

FAYETTE CIRCUIT COURT  
CIVIL BRANCH  
THIRD DIVISION  
CIVIL ACTION NO. 06-CI-5075

LATRACIA SATTERWHITE

OCT 28 2008

PLAINTIFF

AND

ANTHEM HEALTHCARE PLANS OF KENTUCKY

INTERVENING PLAINTIFF

V

TRIAL, VERDICT AND JUDGMENT

DR. MICHAEL SEKELA

AND

SURGICAL ASSOCIATES OF LEXINGTON, P.S.C., ET AL

DEFENDANTS

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This matter was called for trial by the Court as scheduled on September 29, 2008 at which time the above named Plaintiff, Latracia Satterwhite, and the above named Defendants, Dr. Michael Sekela and Surgical Associates of Lexington, P.S.C. appeared in person and through their respective counsel and both announced ready for trial. *Voir Dire* examination was conducted by the Court and all Counsel, and after peremptory strikes by Counsel, a jury of fourteen (14) qualified persons were seated and empaneled and sworn to act as jurors in this case, to wit:

(415) Marietta B. Duncan  
(460) Sylvia R. Aldrich  
(498) Dianne Jefferson Luby  
(519) Michael D. Spratt  
(523) Beverly B. Roberts  
(579) Martha Daily Alexander  
(637) Bevan Knapp Jeter

(434) Shirley A. Lewis  
(471) Christian B. Congleton  
(513) Clara B. Truitt  
(522) Elizabeth Ann Shelton  
(527) Lawrence J. Spagnoletta  
(619) Anthony A. Muscarella  
(650) Marsha Anne Shannon

Trial commenced as reflected on the video Record consisting of the Plaintiff's case-in-chief and the Defendant's case-in-chief. Motions, objections and other issues presented to the Court and the rulings thereon by the Court during trial are reflected on the video Record. Juror No. 637, Bevan Knapp Jeter, was excused by the Court during the trial proceedings because of a personal emergency which was agreed to by both Counsel on the video Record.

The trial continued from day to day until October 8, 2008 when the remaining thirteen (13) jurors heard the instructions of the Court and closing arguments from both Counsel. The Court, with total agreement of both Counsel stated on the video Record, excused Juror No. 434, Shirley A. Lewis, as the final alternate. The remaining twelve (12) jurors then retired for deliberation and returned into open Court the following verdict, to wit:

INSTRUCTION NO. 1

It was the duty of Michael Sekela, M.D., of Surgical Associates of Lexington, in his treatment of Latracia Satterwhite, to exercise that degree of care as would be expected of a reasonably competent heart surgeon acting under the same or similar circumstances as in this case.

QUESTION NO. 1

Do you believe from the evidence that Michael Sekela, M.D., failed to comply with this duty, and that such failure was a substantial factor in causing the injuries complained of by the Plaintiff?

Yes:   X  

No.:       

/s/

(619) Anthony A. Muscarella  
(498) Dianne Jefferson Luby  
(527) Lawrence J. Spagnoletta  
(522) Elizabeth Ann Shelton  
(650) Marsha Anne Shannon

(579) Martha Daily Alexander  
(471) Christian B. Congleton  
(513) Clara B. Truitt  
(460) Sylvia R. Aldrich  
(415) Marietta B. Duncan

INSTRUCTION NO. 2

It was the duty of John Sanders, M.D., of Central Kentucky anesthesia, in his treatment of Latracia Satterwhite, to exercise that degree of care as would be expected of a reasonably competent cardiac anesthesiologist acting under the same or similar circumstances as in this case.

QUESTION NO. 2

Do you believe from the evidence that John Sanders, M.D., failed to comply with this duty, and that such failure was a substantial factor in causing the injuries complained of by the Plaintiff?

Yes:   X  

No.:       

/s/ Anthony A. Muscarella, (619)  
FOREPERSON

INSTRUCTION NO. 3

It was the duty of Bridgett Fomby, of Fresenius Medical Care, to exercise that degree of care as would be expected of a reasonably competent perfusionist acting under the same or similar circumstances as in this case.

QUESTION NO. 3

Do you believe from the evidence that Bridgett Fomby failed to comply with this duty, and that such failure was a substantial factor in causing the injuries complained of by the Plaintiff?

