 32301-2525)~~

As Registered Agent for

~~Bay County Health System, LLC~~ (One Burton Hills Boulevard Suite 250, Nashville, TN 37216)

having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

-- 3.) ~~Junco Emergency Physicians, (Dr. Gary Lavine)~~

~~Corporation Service Company, (1201 Hays Street Tallahassee, FL 32301-2525)~~

As Registered Agent for

Junco Emergency Physicians, LLC (7700 W. Sunrise

Blvd. Plantation, FL 33322)

having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,

615 N Bonita Ave, Panama City, FL 32401

-- 4.) ~~Dr. Gary H. Lavine,~~

Bay Medical Center Sacred Heart Health System, (Now Ascension Sacred Heart)

~~615 N Bonita Ave, Panama City, FL 32401~~

-- 5.) ~~Kendrea Virgil, RN~~

Bay Medical Center Sacred Heart Health System, (Now Ascension Sacred Heart)

~~615 N Bonita Ave, Panama City, FL 32401~~

-- 6.) ~~Dr. Emily D. Billingsley,~~

~~(521 NORTH PALO ALTO AVE, PANAMA CITY, FL 32401)~~

also,

BAY RADIOLOGY WOMEN'S IMAGING CENTER, LLC (330 W. 23RD STREET, PANAMA CITY, FL 32405),

Also known as, a.k.a, "Bay Radiology," a.k.a, "Bay Radiology Associates," a.k.a, "Bay Radiology Associates

PA,"

having been Owner/Licensee in 2018 of : Bay Medical  
Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

-- 7.) Lloyd G. Logue,

(521 NORTH PALO ALTO AVE, PANAMA CITY, FL 32401)

As Registered Agent for

**BAY RADIOLOGY WOMEN'S IMAGING CENTER, LLC (330**

**W. 23RD STREET, PANAMA CITY, FL 32405),**

Also known as, a.k.a, "Bay Radiology," a.k.a, "Bay  
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-- 8.) Office of the Attorney General

State of Florida

PL-01 The Capitol

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-- 9.) Attorney for Dr. Emily Billingsley and Bay  
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-- 11.) Attorney for Dr. Gary Lavine and Junco  
Emergency Physicians (in 2020)

**Dennis, Jackson, Martin and Fontela, P.A.**

1591 Summit Lake Drive, Suite 200

Tallahassee, FL 32317, (850) 422-3345

-- 12.) PayPal, 2211 N. First St., San Jose, CA 95131  
(408) 967-1000

-- 13.) USAA, 9800 Fredericksburg Rd. San Antonio, TX  
78288, 1-800-531-8722

-- 14.) Dr. Daniel Cousin, M.D.

304 Indian Trace # 884

Weston, FL 33326, (646) 303-3125

**Plaintiff's Memorandum of law: 01/31/2023**

In support of Plaintiff, Curtis M. Gorham, and in opposition to the Motion to Dismiss Answers by defendants and as a points of authority for Plaintiff's 01/31/2023 Declaration. There are several caselaw examples noted here as follows for the "**common knowledge**" exception to expert testimony and use of an affidavit presuit.

**Leave-To-Amend Doctrine With Respect To Dismissals**

Rizzo v. Dawson, 778 F.2d 527, 529–30 (9th Cir. 1985); cf. Denton v. Hernandez, 504 U.S. 25, 34 (1992)<sup>102</sup> (suggesting that if the complaint's deficiencies could be remedied by amendment, then it may be abuse of discretion to dismiss complaint without granting leave to amend). The plaintiff must also be given some notice of the complaint's deficiencies prior to dismissal. See Cato, 70 F.3d at 1106; cf. Denton, 504 U.S. at 34 (declining to address the Ninth Circuit's notice and leave-to-amend rule for frivolous complaints).

(Watson, 668 F.3d at 1112. T)

"Dismissal is proper only if it is clear that the plaintiff cannot prove any set of facts in support of the claim that would entitle him to relief."

THE CASE THE SUPREME COURT OF ILLINOIS RULED ON NO EXPERT  
(Advincula v United Blood Services, 678 NE 2d 1009 (Ill 1996))

**Standard of Radiologic Care**

In a recent decision, the Illinois Supreme Court addressed the concept of standard of care as it applies to professionals: "In instances, however, where the professional's conduct is so grossly negligent or the treatment so common that a lay-person could readily appraise it, no professional expert testimony or other such relevant evidence is required."

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**Florida Supreme Court Tries To Draw Line On Malpractice Cases**

Posted Friday, April 27, 2018 5:02 am

[<http://www.newsdaytonabeach.com/stories/florida-supreme-court-tries-to-draw-line-on-malpractice-cases,4397>]

**Florida** - In a case stemming from an injury to a child who was deaf and had been diagnosed with psychiatric conditions, the Florida Supreme Court on Thursday tried to resolve questions about when lawsuits deal with medical malpractice --- or ordinary negligence.

"While it is true that the hospital failed to confine the patient to her locked unit, the estate's claim arose out of the hospital employee leaving her badge and keys unattended where the patient could access them, not out of any act directly related to medical care or services that required the use of professional judgment or skill," the Supreme Court opinion said. "Thus, contrary to the First District's conclusion, medical expert testimony on the professional standard of care would not be necessary for the estate to prove its negligence claim."

Plaintiff states that this is the "fundamental misconduct" element here that there is no "professional judgment or skill" if the provider is intent on doing harm as a part of a conspiracy. As outlined at the end of the 101/31/2023 Declaration by Plaintiff.

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For the reasons that follow, we hold that, where the facts regarding the presuit expert's qualifications are

unrefuted, the proper standard of review of a trial court's dismissal of a medical malpractice action based on its determination that the plaintiff's presuit expert witness was not qualified is de novo. Additionally, we hold that, before a medical malpractice action can be dismissed based on a trial court's finding that the plaintiff or plaintiff's counsel failed to comply with the informal presuit discovery process for medical malpractice actions, the trial court must find that such noncompliance prejudiced the defendant. This holding is consistent with our precedent, which makes clear that before an action can be dismissed for a plaintiff's failure to comply with discovery, the trial court must find that the plaintiff's noncompliance prejudiced the defendant.

See, e.g. ,

Ham v. Dunmire , 891 So.2d 492, 499 (Fla. 2004) ;

Kukral v. Mekras , 679 So.2d 278, 279 (Fla. 1996).

On appeal, the reviewing court should determine whether there was, in fact, a discovery violation and **whether that violation prejudiced the defendant**. To hold otherwise would not only **deprive plaintiffs of their constitutional right to access the courts** but would also frustrate the Legislature's intent in enacting the medical malpractice statutory scheme.

Florida's medical malpractice statutory scheme, codified in chapter 766, Florida Statutes, contains an elaborate presuit process for prospective medical malpractice plaintiffs, including a presuit investigation component.

See id. § 766.201(2).

As we have explained, the presuit process was created to "facilitate the expedient, and preferably amicable, resolution of medical malpractice claims."

Williams, 62 So. 3d at 1133 n.1 (citation omitted);

see § 766.201(2), Fla. Stat. (2011)

("It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence claims."). The Legislature's intent notwithstanding, we have stated that the presuit process "restrict[s] plaintiffs' ability to bring medical malpractice claims," Dockswell v. Bethesda Mem'l Hosp., Inc. , 210 So. 3d 1201, 1205 (Fla. 2017). Therefore, the requirements of the presuit process must be "interpreted liberally so as not to unduly restrict a Florida citizen's constitutionally guaranteed access to the courts." Kukral , 679 So. 2d at 284.

§ 766.201(2), Fla. Stat. (2011)

("It is the intent of the Legislature to provide a plan for prompt resolution of medical negligence claims.").

Second, this Court must construe the medical malpractice presuit screening requirements "**in a manner that favors access to courts**." Patry v. Capps, 633 So. 2d 9, 13 (Fla. 1994) (citing Weinstock v. Groth, 629 So. 2d 835, 838 (Fla. 1993)).

For the reasons that follow, we hold that, where the facts regarding the presuit expert's qualifications are unrefuted, the proper standard of review of a trial court's dismissal of a medical malpractice action based on its determination that the plaintiff's presuit expert witness was not qualified is de novo. Additionally, we hold that, before a medical malpractice action can be dismissed based on a trial court's finding that the plaintiff or plaintiff's counsel failed to comply with the informal presuit discovery process for medical malpractice actions, the trial court must find that such noncompliance prejudiced the defendant. This holding is consistent with our precedent, which makes clear that before an action can be dismissed for a plaintiff's failure to comply with discovery, **the trial court must find that the plaintiff's noncompliance prejudiced the defendant**.

