



3.

Defendant James A. Rice, Jr. is an individual who resides in Fulton County, Georgia. Service may be made on Rice by personally serving him at 1190 Crest Valley Drive, Atlanta, Georgia, 30327. Rice is an attorney licensed to practice law in Georgia.

4.

Defendant James A. Rice, Jr. P.C. is a professional corporation organized and existing under the laws of the State of Georgia and its principal place of business in Georgia is located at 1190 Crest Valley Drive, Atlanta, Georgia, 30327. James A. Rice, Jr. P.C. may be served through its registered agent, James A. Rice, Jr. at 563 Spring Street, Atlanta, Georgia 30308. James A. Rice, Jr. P.C. is a law firm, and James A. Rice, Jr. manages and controls its operations.

5.

Defendant Thomas L. Schaefer is an individual who resides in Gwinnett County, Georgia. Service may be made on Rice by personally serving him at 1110 Satellite Boulevard NW, Suite 404, Suwanee, Georgia, 30024. Schaefer is an attorney licensed to practice law in Georgia.

6.

Defendant Schaefer Law Group, LLC is a limited liability company organized and existing under the laws of the State of Georgia and its principal place of business in Georgia is located at 1110 Satellite Boulevard NW, Suite 404, Suwanee, Georgia, 30024. Schaefer Law Group, LLC may be served through its registered agent, Thomas L. Schaefer at 1110 Satellite Boulevard NW, Suite 404, Suwanee, Georgia, 30024. Schaefer Law Group, LLC is a law firm, and Thomas L. Schaefer manages and controls its operations.

7.

Defendant Shin Cho is an individual who resides in Gwinnett County, Georgia. Service may be made on Cho by personally serving him at 2885 Macon Court, Suwanee, Georgia, 30024.

8.

Jurisdiction and venue are proper pursuant to the Georgia Constitution, Article VI, § II, Paragraph IV.

### **FACTS**

9.

Plaintiffs hereby reallege and reincorporate every paragraph, allegation and count of this Complaint contained in Paragraphs 1 through 8, as if fully set forth herein.

10.

Defendant Cho was injured in an accident that occurred in July 2014.

11.

In August of 2015, a personal injury lawsuit was initiated in the Superior Court of Gwinnett County, Civil Action File Number 15-A-08298-7, with Defendant Cho as the sole plaintiff.

12.

Defendants Rice and Schaefer, and their Defendant law firms, were his counsel of record, and litigated this case on Defendant Cho's behalf.

13.

The case was litigated for nearly two (2) years, and finally tried before a jury on or about May 17, 2017, before the Honorable Melodie Snell Conner.

14.

On May 22, 2017, the jury rendered a verdict in favor of Defendant Cho, awarding him as the plaintiff, \$700,000.00 in damages.

15.

On June 30, 2017, a satisfaction of judgment was filed.

16.

On June 29, 2016, Defendant Cho signed a Letter of Protection with the Plaintiffs.

17.

Defendant Cho not only signed the Letter of Protection, but he initialed every paragraph on pages one (1) through three (3) setting forth the precise terms of his financial obligation to the Plaintiffs.

18.

Defendant Schaefer and his Defendant law firm were listed on the first page of the Letter of Protection as Defendant Cho's legal representation in the accident, that at this time, was already well into suit in Gwinnett County.

19.

The Plaintiffs rendered medical care to Defendant Cho from December 4, 2014 through December 19, 2016, in the amount of \$205,323.70.

20.

By the time the Letter of Protection was executed on June 29, 2016, Defendant Cho had been treating with the Plaintiffs for approximately nineteen (19) months.

21.

Both Defendants Rice and Schaefer, as plaintiff's counsel, knew the critical importance of the medical care being provided by the Plaintiffs, as it related to satisfying the burden of proof in proving causation and damages, and in the effectiveness of Plaintiff Chappuis' testimony, as both a treating physician and a medical expert.

22.

Both Defendants Rice and Schaefer, as plaintiff's counsel, were also fully aware of both their obligation and Defendant Cho's obligation to compensate the Plaintiffs for the medical care and treatment they provided, as they had actual knowledge of the medical care and treatment being provided, that it was being provided pursuant to a Letter of Protection, and that obviously, the Plaintiffs expected to be properly compensated for their time and medical care.

23.

In fact, Defendant Rice acknowledged the power and effect of Plaintiff Chappuis' testimony and medical care, which without question greatly assisted in the jury's verdict, in a text message sent directly from Defendant Rice to Plaintiff Chappuis following the verdict, which stated as follows:

Great. \$700,000.00!

Tons of work trying to clean up Cho's mess. The closer we got to trial I learned he lied to you and every other doctor-3 prior wrecks and told everyone ZERO.