Yes:   X  

No.:       

/s/Anthony A. Muscarella, (619)  
FOREPERSON

INSTRUCTION NO. 4

If you have answered Question No. 1 "Yes" you will determine from the evidence and state the sum or sums of money that will

fairly and reasonably compensate Latracia Satterwhite for such of the following damages that you believe from the evidence she has sustained directly by reason of the incident in question without regard to fault:

- (a) Medical expenses incurred to date:  
(not to exceed \$455,229.06)

\$455,229.06

- (b) Medical expenses reasonably expected to be incurred in the future:  
(not to exceed \$4,426,408.72)

\$4,426,408.72

- (c) Loss of her Power to Labor and Earn Money:  
(not to exceed \$482,538.00)

\$482,538.00

- (d) Mental and physical pain and suffering to date or reasonably expected to be incurred in the future:  
(not to exceed \$10,000,000.00)

\$4,500,000.00

TOTAL \$9,864,175.78

/s/

(619) Anthony A. Muscarella  
(498) Dianne Jefferson Luby  
(513) Clara B. Truitt  
(460) Sylvia R. Aldrich  
(415) Marietta B. Duncan

(579) Martha Daily Alexander  
(471) Christian B. Congleton  
(522) Elizabeth Ann Shelton  
(650) Marsha Anne Shannon  
(527) Lawrence J. Spagnoletta

#### INSTRUCTION NO. 5

If you have answered "Yes" to Question No. 1 and/or Question No. 2 and/or Question No. 3, you will determine from the evidence and indicate in the following blank spaces what percentage of the total fault was attributable to all parties who you found at fault as follows:



Michael Sekela, M.D.	<u>31%</u>
John Sanders, M.D.	<u>23%</u>
Bridgett Fomby	<u>46%</u>
Total:	<u>100%</u>

(In determining the percentages of fault you shall consider both the nature of the conduct of each of the parties and the extent of the causal relation between his or her conduct and the damages claimed.)

/s/	
(619) Anthony A. Muscarella	(579) Martha Daily Alexander
(498) Dianne Jefferson Luby	(471) Christian B. Congleton
(513) Clara B. Truitt	(522) Elizabeth Ann Shelton
(460) Sylvia R. Aldrich	(650) Marsha Anne Shannon
(415) Marietta B. Duncan	

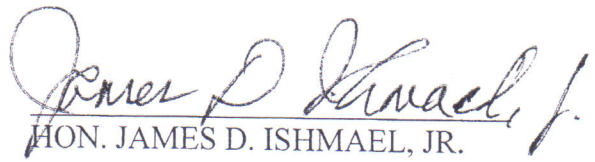
Upon receipt and reading of the Verdict as set out above, the Court inquired of Counsel whether either attorney desired to examine the original of the Verdict or desired to have the jury polled. Counsel for the Defendants requested the opportunity to view the original of the Verdict which was permitted. Neither Counsel desired to have the jury polled. After inquiry by the Court as to any reason why the jury could not then be discharged, and neither Counsel indicating any reason therefor or having any objection to the final discharge of the Jury, the jury was discharged from further responsibility with the thanks of the Court.

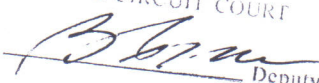
IT IS THEREFORE ORDERED AND ADJUDGED that the Plaintiff, Latracia Satterwhite, shall recover from the Defendants, Dr. Michael Sekela and Surgical Associates of Lexington, P.S.C., the sum of Three Million Fifty Seven Thousand Eight Hundred Ninety Four and Forty-Nine/One Hundred (\$3,057,894.49) Dollars which represents Thirty-One (31%) Percent of the total jury verdict at the trial of this matter, i.e., \$9,864,175.78 multiplied times

31% equals \$3,057,894.49.

This Judgment amount of \$3,057,894.49 against the Defendants shall bear interest at the rate of 12% compounded annually pursuant to KRS 360.040 from the date of Judgment until paid<sup>1</sup>. The Plaintiff is further entitled to her costs expended as allowed by law pursuant to CR 54.04. All other claims by or between the parties hereto have been previously resolved by settlement prior to trial.

Dated this 27 day of October, 2008

  
HON. JAMES D. ISHMAEL, JR.

A True Copy  
ATTEST: WILMA F. LYNCH, CLERK  
FAYETTE CIRCUIT COURT  
By:  Deputy

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<sup>1</sup>The Court has received and considered the Motion of the Defendants to fix the rate of interest at a rate which is more comparable to a reasonable rate of return in the current market conditions. However, the Court sees no reason to deviate from the standard rate in this case. In fact, the Court has never seen a Judgment with interest at any rate besides that rate set by KRS 360.040.

This is to certify that a true and correct copy of the foregoing Trial, Verdict and Judgment was served upon all Counsel of Record on this 28 day of October, 2008 by mailing same as follows:

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WILMA F. LYNCH, C.F.C.C.  
BY:  D.C.