See, e.g., Ham v. Dunmire , 891 So. 2d 492, 499 (Fla. 2004);

Kukral v. Mekras , 679 So. 2d 278, 279 (Fla. 1996).

On appeal, the reviewing court should determine whether there was, in fact, a discovery violation and **whether that violation prejudiced the defendant**. To hold otherwise would not only **deprive plaintiffs of their constitutional right to access the courts** but would also **frustrate the Legislature's intent** in enacting the medical malpractice statutory scheme.



**required to present expert testimony to make out a prima facie case.”**);

(i) Thomas J. Hurney, Jr. & Rob J. Aliff, Medical Professional Liability in West Virginia, 105 W. VA. L. REV. 369, 401 (2003)

(“In medical malpractice cases where lack of care or one of skill is so gross, so as to be apparent, or the alleged breach relates to noncomplex matters of diagnosis and treatment within the understanding of lay jurors by resort to common knowledge and experience, **failure to present expert testimony on the accepted standard of care and degree of skill under such circumstances is not fatal to a plaintiff’s prima facie showing of negligence.**”

(i1) (quoting McGraw v. St. Joseph’s Hosp., 488 S.E.2d 389 (W. Va. 1997));

(j) Syfu v. Quinn, 826 N.E.2d 699, 703 (Ind. Ct. App. 2005)

(“Application of this exception is limited to situations in which the physician’s conduct is so obviously substandard that one need not possess medical expertise in order to recognize the breach of the applicable standard of care.”).

(k) Baker v. Allen, No. Civ. 03-2600, 2006 WL 1128712, at \*12 (D.N.J. Apr. 24, 2006)

(stating that whether the “common knowledge exception” applies depends on whether “these matters [were] readily apparent to anyone of average intelligence and ordinary experience”);

(l) Carver v. United States, Nos. 3:04-0234, 3:04-0991, 2005 WL 2230025, at \*7 (M.D. Tenn. Aug. 30, 2005)

(“[I]f the common knowledge exception is applicable, a plaintiff does not have to prove his case by expert testimony.”);

(m) Garaffa v. JFK Med. Ctr., No. A-4105-04T24105-04T2, 2006 WL 2033752, at \*4 (N.J. Super. Ct. App. Div. July 21, 2006)

(“The doctrine of common knowledge serves as an exception to the general rule requiring expert testimony, and thus an affidavit of merit, when ‘the experience possessed by lay persons, without the explanations of experts, would enable a jury to determine that a defendant acted without reasonable care.’” )

(m1) (quoting Estate of Chin v. St. Barnabas Med. Ctr., 734 A.2d 778, 786 (N.J. 1999));

(n) Carter v. State, No. 104863, 2006 WL 1029686, at \*3 (N.Y. Ct. Cl. Mar. 22, 2006)

(stating that medical negligence cases can be established “without the necessity of expert testimony” when the alleged negligence **“can be readily determined by the fact finder using common knowledge”**);

(o) Taliaferro v. S. Pointe Hosp., No. 86999, 2006 WL 832510, at \*2–3 (Ohio Ct. App. March 30, 2006)

(“We recognize that Ohio courts have infrequently applied the common knowledge exception to obviate the need for expert testimony in medical negligence cases. . . . Upon our review of the record, we find that this case falls within the common knowledge exception.”).

(p) Ward v. Shawnee County Bd. of Comm’rs, 103 P.3d 993, 2005 WL 81551, at \*3 (Kan. Ct. App. 2005)

(unpublished table decision)

(stating that the plaintiff “assumes that classifying a cause of action as ordinary negligence or medical malpractice is determinative of whether expert testimony is required,” but the “test, however, does not depend on the cause of action but rather whether the subject matter is outside the common knowledge of the jurors”).



(holding, in case where one of the surgical needles was left inside the patient during her breast lift operation, that the statutory requirement of an affidavit from a medical expert was unnecessary in light of the statute stating that expert testimony is not required when a **foreign substance** is found in the patient's body following surgery);

(holding that “an affidavit need not be provided in common knowledge cases when an expert will not be called to testify” on the standard of care);

(holding that affidavit of merit was required in medical malpractice actions “except as to matters within the ordinary experience and knowledge of laypersons”);

("[E]xpert testimony is not required because a fire occurring during surgery where an instrument that emits a spark is used near a source of oxygen is not beyond the realm of the lay person to understand." (alteration in Musser)).

(noting that the common knowledge exception is rare in application);

(“We recognize that Ohio courts have infrequently applied the common knowledge exception to obviate the need for expert testimony in medical negligence cases.” (emphasis added));

(holding that the common knowledge exception applied in conjunction with res ipsa loquitur where “[t]he plaintiff alleged that as a result of inadequate care provided by the surgery staff and anesthesiologists, one of her teeth was knocked out . . . during surgery [and] . . . lodged in her lung”);

(holding in case where nursing home resident died from positional asphyxiation, and where “[p]laintiff’s claim that defendant failed to take action after its employees found Ms. Hunt entangled in her bedding on the day before her asphyxiation,” “[a] fact-finder relying only on common knowledge and experience can readily determine whether the defendant’s response was sufficient”);

(holding that, in case where a 75 year-old man rolled off a table while being positioned for an MRI examination, “the reasonableness of the MRI technician’s action is within ‘the realm of common knowledge and experience,’ and can be evaluated by lay jurors without expert testimony on the standard of care **and the medical issues presented**”) (citation omitted);

Plaintiff cannot backup what the outcomes of these caselaw's were and are therefore being presented to

illustrate that "experts" are a matter in question and "common knowledge" is also a matter in question, along with prima facie case, res ipsa loquitur case, and negligence per se as topics in these matters that have been previously taken up by courts.

End of memorandum of law / points of authority.

RECEIVED, 02/13/2023 12:32:21 PM, Clerk, First District Court of Appeal

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

Plaintiff,

Curtis M. Gorham

VS.

Defendants,

Dr. Gary H. Lavine, Dr. Emily D. Billingsley,

Kendrea Virgil, RN, Lloyd G. Logue, Donna Baird,

Joseph R. Impicicche (CEO), Junco Emergency

Physicians, Bay County Health System LLC,

The State of Florida, PayPal, USAA, and other unknown

people such as the orderly and radiology assistant,

(Medical Expert) Dr. Daniel Cousin.

Bay County Civil District Court.

Case No. 22001076CA

Date: 2/9/2023

**Notice of Appeal Dr. Cousin Dismissal With Prejudice**

Plaintiff states a Notice of Appeal is being filed and going to be sent to the Florida District Court of Appeals in regards to the dismissal of the Dr. Cousin lawsuit as a defendant. Plaintiff is indigent for costs as already determined by the clerk of the court.

Dr. Cousin has made contradictory statements and the defense attorney have done fraud upon the court and filed many personal information matters with the court against the Judges Order to stop there is also new evidence.

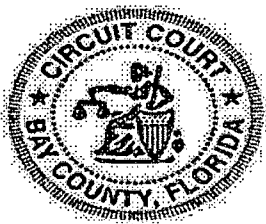
In conclusion, Plaintiff is basically a victim and the Florida Rules of Appellate Procedure outline in Rule 9.143(c), "(c) Assertion of Victim's Rights. A victim seeking to invoke a right under article I, section 16, of the Florida Constitution may file a motion in the court in which the matter is pending." Plaintiff has done this this day with two other filings. Now also filing a Notice of Appeal on the 30<sup>th</sup> day since the hearing. Plaintiff will be filing a typed copy of the hearing from the video of the hearing as a "transcript"

All rights reserved.

Plaintiff swears that this information is true and correct and files it with the clerk of the Bay County court.

Judge:

Respectfully submitted, Pro Se,  
Curtis M. Gorham



A CERTIFIED TRUE COPY  
BRI KINSAUL CLERK  
OF CIRCUIT COURT  
By [Signature]  
Deputy Clerk

/s/ Curtis Gorham

**CERTIFICATION of SERVICE**

I hereby certify that on 2/9/2023 I sent and or delivered, a copy of this motion to the defendants, address is shown below.