Jury liked you a lot and coming across as objective helped. Did not buy Dr. Cross nonsense.

Very glad that one is over as thought I was pretty much SOL.

The Letter of Protection specifically states as follows (*emphasis added*):

I, as the Patient acknowledge:

James L. Chappuis, M.D. ("Dr. Chappuis"), Pallavi Cherukupally, M.D. (Dr. Cherukupally), Julio Petilon, M.D. and Orthopaedic and Spine Surgery Center of Atlanta ("OSSA"), or any combination of the ("Providers"), have rendered, are rendering and may continue to render medical services for me, as the Patient named above. *I, as the patient, and as the Attorney's client, hereby authorize and direct by my signature below that you as the Attorney handling my matter: (i) to protect to the fullest extent possible, the outstanding bill(s) for service rendered by Dr. Chappuis, Dr. Cherukupally, Dr. Petilon, OSSA, or any combination of the three, to me as the Patient, related to the Accident/Injury noted above, including without limitation, all fees for physician services, medical services, laboratory bills, MRI/CT/Diagnostic services, surgical fees, anesthesia fees; office-based pain procedures; medical report fees, appearance fees, witness fees, administrative charges and other costs (the "Bills"), (ii) to withhold the sums reflected on the Bills from any insurance, settlement, judgement, verdict or other sources that may become available to you as my Attorney related to the Accident/Injury, and (iii) to make direct payment of the Bills to Dr. Chappuis, Dr. Cherukupally, Dr. Petilon, OSSA, or any combination of the three, immediately upon receipt of funds by you as my Attorney from any such insurance, settlement, judgement, verdict or other sources.*

*I, as the Patient, understand and agree that no distribution of monies will be made to me until such time as all of the Providers have been paid in full.*

I, as the Patient, understand and acknowledge that should my attorney not collect on my behalf, from such settlement, judgement, verdict or other sources, for whatever reason, sufficient funds to pay in full all of the Bills, that I, as the Patient, will be responsible for all unpaid Bills.

*I, as the Patient, direct my Attorney to contact Dr. Chappuis, Dr. Cherukupally, Dr. Petilon and OSSA, or any combination of the three, at the time of my Attorney's receipt of funds on my behalf from any insurance, settlement, judgment, verdict or other sources related to the Accident/Injury and to give Dr. Chappuis, Dr. Cherukupally, Dr. Petilon, and OSSA, or any combination of the three, a copy of any settlement check, release, settlement agreement or other evidence of the resolution of the matter related to the Accident/Injury.*

*I, as the Patient, agree that the above listed instructions are irrevocable and that a copy of this authorization shall have the same force and effect as the original.*

*I, as the Patient, agree that if there is a dispute concerning any Bills that my Attorney shall hold the disputed amount of money in an escrow account until a resolution has been made between me, as the Patient, and Dr. Chappuis, Dr. Cherukupally, Dr. Petilon and/or OSSA.*

*I, as the Patient, acknowledge the medical treatment being provided is the result of an injury for which a legal claim is being pursued. I, as the Patient, agree to provide to the medical Providers the name, address, telephone number and email address for the attorney pursuing redress for the injury.*

I, as the Patient, further acknowledge the payment for the treatment is the responsibility of the patient and is ultimately the patient's sole responsibility irrespective of insurance or payment in this legal matter. I, as the Patient, agree to allow the medical Providers to file a lien for any outstanding medical bills due as a result of treatment, whether or not payment by insurance has been pursued. To that end, I as the Patient, agree to advise my attorney, or require of my attorney, to collect and pay to the medical Providers all outstanding medical bills.

I, as the Patient, further Agree:

To provide all relevant and necessary information relating to the legal efforts to the medical Providers so they may be able to file appropriate liens for all outstanding Bills.

*To keep the medical Providers reasonably informed as to the status of my legal efforts and to update any change of address or change in Counsel (attorney). In the event that I, as the Patient, terminate or change legal Counsel upon whom a lien has been filed by the medical Providers, I will notify the medical Providers of my new Counsel within ten (10) days of engaging new Counsel. Likewise, I as the Patient, am obligated to place my new Counsel on notice of the lien(s) with Dr. Chappuis, Dr. Cherukupally, Dr. Petilon and/or OSSA.*

*To acknowledge, honor and insure payment of the lien(s), either by the current attorney at the time settlement funds shall be distributed, or otherwise by me, with regard to any funds that will be or may be recovered in the legal efforts undertaken on my behalf.*

*I, as the Patient, agree that Dr. Chappuis, Dr. Cherukupally, Dr. Petilon and OSSA may share my medical information related to the Accident/ Injury provided above with my attorney, whose name is provided above, in order to: (a) arrange payment for medical treatment related to the above referenced Accident/Injury, or (b) to bring or substantiate a legal claim related to the above referenced Accident/Injury. I understand that it is my responsibility to inform Dr. Chappuis, Dr. Cherukupally, Dr. Petilon and OSSA if I change my attorney and Dr. Chappuis, Dr. Cherukupally, Dr. Petilon and OSSA will not be responsible for sharing information with a previous attorney due to my failure to timely notify them that I have changed attorneys.*

25.