/s/ Curtis Gorham

**Pro Se Plaintiff:**

Curtis M. Gorham  
3513 Rosewood Circle  
Lynn Haven, FL 32444, (850) 522-9544,  
bccgorham@yahoo.com

**1.) Joseph R. Impicciche, (Ascension CEO)**

Joseph R. Impicciche, JD, MHA (President and Chief Executive Officer, Ascension)  
(101 South Hanley Rd., Suite 450, St. Louis, MO 63105)  
having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

Ascension Sacred Heart)  
615 N Bonita Ave, Panama City, FL 32401

**2.) Corporation Service Company, (1201 Hays Street Tallahassee, FL 32301-2525)**

As Registered Agent for  
**Bay County Health System, LLC** (One Burton Hills Boulevard Suite 250, Nashville, TN 37216)  
having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

**6.) Dr. Emily D. Billingsley,**

(521 NORTH PALO ALTO AVE, PANAMA CITY, FL 32401)  
also,  
BAY RADIOLOGY WOMEN'S IMAGING CENTER, LLC (330 W. 23RD STREET, PANAMA CITY, FL 32405),  
Also known as, a.k.a, "Bay Radiology," a.k.a, "Bay Radiology Associates," a.k.a, "Bay Radiology Associates PA,"  
having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

**3.) Junco Emergency Physicians, (Dr. Gary Lavine)**

Corporation Service Company, (1201 Hays Street Tallahassee, FL 32301-2525)  
As Registered Agent for  
**Junco Emergency Physicians, LLC** (7700 W. Sunrise Blvd, Plantation, FL 33322)  
having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

**7.) Lloyd G. Logue,**

(521 NORTH PALO ALTO AVE, PANAMA CITY, FL 32401)  
As Registered Agent for  
**BAY RADIOLOGY WOMEN'S IMAGING CENTER, LLC** (330 W. 23RD STREET, PANAMA CITY, FL 32405),  
Also known as, a.k.a, "Bay Radiology," a.k.a, "Bay Radiology Associates," a.k.a, "Bay Radiology Associates PA,"  
having been Owner/Licensee in 2018 of : Bay Medical Center Sacred Heart Health System,  
615 N Bonita Ave, Panama City, FL 32401

**4.) Dr. Gary H. Lavine,**

Bay Medical Center Sacred Heart Health System, (Now Ascension Sacred Heart)  
615 N Bonita Ave, Panama City, FL 32401

**8.) Office of the Attorney General**

**State of Florida**  
PL-01 The Capitol  
Tallahassee, FL 32399-1050

**5.) Kendrea Virgil, RN**

Bay Medical Center Sacred Heart Health System, (Now

**9.) Attorney for Dr. Emily Billingsley and Bay Radiology Associates P.L. (in 2020)**

**Henry Buchanan P.A.**

P.O. Box 14079

Tallahassee, FL 32317-4079

-- 10.) Attorney for Bay Medical Center Sacred Heart  
Health System (in 2020)

**Hall, Schieffelin & Smith, P.A.**

1030 West Canton Ave, Suite 200

Winter Park, FL 32789, (407) 628-4848

-- 11.) Attorney for Dr. Gary Lavine and Junco  
Emergency Physicians (in 2020)

**Dennis, Jackson, Martin and Fontela, P.A.**

1591 Summit Lake Drive, Suite 200

Tallahassee, FL 32317, (850) 422-3345

-- 12.) PayPal, 2211 N. First St., San Jose, CA 95131  
(408) 967-1000

-- 13.) USAA, 9800 Fredericksburg Rd. San Antonio, TX  
78288, 1-800-531-8722

-- 14.) Dr. Daniel Cousin, M.D.  
304 Indian Trace # 884  
Weston, FL 33326, (646) 303-3125

**DISTRICT COURT OF APPEAL, FIRST DISTRICT  
2000 Drayton Drive,  
Tallahassee, Florida 32399-0950  
Telephone No. (850) 488-6151**

April 25, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

---

**BY ORDER OF THE COURT:**

The Court grants in part and denies in part Appellant's motion filed February 24, 2023.

Within ten days, Appellant shall comply with the Court's order dated February 14, 2023, directing Appellant to file conformed copies of the order from which the appeal is being taken, any order entered on a timely motion postponing rendition of the order appealed, and any motion that postpones rendition. Appellant shall include copies of the motion for rehearing filed February 9, 2023, the motion to vacate the judge's order for violations, filed January 17, 2023, the motion to appoint guardian ad litem for plaintiff's litigation, filed January 19, 2023, and the motion to make plaintiff a victim or prejudiced, filed February 9, 2023. Alternatively, Appellant may file a response showing cause why this appeal should not be dismissed for failure to comply with the order dated February 14, 2023.

Within thirty days, Appellant shall ensure preparation and transmittal of the record on appeal. See Fla. R. App. P. 9.110(e). The parties and lower tribunal are advised that Florida Rule of Appellate Procedure 9.200(d)(3) requires the lower tribunal clerk to prepare and transmit to the Court a copy of the record on appeal which is redacted pursuant to Florida Rule of General Practice and Judicial Administration 2.420(d). Pursuant to Florida Rule of General Practice and Judicial Administration 2.425(b)(3), rule 2.425 does not apply to the record in appellate proceedings, and "sensitive" information under that rule is not required to be redacted during preparation of the record on appeal. Only information deemed confidential under rule 2.420(d)(1)(B) must be redacted from the record on appeal before transmittal to this Court.

The Court grants Appellant's request for extension of time to file the initial brief, and the time for service of the initial brief is extended to thirty days from the date the record on appeal is transmitted to the Court by the clerk of the lower tribunal. All other relief requested in the motion filed February 24, 2023, is denied.

If Appellant fails to timely comply with this order, the Court may impose sanctions, which may include dismissal of the appeal, without further opportunity to be heard. See Fla. R. App. P. 9.410.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Dr. Daniel Cousin

Dennis Jackson Martin & Fontela

Curtis Gorham

Hall Schieffelin & Smith, P.A.

Henry Buchanan, P.A.

Jami M. Kimbrell

Hon. Bill Kinsaul

**Case No. - 1D23-0358**

Page < 3 >

Hon. Ashley Moody

PayPal

E. Victoria Penny

Jacob Salow

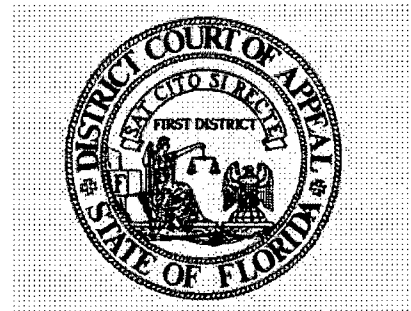
USAA

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1D2023-0358 April 25, 2023

*Kristina Samuels*  
Kristina Samuels, Clerk

1D2023-0358 April 25, 2023





**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

April 26, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

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**BY ORDER OF THE COURT:**

The Court denies the motion filed April 11, 2023, entitled, "Motion to Stay, Postpone Appeal of Bay County Health System, LLC., Dr. Billingsley, Lloyd G. Logue, and Payapl Motion to Dismiss Appeal to DCA, and Extension of Time to File Brief."

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:  
Dr. Daniel Cousin  
Dennis Jackson Martin & Fontela  
Curtis Gorham  
Hall Schieffelin & Smith, P.A.  
Henry Buchanan, P.A.

**Case No. - 1D23-0358**

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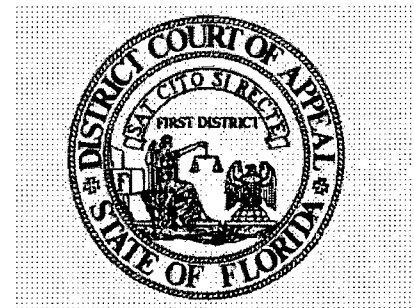
Jami M. Kimbrell  
Hon. Bill Kinsaul  
Hon. Ashley Moody  
PayPal  
E. Victoria Penny  
Jacob Salow  
USAA

CO

1D2023-0358 April 26, 2023

*Kristina Samuels*  
Kristina Samuels, Clerk

1D2023-0358 April 26, 2023



**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

June 19, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicicche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

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**BY ORDER OF THE COURT:**

Within ten days from the date of this order, Appellant is to serve a copy of the notice of supplemental authority docketed May 30, 2023, on opposing counsel and parties and file a supplemental certificate of service that lists each party served and the method of service for each party as directed. A copy of Florida Rule of Appellate Procedure 9.420, which defines certificate of service, is included with Appellant's copy of this order. If Appellant fails to comply with this order, the Court will strike the notice of supplemental authority. Fla. R. App. P. 9.410.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:  
Dr. Daniel Cousin  
Dennis Jackson Martin & Fontela

**Case No. - 1D23-0358**

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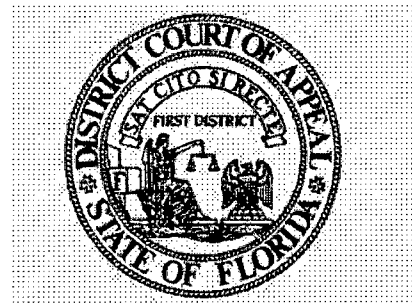
Curtis Gorham  
Hall Schieffelin & Smith, P.A.  
Henry Buchanan, P.A.  
Jami M. Kimbrell  
Hon. Ashley Moody  
PayPal  
E. Victoria Penny  
Jacob Salow  
USAA  
Jessica K. Vander Velde

DS

1D2023-0358 June 19, 2023

*Kristina Samuels*  
Kristina Samuels, Clerk

1D2023-0358 June 19, 2023



IN THE FIRST DISTRICT COURT OF APPEALS  
OF THE STATE OF FLORIDA,

Curtis M. Gorham,

Plaintiff,

VS

Dr. Gary H. Lavine, Dr. Emily D. Billingsley, Kendrea Virgil., RN, Lloyd G. Logue, Donna Baird, Joseph R. Impicciche (CEO), Junco Emergency Physicians, Bay County Health System LLC, The State of Florida, PayPal Inc., USAA, and other unknown people such as the orderly and radiology assistant (Medical Expert)

Dr. Daniel Cousin.

Defendants,

\_\_\_\_\_ /

Bay County Civil District Court

Lower Tribunal Case No.: 22001076CA

Date: 7/5/2023

DCA Case No.: 1D23-0358 (Dr. Cousin)

DCA Case No.: 1D23-0839 (Others)

Plaintiff's Reply Brief Dr. Cousin's Fraud Paradox Supplement:

Plaintiff/Appellant states that the law is asking Plaintiff to locate an expert and so Dr. Cousin was retained and done so to review the medical records which initially began with an email to Dr. Cousin stating "I was CT scanned many times in the pelvis (sacrum)." Dr. Cousin reviewed matters to arrive at a "Misdiagnosis" opinion as a result of a "creation of an Order" out of his own mind, that the emergency room physician allegedly ordered according to Dr. Cousin even though no such Order exist.

What this all means is that given Dr. Cousin wanted to review the Sacrum from the initiation of the email he made it a 'normal' thing to happen that a lower

back injury and middle back injury come along with a pelvic scan always.

Despite not presenting any evidence of the validity of such opinion, and in fact saying that the "wrong Order" was made as well, so how concrete of a claim is it to say that the lumbar is in fact the wrong order?

What has actually happened is that he was retained and or paid to identify any wrongs in the diagnosis of Plaintiff in regards to the back injury and he found evidence of that injury in the T12 region of the spine in the imaging exam but then said that such evidence isn't enough to be "negligence."

So what this actually means is that he has determined that no lower body error happened (no over-exposure) took place, that also despite evidence of a upper back misdiagnosis that no negligence happened there either. So then ultimately he has dismissed the lower body aspects of the claims of Plaintiff as 'normal' while instead focusing on the upper body and then finding fault but saying that is also 'normal' (within standard) and so overall 'everything is normal' according to him despite the fact that if the upper is 'abnormal' then that means that there would be evidence of the lower body claims also being 'abnormal' in that one piece of evidence supports the other.

Rephrasing this is he refused the lower body and instead is saying lets

look higher for a misdiagnosis negligence and found that negligence but said that is also normal instead of saying well the lower body could be abnormal (retain me) for a review of the lower body and upper body and having evidence of both being abnormal (two entire deleted series of images as well, plus the meet and greet narrative Plaintiff presented in regards to meeting the radiology staff and telling them what was going on and asking for the copy of the Order and confirmation of no pelvic scanning which they confirmed no pelvic scanning and that they had the proper Order along with not telling Plaintiff what was going to happen in regards to actual exposure despite being asked and then lying about it and also not saying that a normal x-ray would be enough to make a diagnosis despite being asked), so Dr. Cousin as a "medical expert" in radiology is entirely dismissing anything that would be considered as "evidence" for the claims of negligence and taking what is actually evidence and contrast and comparing them in a way to render them moot as in saying both are normal when in fact both support a claim of being abnormal. He bait and switched them saying no pelvic thing done is wrong but maybe the upper spine is wrong however that isn't the radiologist fault and he then creates a fake piece of evidence to support that (the Order of the ER doctor).

His defense counsel then states that no "evidence" was admitted to prove

Dr. Cousin has done anything wrong. Plaintiff states that the literal email of Plaintiff, the literal medical records, and then the literal opinion created by Dr. Cousin are all the evidence that is needed to prove that which is stated herein. He wanted to be retained based on the email and phone conversation. The email is many pelvic scans took place and so he said pay me to review that and then said there is nothing wrong with that and further that "he is not a pay for opinion expert." Then saying that a misdiagnosis happened but not the radiologist fault. The evidence would seem to support that the narrative of Plaintiff and the misdiagnosis support that the pelvic scanning was wrong (we don't know how much scanning was truly done there are the two entire deleted series of images).

Plaintiff states that if you hold out your hand and say the left hand represents the email about many pelvic scans and the right hand represents the upper body misdiagnosis that you can tell this all herein with both hands and understand things more visually and accurately than has been presented herein. As in I want you to review this aspect in this hand, he says ok, and then says nothing wrong there in that hand it is the other hand, the misdiagnosis and no nothing wrong there either. He already took money to review both though? Then didn't want the left hand then also didn't want the right hand despite the



right hand supporting the left hand even more. It all makes perfect sense when presented in this way.

This is why it is a "fraud paradox" that Dr. Cousin can be an expert and refuse the narrative, refuse the evidence, refuse the facts, refuse the conspiracy, refuse the law, send a variety of emails that prove he is not willing to be a medical expert and other things stated of a bizarre nature and have a defense counsel say nothing was done wrong, then also he included things which are actually done wrong and claim it is normal (within standard) while his defense counsel includes things without a total context or argument presented. For example, why is the "narrative" something that your client doesn't have to address? What "Order" that mentioned as he included in his opinion is he talking about because no such Order exists? So the paradox is just lie, lie lie, ignore and have your defense counsel lie lie lie ignore.

-----

Plaintiff swears that this information is true and correct and files it with the clerk of the First District Court of Appeals.

Respectfully submitted, Pro Se,  
Curtis M. Gorham

Signed: \_\_\_\_/s/\_\_\_\_Curtis Gorham

Date: 7/5/2023

---

**CERTIFICATION of SERVICE**

I hereby certify that on 7/5/2023 Plaintiff sent and or delivered, a copy of this Notice and or Motion to the defendants, and the Bay County Court via the E-Portal, no physical address is shown below since no non-digital defendant was served via regular mail or email as all who responded are on the e-portal.

Signed:       /s/        Curtis Gorham  
Date: 7/5/2023

**CERTIFICATION of FONT and SPACING**

This is filed with 14 point Arial font and double spaced.

Signed:       /s/        Curtis Gorham  
Date: 7/5/2023

---

Pro Se Plaintiff:  
Curtis M. Gorham  
3513 Rosewood Circle  
Lynn Haven, FL 32444, (850) 601-4954,  
bccgorham@yahoo.com

IN THE FIRST DISTRICT COURT OF APPEALS  
OF THE STATE OF FLORIDA,

Curtis M. Gorham,

Plaintiff,

VS

Dr. Gary H. Lavine, Dr. Emily D. Billingsley, Kendrea Virgil., RN, Lloyd G. Logue, Donna Baird, Joseph R. Impicciche (CEO), Junco Emergency Physicians, Bay County Health System LLC, The State of Florida, PayPal Inc., USAA, and other unknown people such as the orderly and radiology assistant (Medical Expert) Dr. Daniel Cousin.

Defendants,

\_\_\_\_\_ /

Bay County Civil District Court

Lower Tribunal Case No.: 22001076CA

Date: 7/5/2023

DCA Case No.: 1D23-0358 (Dr. Cousin)

DCA Case No.: 1D23-0839 (Others)

Plaintiff's Reply Brief Dr. Cousin's Fraud Paradox Supplement Part 2:

Plaintiff/Appellant states that Defendant Dr. Daniel Cousin fraud paradox

1. It is like asking a expert to review a plane crash and have an expert say that the plane taking off was negligence.

2. As in putting on a glove that caused a virus is negligence (Dr. Jenkins) and so,

3.) The aspects of oil leak, engine failure, bad weather that was ignored, reasons for the crash that the pilot knew before taking off would be the negligence.

4. ) Instead Dr. Cousin is saying that, plane crashes happen are normal and in

fact that the plane never took off. It is all nonsense. It may be true that sacrum CT scans happen, but Plaintiff wasn't given "informed consent" for what was supposed to happen or did happen and so it is "medical battery" and "lack of informed consent" which waives the need for an expert in Chapter 766 Statutes regardless of use case scenario and normalization of it all in the radiology industry to CT scan lumbar and sacrum together because Plaintiff took all proper steps to ensure adhesion of the staff to the "wants and needs" of plaintiff not wanting any pelvic scanning. In fact the emergency room doctor said he was writing an order to not have any pelvic scanning.