Defendant Cho initialed every paragraph, in addition to signing and dating the Letter of Protection.

26.

Defendant Cho then on May 31, 2017, a mere nine (9) days after the jury verdict, went unannounced to the Plaintiffs' main office, and through deliberate pressure and misrepresentation of the facts, convinced a clerical employee to accept \$7,500.00 in satisfaction and payment in full of an alleged \$43,871.01, which was erroneous, as the amount due and owing is \$205,323.70.

27.

During his personal visit with this clerical employee, Defendant Cho failed to disclose that nine (9) days earlier he had received a jury verdict award of \$700,000.00.

28.

Defendant Cho went to the Plaintiffs' main office May 31, 2017, with the express intent to defraud the Plaintiffs of the full amount of the correct outstanding balance.

29.

Had any employee of the Plaintiffs, regardless of their title, knew that a settlement or trial award been given to Defendant Cho, no payoff would have been issued, or even entertained, until due diligence had been conducted.

30.

Abundant witness testimony and supporting documentation confirms that the amount due and owing is \$205,323.70, and not a lower amount.

31.

Defendants Rice, Schaefer and their respective Defendant law firms had actual knowledge of the medical care rendered by the Plaintiffs and the obligation to compensate them upon any settlement or jury award, by virtue of the executed Letter of Protection, and their experience and training in representing plaintiffs in personal injury actions.

32.

Furthermore, Defendants Rice, Schaefer and their respective Defendant law firms had previously worked with the Plaintiffs, and understood the framework and obligation to compensate the Plaintiffs upon any settlement or jury award.

33.

On June 21, 2017, Defendant Rice and his Defendant law firm received a cease and desist letter sent via certified mail from Richard D. Sanders, Esq., who represented the Plaintiffs, specifically instructing him to not disburse any funds until the Plaintiffs' were compensated, and it cited specific portions of the above Letter of Protection.



34.

Nevertheless, Defendants Rice, Schaefer and their respective firms paid themselves and disbursed Defendant's Cho's net award out of the gross settlement, and intentionally disregarded their obligation to compensate the Plaintiffs.

35.

In doing so, the Defendants committed intentional fraudulent acts, as well as negligent acts or omissions, which proximately caused the Plaintiffs' damages, for which the Defendants are wholly liable.

**COUNT I**  
**FRAUD: ALL DEFENDANTS**

36.

Plaintiffs hereby reallege and reincorporate every paragraph, allegation and count of this Complaint contained in paragraphs 1 through 35, as if fully set forth herein.

37.

Defendants Rice, Schaefer and their respective Defendant law firms intentionally concealed material facts from the Plaintiffs when they paid themselves and disbursed Defendant Cho's net award out of the gross settlement, without properly notifying and compensating the Plaintiffs pursuant to the executed Letter of Protection and their actual knowledge of the medical care rendered by the Plaintiffs, and the obligation to compensate them upon any settlement or jury award.

38.

Defendant Cho intentionally concealed material facts from the Plaintiffs when he accepted his net award out of the gross settlement, without properly notifying and compensating the Plaintiffs pursuant to the executed Letter of Protection and his actual knowledge of the

medical care rendered by the Plaintiffs, and the obligation to compensate them upon any settlement or jury award.

39.

Defendant Cho further intentionally concealed material facts from the Plaintiffs when he on May 31, 2017, a mere nine (9) days after the jury verdict, went unannounced to Plaintiffs' main office, and through deliberate pressure and misrepresentation of the facts, convinced a clerical employee to accept \$7,500.00 in satisfaction and payment in full of an alleged \$43,871.01, which was erroneous, as the accurate amount due and owing is \$205,323.70, and in failing to disclose that nine (9) days earlier he had received jury verdict award of \$700,000.00.

40.

The Defendants had a duty to disclose these material facts to the Plaintiffs shortly after the jury award the \$700,000.00 on May 22, 2017, and without question once the gross settlement was deposited into a firm IOLTA trust account.

41.

The Defendants knew that the Plaintiffs had no knowledge of those facts and that the Plaintiffs did not have an equal opportunity to discover such facts. The Defendants were in a position of superiority over the Plaintiffs. Indeed, the Plaintiffs trusted the Defendants to not disburse any settlement funds in violation of their executed Letter of Protection and the law.

42.