5.) So Dr. Cousin and the lack of "Plaintiff's narrative" inclusion in his opinion is evidence of a scam expert. The plane never took off means the CT scan was normal despite it being abnormal and the misdiagnosis is the plane never took off as well because it is also evidence of the cover-up that the staff wanted it all to just be a "pelvic" injury exam when in reality it was a T12 injury in the thoracic spine above the lumbar with some pain below the area in the lumbar but the injury believed to be exactly where it was later found by normal x-ray.

6.) Point is Dr. Cousin is creating a scenario where if a patient had cancer and a CT scan which showed some cancer that wasn't diagnosed that somehow it wouldn't be a misdiagnosis of cancer despite evidence for it in the exam. As in despite evidence of a T12 injury and a later diagnosis it isn't the radiologists

fault. The plane never took off, as in why did you have a cancer CT scan?  
Cancer. Did they diagnose cancer? No. Did you have cancer? Yes. Could it  
be diagnosed from the exam? Yes. Is that negligence? Dr. Cousin says no.  
That imaging exam never took place essentially. Which is opposite game of the  
entire point of retaining Dr. Cousin was determine what the extent of the exam  
was anyways beyond the normal into the abnormal and so it bizarre that he says  
'the plane never took off.' He could have said "I don't or can't review criminal  
conduct in relation to the "Standard of Care" yet there is evidence of abnormal  
aspects. Which would be the "reasonable investigation" and so the defense  
counsel is saying Plaintiff tried to tell Dr. Cousin what to say and again "pay for  
opinion expert" was used. The narrative is the narrative. An expert can't say  
that a plane crash is normal. Only unknown. Ultimately we have the plane  
never took off scenario instead, which is more of a things were reviewed, there  
is nothing to see here type of problem. A diversion from facts.

-----

Plaintiff swears that this information is true and correct and files it with the  
clerk of the First District Court of Appeals.

Respectfully submitted, Pro Se,  
Curtis M. Gorham

Signed: \_\_\_\_/s/\_\_\_\_Curtis Gorham

Date: 7/5/2023

---

**CERTIFICATION of SERVICE**

I hereby certify that on \_\_7/5/2023\_\_ Plaintiff sent and or delivered, a copy of this Notice and or Motion to the defendants, and the Bay County Court via the E-Portal, no physical address is shown below since no non-digital defendant was served via regular mail or email as all who responded are on the e-portal.

Signed: \_\_\_\_/s/\_\_\_\_ Curtis Gorham

Date: 7/5/2023

**CERTIFICATION of FONT and SPACING**

This is filed with 14 point Arial font and double spaced.

Signed: \_\_\_\_/s/\_\_\_\_ Curtis Gorham

Date: 7/5/2023

---

Pro Se Plaintiff:

Curtis M. Gorham

3513 Rosewood Circle

Lynn Haven, FL 32444, (850) 601-4954,

bccgorham@yahoo.com

**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

July 11, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

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**BY ORDER OF THE COURT:**

The Court strikes the answer brief filed docketed June 29, 2023, because the brief does not comply with Florida Rule of Appellate Procedure 9.210 or 9.420 or Florida Rules of General Practice and Judicial Administration 2.420, 2.515, or 2.516. The brief:

lacks a certification of word count and font compliance

Within ten days of this order, Appellee shall serve a complete amended brief that complies with the above rules. The Court will not accept substitute pages. Alternatively, Appellee may file a response that shows cause why the brief cannot be corrected.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

**Case No. - 1D23-0358**

Page < 2 >

Served:

Dr. Daniel Cousin

Dennis Jackson Martin & Fontela

Curtis Gorham

Hall Schieffelin & Smith, P.A.

Henry Buchanan, P.A.

Jami M. Kimbrell

Hon. Ashley Moody

PayPal

E. Victoria Penny

Tara Said

Jacob Salow

USAA

Jessica K. Vander Velde

CO

1D2023-0358 July 11, 2023

*Kristina Samuels*  
Kristina Samuels, Clerk

1D2023-0358 July 11, 2023





**DISTRICT COURT OF APPEAL, FIRST DISTRICT**  
**2000 Drayton Drive,**  
**Tallahassee, Florida 32399-0950**  
**Telephone No. (850) 488-6151**

July 19, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

---

**BY ORDER OF THE COURT:**

Appellant has failed to properly comply with this Court's order dated June 19, 2023, that required Appellant to file a supplemental certificate of service demonstrating service of the notice of supplemental authority. The Court therefore strikes the notice of supplemental authority, docketed May 30, 2023.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:  
Dr. Daniel Cousin  
Dennis Jackson Martin & Fontela  
Curtis Gorham  
Hall Schieffelin & Smith, P.A.  
Henry Buchanan, P.A.

**Case No. - 1D23-0358**

Page < 2 >

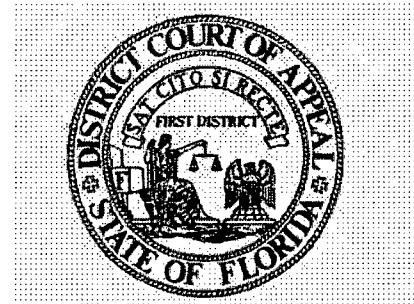
Jami M. Kimbrell  
Hon. Ashley Moody  
PayPal  
E. Victoria Penny  
Tara Said  
Jacob Salow  
USAA  
Jessica K. Vander Velde

CO

~~1D2023-0358~~ July 19, 2023

Kristina Samuels, Clerk

1D2023-0358 July 19, 2023



**DISTRICT COURT OF APPEAL, FIRST DISTRICT  
2000 Drayton Drive,  
Tallahassee, Florida 32399-0950  
Telephone No. (850) 488-6151**

August 21, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

---

**BY ORDER OF THE COURT:**

The Court treats the "Motion to Stay, Postpone Appeal of Bay County Health System, LLC., Dr. Billingsley, Lloyd G. Logue, and Pay[pal] Motion to Dismiss Appeal to DCA, and Extension of Time to File Brief," filed May 26, 2023, as Appellant's response to the Court's order dated April 25, 2023.

The Court treats the "Plaintiff's Order Mishap(s)," filed May 26, 2023, as a motion for extension of time to respond to the Court's order dated April 25, 2023, and as so treated, grants the motion. The Court accepts the response filed May 26, 2023, as timely. All other relief requested in the response is denied.

The Court grants Appellant's "Plaintiff's Request for Leave of Court and Time" to the extent it seeks an extension of time to file the initial brief and accepts the initial brief filed June 6, 2023, as timely.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Dr. Daniel Cousin

Dennis Jackson Martin & Fontela

Curtis Gorham

Hall Schieffelin & Smith, P.A.

Henry Buchanan, P.A.

Jami M. Kimbrell

Hon. Ashley Moody

PayPal

E. Victoria Penny

Tara Said

Jacob Salow

USAA

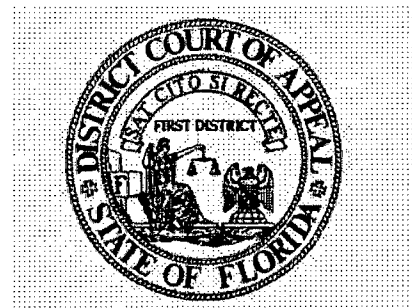
Jessica K. Vander Velde

DS

1D2023-0358 August 21, 2023

Kristina Samuels, Clerk

1D2023-0358 August 21, 2023



**DISTRICT COURT OF APPEAL, FIRST DISTRICT  
2000 Drayton Drive,  
Tallahassee, Florida 32399-0950  
Telephone No. (850) 488-6151**

August 28, 2023

Curtis Gorham,  
Appellant(s)

**Case No. - 1D23-0358**  
L.T. No.: 22001076CA

v.

Dr. Gary H. Lavine, Dr. Emily D.  
Billingsley, Kendrea Virgil., RN,  
Lloyd G. Logue, Donna Baird,  
Joseph R. Impicciche (CEO), Junco  
Emergency Physicians, Bay County  
Health System, LLC, et. al.,  
Appellee(s).

---

**BY ORDER OF THE COURT:**

The Court denies any relief requested in Appellant's filing titled "Request for Good Cause Shown" filed July 17, 2023, and the filing titled "Additional Answer for Good Cause Shown Consideration of Facts," filed July 21, 2023.

The Court strikes as unauthorized Appellant's filing titled "Inclusion of Further Factual Information" filed June 29, 2023, and the filing titled "Case Law, Memorandum of Law, Points of Authority" filed July 21, 2023. All arguments regarding the merits of the case shall be contained in the briefs.

The Court strikes as unauthorized Appellant's supplemental reply briefs filed July 5, 2023.

The Court denies Appellant's request to include additional information for answer for good cause shown filed July 28, 2023.

The Court warns Appellant that further motion practice may delay disposition of this appeal.

**I HEREBY CERTIFY** that the foregoing is a true copy of the original court order.

Served:

Erica Conklin Baines

Dr. Daniel Cousin

Dennis Jackson Martin & Fontela

Curtis Gorham

Hall Schieffelin & Smith, P.A.

Henry Buchanan, P.A.

Jami M. Kimbrell

Hon. Ashley Moody

PayPal

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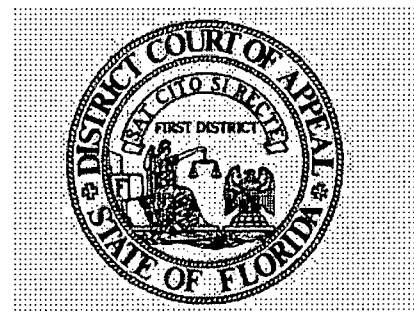
Jessica K. Vander Velde

DS

1D2023-0358 August 28, 2023

Kristina Samuels, Clerk

1D2023-0358 August 28, 2023



22000496CA - GORHAM, CURTIS M vs. JENKINS, MICHAEL ALAN

5/20/2022

2 11/7/2022 EP - ORDER DENYING PLTFS MOTION REQUESTING THE COURT TO  
DERMINE WHETHER THE DEFENSE DENIAL OF PLTFS CLAIM RESTS ON A REASONABLE BASIS

2 7/5/2022 EP - ORDER GRANTING DFTS MOTION TO DISMISS- PLTF HAS 45 DAYS

22001076CA - GORHAM, CURTIS M vs. LAVINE, DR GARY H

10/21/2022

1 2/20/2024 EP - ORDER DENYING MOTION FOR LEAVE TO TAKE DEPOSITIONS

6 1/18/2024 DCA MANDATE AND OPINION 1D23-1518 ISSUED 11-29-23 AND

DISMISSED IN PART; AFFIRMED IN PART; WARNING ISSUED 1-18-24 - RECORDED

(OR.4768.1240. / 2024004700)

x 1/8/2024 SUPREME COURT ACKNOWLEDGEMENT OF NEW CASE SC2024-0034 (1D23-0358)

x 10/6/2023 DCA ORDER - LT TO TREAT PLAINTIFFS FIRST OBJECTION TO CASE DISMISSAL  
FILED ON OR ABOUT MARCH 14, 2023 AS A MOTION FOR REHEARING AND TO RULE ON IT WITHIN  
20 DAYS 1D23-839 (CORRECTED FOR SERVICE)

4 10/2/2023 EP - ORDER DENYING PLAINTIFFS FIRST OBJECTION TO CASE  
DISMISSAL WHICH THE COURT TREATS AS A TIMLEY FILED MOTION FOR REHEARING

x 9/26/2023 DCA ORDER - PLAINTIFFS FIRST OBJECTION TO CASE DISMISSAL FILED  
3-14-23 IS TREATED AS A MOTION FOR REHEARING. LOWER TRIBUNAL TO RULE ON IT WITHIN 20  
DAYS 1D23-839

x 7/27/2023 DCA ORDER - APPELLANT TO SHOW CAUSE WITHIN 10 DAYS-UNTIMELY- TOLLS  
TIME FOR RECORD AND BRIEFS 1D23-1518

4 7/6/2023 EP - ORDER GRANTING MOTION FOR INSOLVENCY

x 7/5/2023 DCA ORDER - FILE COMPLETE, SIGNED COPY OF THE LOWER TRIBUNAL ORDER  
BEING APPEALED D123-1518

x 7/5/2023 DCA ORDER - FILING FEE 1D23-1518

3 5/24/2023 EP - ORDER GRANTING DEFENDANT USAA FEDERAL SAVINGS BANKS  
MOTION TO DISMISS PLAINTIFFS COMPLAINT - RECORDED (OR.4768.1210. / 2024004690)

3 5/24/2023 EP - ORDER DENYING PLAINTIFFS MOTION FOR EMERGENCY DISCOVERY

3 5/24/2023 DCA ORDER - GRANTING IN PART AND DENYING IN PART APPELLANTS  
MOTION TO STAY, POSTPONE APPEAL 1D23-839

4 5/21/2023 EP - ORDER DENYING PLAINTIFFS REQUEST FOR REHEARING AS TO  
DEFENDANT BAY COUNTY HEALTH SYSTEM LLC

4 5/19/2023 EP - ORDER GRANTING DEFENDANT, JUNCO EMERGENCY PHYSICIANS  
MOTION TO QUASH SERVICE

13 5/19/2023 EP - ORDER GRANTING DEFENDANT, BAY COUNTY HEALTH SYSTEM,  
LLC'S MOTION TO REMOVE PERSONAL SENSITIVE INFORMATION FROM COURT FILINGS

4 5/19/2023 EP - ORDER DENYING PLAINTIFFS REQUEST FOR REHEARING AS TO  
DEFENDANTS PAY PAL INC

5 5/18/2023 EP - ORDER ON PLAINTIFFS MOTION TO VACATE THE JUDGE'S ORDER  
FOR VIOLATIONS

x 4/26/2023 DCA ORDER - DENYING MOTION TO STAY, POSTPONE APPEAL AND EXTENSION OF  
TIME TO FILE BRIEF

3 4/25/2023 DCA ORDER - 10 DAYS TO COMPLY WITH COURT'S ORDER FILED  
FEBRUARY 24, 2023. 30 DAYS TO ENSURE PREPARATION AND TRANSMITTAL OF THE RECORD ON  
APPEAL. GRANTING EXTENSION OF TIME FOR THE INITIAL BRIEF. 1D23-358

x 4/12/2023 EFILED ORDER OF INSOLVENCY WITH DCA FOR CASE 1D23-839

1 4/12/2023 ORDER OF INSOLVENCY

4/11/2023 DCA ORDER - COPIES OF LOWER COURT ORDER BEING APPEALED 1D23-839  
4/11/2023 DCA ORDER - FILING FEES 1D23-839  
Request 4/11/2023 CLERKS NOTICE OF INABILITY TO FILE APPEAL RECORD  
1D23-358  
3 3/12/2023 EP - PLAINTIFFS NOTICE OF SIMILAR COMPLAINT VS DR JENKINS  
4 3/10/2023 EP - ORDER GRANTING DEFENDANT DR. BILLINGSLEY AND DR.  
LOGUE'S MOTION TO DISMISS PLAINTIFFS COMPLAINT WITH PREJUDICE  
3 3/10/2023 EP - ORDER OF DISMISSAL AS TO DEFENDANT PAYPAL INC WITHOUT  
PREJUDICE - RECORDED (OR.4666.1246. / 2023014790)  
3 3/10/2023 EP - ORDER GRANTING DEFENDANT BAY COUNTY HEALTH SYSTEM LLCS  
MOTION TO DISMISS PLAINTIFFS COMPLAINT WITH PREJUDICE  
3/9/2023 RESULT FOR : HEARING - CIVIL SET FOR 04/11/2023 AT 11:00 AM  
IN JC/ , JDG: SMILEY, ELIJAH : CANCELLATION OF HEARING  
3/9/2023 RESULT FOR : HEARING - CIVIL SET FOR 04/04/2023 AT 10:00 AM  
IN JC/ , JDG: SMILEY, ELIJAH : CANCELLATION OF HEARING  
3 3/9/2023 EP - ORDER CANCELLING ALL PENDING APRIL HEARINGS  
Request 2/23/2023 EFILED CERTIFIED ORDER OF INSOLVENCY TO DCA  
Request 2/23/2023 ORDER OF INSOLVENCY  
2 2/14/2023 DCA ORDER - FILING FEES 1D23-358  
1 2/14/2023 DCA RECEIPT LETTER 1D23-358  
2 2/14/2023 DCA ORDER - CONFORMED COPIES 1D23-358  
6 1/31/2023 EP - PLAINTIFFS MEMORANDUM OF LAW  
4 1/26/2023 EP - ORDER DENYING MOTION TO APPOINT COURT REPORTER OR  
FILING OC COURT REPORTER'S REPORT  
5 1/11/2023 EP - ORDER ON DEFENDANT DR COUNSIN'S MOTION TO DISMISS, OR  
IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT - RECORDED (OR.4647.1398. /  
2023001957)  
4 12/14/2022 EP - ORDER REMOVING PERSONAL SENSITIVE INFORMATION FROM  
COURT FILINGS  
3 11/21/2022 EP - ORDER GRANTING STIPULATION AND JOINT MOTION TO REMOVE  
PERSONAL SENSITIVE INFORMATION FROM COURT FILING- DUPLICATE  
3 11/21/2022 EP - ORDER GRANTING STIPULATION AND JOINT MOTION TO REMOVE  
PERSONAL SENSITIVE INFORMATION FROM COURT FILING  
10/21/2022 CASE FILED 10/21/2022 CASE NUMBER 22001076CA  
14 5/16/2023 EP - DCA CASE LAW, MEMORANDUM OF LAW, POINTS OF AUTHORITY-  
FILED BY CURTIS GORHAM  
6 1/31/2023 EP - PLAINTIFFS MEMORANDUM OF LAW  
19 10/21/2022 COMPLAINT FILED