By failing to disclose these material facts, the Defendants intended to induce the Plaintiffs to not be in a position to receive their compensation, and to delay their possible discovery of the receipt of funds and knowledge of the disbursements, to make later pursuing the monies due more difficult.

43.

The Plaintiffs reasonably relied on the Defendants' nondisclosure, and were not afforded an opportunity to inquire about and receive their compensation, as required by the executed Letter of Protection and the law.

44.

Defendants Rice, Schaefer and their respective Defendant law firms reaped the benefit of receiving the full value of whatever fees they felt they were owed, and Defendant Cho reaped the benefit of not having to pay substantially more monies owed the Plaintiffs, as well as receiving the immediate benefit of his portion of the settlement.

45.

As a direct and proximate result of the Defendants' wrongful conduct and fraudulent concealment, the Plaintiffs suffered the damages described herein.

46.

The Defendants' conduct was knowing, intentional, with malice, demonstrated a complete lack of care, and was in reckless disregard for the rights of the Plaintiffs, such that punitive damages are appropriate.

**COUNT II**  
**NEGLIGENT MISREPRESENTATION: ALL DEFENDANTS**

47.

Plaintiffs hereby reallege and reincorporate every paragraph, allegation and count of this Complaint contained in paragraphs 1 through 46, as if fully set forth herein.

48.

The Defendants negligently supplied false information to foreseeable persons, specifically, the Plaintiffs, that would be directly harmed by being supplied this false information, that being their ability to receive the compensation they were entitled to pursuant to the executed Letter of Protection and the law.

49.

The Plaintiffs reasonably relied on this false information.

50.

The Plaintiffs were directly and proximately damaged as a result of this reliance.

51.

The Defendants are therefore liable to the Plaintiffs for this breach.

**COUNT III**  
**BREACH OF CONTRACT: ALL DEFENDANTS**

52.

Plaintiffs hereby reallege and reincorporate every paragraph, allegation and count of this Complaint contained in paragraphs 1 through 51, as if fully set forth herein.

53.

The Defendants had a valid written contract with the Plaintiffs.

54.

There was an offer, acceptance and consideration by all of the parties in this civil action.

55.

Specifically, the Plaintiffs offered to treat Defendant Cho on a Letter of Protection basis, which he accepted, in exchange for the cost of the medical services provided being protected by

a Letter of Protection being paid out of any settlement or trial award proceeds, an obligation all of the Defendants has legal and actual knowledge of, and fully agreed to.

56.

The Defendants breached the portions of the Letter of Protection as emphasized above in paragraph twenty-four (24).

57.

As a result of this breach, the Plaintiffs are entitled to recover the full amount of the outstanding medical services rendered, \$205,323.70.

**COUNT IV**  
**DAMAGES**

58.

Plaintiffs hereby reallege and reincorporate every paragraph, allegation and count of this Complaint contained in paragraphs 1 through 57, as if fully set forth herein.

59.

The Defendants, through their fraudulent and negligent conduct in intentionally disregarding and failing to honor their obligation to compensate the Plaintiffs, have demonstrated an entire want of care, evidencing a reckless indifference and disregard to the consequences of their actions. Plaintiffs, pursuant to O.C.G.A. § 51-12-5.1, are therefore entitled to an award of punitive damages to deter the Defendants, and other similarly situated Defendants, from such conduct in the future.

60.

The Defendants' actions have been in bad faith and have caused the Plaintiffs to suffer unnecessary trouble and expense. The Plaintiffs are, therefore, entitled to recover from the

Defendants all expenses of litigation, including attorney's fees, costs and expenses pursuant to O.C.G.A. § 13-6-11.

61.

As a direct and proximate result of the intentional misconduct and negligent acts or omissions of the Defendants, the Plaintiffs have suffered damages, as set forth above.

WHEREFORE, Plaintiffs pray as follows:

- (a) that the Defendants be served with summons and process and be required to answer this lawsuit;
- (b) that the Plaintiffs recover recompensive damages from the Defendants for all special damages in an amount to be proven at trial;
- (c) that the Plaintiffs recover recompensive damages from the Defendants for all of their general damages in an amount in excess of \$10,000.00;
- (d) that the Plaintiffs have a trial before a jury; and
- (e) for any such other and further relief as the Court may deem just and appropriate.

Respectfully submitted this 21<sup>st</sup> day of August, 2017.

By: /s/ Richard V. Merritt  
Richard V. Merritt  
Georgia Bar No. 503105

*Attorney for the Plaintiffs*

Office of the General Counsel-SpineCenterAtlanta and Affiliates  
3200 Downwood Circle, NW-Suite 380  
Atlanta, Georgia 30327  
(404) 351-5812 (ext. 6303)  
rmerritt@spineatl.com