>>>>>>>

22000496CA - GORHAM, CURTIS M vs. JENKINS, MICHAEL ALAN

2 11/7/2022 EP - ORDER DENYING PLTFS MOTION REQUESTING THE COURT TO  
DERMINE WHETHER THE DEFENSE DENIAL OF PLTFS CLAIM RESTS ON A REASONABLE BASIS  
2 7/5/2022 EP - ORDER GRANTING DFTS MOTION TO DISMISS- PLTF HAS 45 DAYS  
4 5/20/2022 COMPLAINT FILED



>>>>>

Curtis M. Gorham v. Dr. Gary H. Lavine, et al.  
Florida Supreme Court  
CASE NUMBER  
SC2024-0034, 35, 36

02/05/2024      Order    Other Substantive      The above cases are hereby consolidated, on the Court's own motion, for all appellate purposes. From this date forward, all documents pertaining to the above consolidated cases should be filed using case number SC2024-0034 only. Petitioner's "Motion for Stay, Extension, Enlarged Brief & Counsel" is denied.

02/02/2024      Brief    Appendix-Juris    Appendix-Juris -- Stricken by order dated 2/5/2024. Contains more than the decision for review.

02/02/2024      Brief    Appendix-Juris    Supreme Court APPENDIX INDEX -- Stricken by order dated 2/5/2024. Contains more than the decision for review.

02/02/2024      Brief    Juris Initial    Juris Initial -- Stricken by order dated 2/5/2024. Exceeds word count limit.

01/19/2024      Order    Dismissal re: Failure To Comply In reviewing our records,  
01/08/2024      Letter-Case      Acknowledgment Letter-New Case    Acknowledgment  
Letter-New Case

01/08/2024      Notice    Invoke Discretionary Jurisdiction      Notice to Invoke  
Discretionary Jurisdiction (Uncertified Copy filed 12/30/23)

01/04/2024      Notice    Invoke Discretionary Jurisdiction      Filed as Plaintiff's  
Motion for Rehearing and other Matters and treated as a Notice to Invoke  
Discretionary Jurisdiction

>>>>>>>

Gorham v. Cousin, Baird, et al  
CASE NUMBER  
1D2023-0358

02/12/2023      Notice    Notice of Appeal      Notice of Appeal Filed

x 02/13/2023      Order    Amended/Additional Filing(s) Needed      File Order Being  
Appealed ~      Upon the Court's own motion, pursuant to Florida Rules of Appellate  
Procedure 9.110(d) and/or 9.130(c), appellant is directed to file within 10 days  
from the date of this order conformed copies of the order(s) of the lower tribuna

x 02/23/2023      Misc. Events      Docketing Statement      Docketing Statement

x 02/23/2023      Misc. Events      Miscellaneous Docket Entry      Miscellaneous Docket  
Entry ~ attachment to docketing statement (for question #5)

Gorham, Curtis

x 02/23/2023      Misc. Events      Miscellaneous Docket Entry      Miscellaneous Docket  
Entry ~ attachment to docketing statement (for question #3)

04/25/2023      Order    Order    Order

04/26/2023	Order	Order on Motion to Stay	Order on Motion to Stay
x 05/25/2023	Record	Record on Appeal Redacted	Record on Appeal Redacted - 940 pages
x 05/30/2023	Notice	Notice of Supplemental Authority	Notice of Supplemental Authority
x 06/06/2023	Brief	Initial Brief	Initial Brief
06/19/2023	Order	Order Directing Service of Filing	Order Directing Service of Filing
x 07/05/2023	Brief	Supplemental Reply Brief	Supplemental Reply Brief
x 07/05/2023	Brief	Supplemental Reply Brief	Supplemental Reply Brief
07/05/2023	Brief	Supplemental Reply Brief	Supplemental Reply Brief
07/05/2023	Brief	Supplemental Reply Brief	Supplemental Reply Brief
(part 2)			
07/11/2023	Order	Order Striking Filing	Order Striking Filing
07/19/2023	Order	Order Striking Filing	Order Striking Filing
x 07/21/2023	Misc. Events	Miscellaneous Docket Entry	Miscellaneous Docket Entry - Plaintiff's Additional Answer for Good Cause Shown Consideration of Facts
x 07/21/2023	Notice	Notice of Supplemental Authority	Notice of Supplemental Authority
08/21/2023	Order	Order	Order
08/28/2023	Order	Order	Order
x 10/05/2023	Motions Other	Miscellaneous Motion	Motion for leave of court

.... RAN INTO PRINTER ISSUE OF LOW INK.....

08/21/2023	Order	Order	Order	
08/28/2023	Order	Order	Order	
x 10/05/2023	Motions	Other	Miscellaneous Motion	Motion for leave of court

.... RAN INTO PRINTER ISSUE OF LOW INK..... HERE

08/28/2023	Order	Order	Order
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.... RAN INTO PRINTER ISSUE OF LOW INK..... HERE

I ran out of ink; on the "order" on page 21 to 40 of 96 the 8/28 order 4th up, case 0389.

still have the other 2 appeals to include? Those orders and my filings.

I have included the final decision thought and all combined by 1ST DCA so same end result for each of the 3 appeals.

will get more ink and send it along.  
2/29/2024

IN THE CIRCUIT COURT, OF THE FOURTEENTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

---

<b>Plaintiff,</b>	) <b>Bay County Court House</b>
Curtis M. Gorham	) 300 East Fourth Street
3513 Rosewood Circle, Lynn Haven, FL 32444	) Panama City, FL 32401
(850) 522-9544	) (850) 763-9061
- VS -	) Case No. <u>22-496-CA</u>
<b>Defendant(s),</b>	)
Michael Alan Jenkins, Richard Wooten, Tatiana	)
Echeverry, Insurance(s), and maybe others.	)

---

**Lawsuit**

Plaintiff states that on 1/10/2020 during a visit to Dr. Michael Jenkins (MD) at the Advanced Urology Institute in Panama City, Florida that injury occurred. Plaintiff believes a duty was owed and harm was caused due to either negligent and or intentional acts and omissions, as well to include premise liability and a nurse, and personal injury and medical malpractice.

Michael Jenkins is noted as the "Lab Director" in the medical records and Tatiana Echeverry who may be a (PRN) is noted as a "Care Team" member which is believed to be the nurse person Plaintiff interacted with during the appointment.

-----

**Jurisdiction:**

The 14<sup>th</sup> Circuit Bay County Court of Florida has Jurisdiction because the incident happened in Panama City Florida within Bay County. The incident took place at Advanced Urology Institute, LLC, Panama City Office, 80 Doctors Dr, Panama City, FL 32405. The name and address of the Registered Agent is Richard Wooten (CEO) of Advanced Urology Institute, LLC, 12109 CR 103, Oxford, FL 34484.

-----

**The Ultimate Facts:**

Dr. Jenkins along with his staff (Defendants) created an environment in which Plaintiff became injured in several ways including physically injured. The injury(s) are consistent with medical malpractice statutes, personal injury statutes and premise liability statutes. Plaintiff has digital video and photo of injury as well as lab work in support of proving the injury, as well as follow-up medical diagnosis of harm caused.

There are pre-existing incidents of note caused by other medical providers that appear to be influential to these matters. Plaintiff was also refused proper and accurate diagnosis or referral for further diagnosis in part. Due to the injury(s) Plaintiff is entitled to relief.

The ultimate questions herein in regards to the physical injury is was it the doctor alone or together

with the nurse or did the nurse have something to do with it alone or is it all attributable to premise liability generally, and in which case was the doctor and nurse even being responsible at the time the injury happened.

-----

**Pray for Relief:**

1. A demand for judgment for the relief to which the Plaintiff deems himself entitled. The amount of one million dollars or any equitable relief equal to one million dollars or otherwise. One million dollars is the cap for medical malpractice without adding punitive damages or otherwise. Premise liability and personal injury are not a part of the one million dollar medical malpractice pray for relief and are additionally of equal value.

2. A demand for the records of Dr. Michael Jenkins to be amended or otherwise updated and also properly reviewed by expert(s) in the field to not blame my pre-existing medical condition (diabetes) and or (back injury) injury for the medical symptoms I was visiting Dr. Jenkins about. Plaintiff has a disease (diabetes) and Dr. Jenkins attributed my urology problem(s) with that disease without good cause to do so. Dr. Jenkins also attributed my injury symptoms to (neurological problems) without good cause to do so.

3. After visiting with Dr. Jenkins Plaintiff had no further information than that stated in (2) which left Plaintiff without any recourse to seek answers as being diabetic can't be cured and Plaintiff's spine injury was a recent pre-existing condition and so Dr. Jenkins took the position it is what it is. Plaintiff requests a detailed explaining of why it is what it is. Such as how does a spine injury cause the urology problems and how does diabetes cause the urology problem(s). Dr. Jenkins made assumptions without making a diagnosis.

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**Elements:** Causes of Action include, but are not limited to or may be limited to,

- 1.) Medical Malpractice,
- 2.) Negligence,
- 3.) Improper Treatment,
- 4.) Intentional Infliction of Emotional Distress,
- 5.) Negligent Infliction of Emotional Distress,
- 6.) Missed Diagnosis,
- 7.) Failure to Diagnose,
- 8.) Failure to Treat,
- 9.) Medical Battery,
- 10.) Malicious Intent,
- 11.) Causing Delayed Diagnosis,
- 12.) Reckless Acts,
- 13.) Wrongful Conduct,
- 14.) Intentional Wrongful Conduct,
- 15.) Misrepresentation,
- 16.) Defamation,
- 17.) Gross Negligence,
- 18.) Reckless Disregard,
- 19.) Willful and Wanton,

- 20.) Nonfeasance,
- 21.) Malfeasance,
- 22.) Misfeasance,
- 23.) Extreme Malice,
- 24.) Coercion,
- 25.) Conversion,
- 26.) Corporate Negligence,
- 27.) as Respondeat Superior,
- 28.) Lack of Informed Consent,
- 29.) Conspiracy,
- 30.) Fraud,
- 31.) HIPPA Violation(s).

Claim for "medical negligence" or "claim for medical malpractice" means a claim, arising out of the rendering of, or the failure to render, medical care or services.

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**TIME:**

Plaintiff visited Advanced Urology 1/10/2020 according to records.

Plaintiff sent a Demand Letter 10/10/2020.

Plaintiff sent a Letter of Intent (demand) on 1/31/2022, effective date 2/28/2022.

Plaintiff got a Denial Letter from attorneys 3/18/2022.

Plaintiff sent a 90-Day Extension 4/11/2022.

Plaintiff is filing this lawsuit 5/20/2022. (this is the 60 days after denial date)

Plaintiff has "excusable negligence" claim(s) to be made as to the filing of this matter with the courts.

The attorney denial letter states that after an investigation into the allegations they found no basis to support the allegations of injury. The denial letter continues on to say, although several causes of action in addition to allegations of medical malpractice, they contend that the entirety of all allegations are based on alleged medical malpractice. All of the legally cognizable causes of action Plaintiff listed are all subsumed by allegations of medical malpractice, they say.

Plaintiff must assume that this means what the attorney is saying is that there is no "injury" and if there was an injury it would be "medical malpractice" and not "personal injury" because the "injury" is a claim of "medical malpractice" it cannot also be a claim of "personal injury" and there is no "injury" anyway no matter, so Plaintiff has no claim possible for medical malpractice or personal injury or premise liability or anything else because there is no injury and if it was an injury it is medical malpractice which it isn't; because again, the attorney denial letter states that after an investigation into the allegations they found no basis to support the allegations of injury.

So, "they found no basis" so the information provide to defendant(s) was not enough apparently despite it being a "lab" saying injury has happened specifically "recently" and a doctor also diagnosing the injury recent to when the injury happened. Apparently then from what the attorney said in the letter the only way to sue a doctor is with medical malpractice and not personal injury. Such that despite the injury claim which would be medical malpractice it is not an injury and so there is no basis

for a medical malpractice lawsuit.

I sent a "Demand Letter" back in 2020 and got no response then so they did not cooperate and failure to cooperate is a waiver of the need for an expert. The only way to determine if it is an injury and if it is medical malpractice or personal injury is through the courts now with a jury trial.

The "injury" is unique in a few ways and in that generally any medical provider could have caused the same injury and therefore it does not require "expert" opinion in the same field as to the injury itself. Basically like saying the doctor squeezed my hand too hard and caused injury; that can be done by anybody.

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Plaintiff swears that this information is true and correct and files it with the clerk of the Bay County court.

Judge: \_\_\_\_\_  
Division: \_\_\_\_\_

Respectfully submitted Pro Se,  
Curtis M. Gorham

CURTIS GORHAM

**CERTIFICATION of SERVICE**

I hereby certify that on 05/20/2022 I sent and or delivered, a copy of this to  
the Bay County 14<sup>th</sup> District Court.

Defendants Representation: (Michael Jenkins and Advanced Urology, LLC)  
Rogelio J. Fontela of, Dennis, Jackson, Martin & Fontela, P.A. (Attorneys at Law)  
1591 Summit Lake Drive, Suite 200,  
Tallahassee, Florida, 32317  
(850) 422-3345, Fax (850) 422-1325

Plaintiff, Pro Se:  
Curtis M. Gorham  
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Home Phone: (850) 522-9544  
Email: Bccgorham@yahoo.com

11IN THE CIRCUIT COURT OF THE FOURTEENTH  
JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY, FLORIDA

CURTIS M. GORHAM,

Plaintiff,

CASE NO. 22-496-CA

vs.

MICHAEL A. JENKINS, M.D.,  
RICHARD WOOTEN; and TATIANA  
ECHEVERRY

Defendants.

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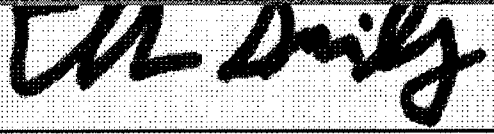
**ORDER GRANTING DEFENDANTS'**  
**MOTION TO DISMISS WITHOUT PREJUDICE**

**THIS CAUSE** having come before the Court at a hearing on Defendants' Motion to Dismiss With Prejudice for Failure to Comply with Statutory Presuit Requirements Under F.S. 766.102, held on June 23, 2022, and the Court being fully advised in the premises, it is thereupon:

**ORDERED and ADJUDGED** as follows:

- 1) Defendants' Motion to Dismiss is hereby **GRANTED WITHOUT PREJUDICE**.
- 2) Plaintiff has forty-five (45) days from the date of this Order to re-file and comply with the requirements of Chapter 766, Florida Statutes.

**Done and Ordered in Panama City, FL, Tuesday, July 5, 2022.**

03-2022-CA-000496-CA 07/05/2022 09:00:48 AM  
  
Elijah Smiley, Judge  
03-2022-CA-000496-CA 07/05/2022 09:00:48 AM

**ELIJAH SMILEY, Circuit Judge**



**Copies provided via the e-portal filing to:**

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11IN THE CIRCUIT COURT OF THE FOURTEENTH  
JUDICIAL CIRCUIT, IN AND FOR BAY COUNTY, FLORIDA

CURTIS M. GORHAM,

Plaintiff,

CASE NO. 22-496-CA

vs.

MICHAEL A. JENKINS, M.D.,  
RICHARD WOOTEN; and TATIANA  
ECHEVERRY

Defendants.


**ORDER DENYING PLAINTIFF'S MOTION REQUESTING THE COURT TO  
DETERMINE WHETHER THE DEFENSE DENIAL OF PLAINTIFF'S CLAIM RESTS  
ON A REASONABLE BASIS**

**THIS CAUSE** having come before the Court at a hearing held on November 2, 2022 on Plaintiff's Motion Requesting the Court to Determine Whether the Defense Denial of Plaintiff's Claim Rests on a Reasonable Basis, the Court having heard arguments of both parties, and being fully advised in the premises, it is thereupon:

**ORDERED and ADJUDGED** as follows:

Plaintiff's Motion Requesting the Court to Determine Whether the Defense Denial of Plaintiff's Claim Rests on a Reasonable Basis is hereby **DENIED**.

**Done and Ordered in Panama City, FL, Monday, November 7, 2022.**

03-2022-CA-000496-CA 11/07/2022 11:57:04 PM  
  
Elijah Smiley, Judge  
03-2022-CA-000496-CA 11/07/2022 11:57:04 PM

**ELIJAH SMILEY, Circuit Judge**

**Copies provided via the e-portal filing to:**

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