

To Whom It May Concern,

My name is Elena Avram and I want to prove that a medical malpractice occurred, when Dr. Richard Gary Levine from Union Memorial Hospital Baltimore replaced my knees totally, on March 2nd 2012. The surgery was not successful, the physical and emotional suffering left me crippled for all my life.

First, I will present a history of how I got to have these surgeries, what happened post-surgery, and then in the second part, I will explain why I consider the right knee replacement is a medical malpractice.

1st Part: History/succession of events

I have osteoarthritis for about 20 years. The left knee was more severe than the right one.

Between 2000 and 2010 after many years of different medications (Celebrex, Arthrotec, Tramadol, Phentanyl) I had 6 series of cortisone and 2 series of Synvisc done by Dr. James Kunec, Laurel, MD. Because the pain became unbearable, in December 2011 I decided to look for a good doctor for a final solution, eventually a knee replacement.

Beside the severe pain, another reason to have the knee replacement a.s.a.p., was the job opportunity, which came up, to work as a Senior Scientific Researcher for an International Nuclear company in Europe. Because the main responsibility of this job was the inspection of the nuclear reactors all over the world, this job assumed many business trips which could be done in good conditions without any leg pain restrictions. This opportunity came up in 2011 and because my education level and experience met very well the job requirements I

have applied for this job and I got the offer. The deadline for the job start was the beginning of 2013.

But my unstable, bad medical situation, after the surgeries done by Dr. R. Levine, forced me to turn down this offer, in the fall of 2012. I couldn't take this job anymore and the opportunity was lost forever.

In December 2011, after the internet searching I found Dr. Craig D. Morgan , an orthopedic surgeon at the Morgan Kalman Clinic, 2501 Silverside Rd, Wilmington, Delaware. The first appointment was set up on 02.02.2012. After medical, MRI and X ray examination his assessment was :

- right knee has a mild osteoarthritis with medial and lateral meniscus tears;**
- left knee has a severe tricompartmental osteoarthritis with varus alignment and bone on bone changes in the medial joint as well as patellofemoral joint with marked area of osteophyte in the medial and patellofemoral joint.**

He recommended for the right knee only an arthroscopy (partial medial and lateral menisectomy) while for the left knee a total knee arthroplasty. Dr. Craig Morgan's assured me 2 times that the right knee doesn't have osteoarthritis and I don't need replacement.

My family doctor Dragos Popescu, Baltimore, MD, advised me to look and for a second opinion and his recommendation was for Dr. Richard Levine from Union Memorial Hospital, Baltimore.

The first appointment with Dr. Levine was scheduled on 02/14/2012.

After my examination, Dr. Levine states that both MRI and X rays reveal significant osteoarthritis in both knees although the left is more severe than the right. His conclusion was to have a knee arthroplasty for both knees done at the same time as a reasonable approach. The only post operation risks, benefits, potential complications, rehab and recovery conditions which I learned from Dr. Levine were: "it is no big deal to have the surgery at both legs once" , "even for the right leg it is not necessary right now sometimes later will be" and "the recovery for both will be fast". In these conditions, willing to get rid of the pain a.s.a.p. and trusting Dr. Levine's words , I have decided to follow Dr. Levine's advice and have both knees replaced in the same time.

Dr. Levine knew, from my medical history, that 1 year before (January 2011) I had a breast cancer surgery, followed by radiation. I would like to believe that Dr. Levine tried to avoid another trauma in my life and choose the best surgical methods.

On 03/02/2012, I had both surgeries done at the Union Memorial Hospital, Baltimore where I stayed for 5 days (03/02/2012-03/07/2012).

Starting with the 2nd post-operative day I developed an episode of atrial fibrillation. The Rapid Response team was called because of acute onset of confusion. I was transferred to the cardiac floor for 2 days.

While I was on the cardiac floor, because I used the morphine pump continuously, without any control, I was for 3 days and 3 nights in a hyperactive delirium state defined by terrible agitation, combative behavior, progressive confusion. I was drowsy, not able to

concentrate or pay attention, misunderstanding the things which I saw or heard.

After the surgery the next follow up visits at Dr. Richard Levine office were scheduled on : 04/03/2012, 06/05/2012 and 08/07/2012.

Starting with the 2nd month after the surgery, I let Dr. Levine know that the right leg is shorter than the left one with almost 2 inches, and while the pain in the left knee decreased slowly, in the right leg the pain was increasing. These 2 issues are mentioned in the Dr. Levine report.

Everytime Dr. Levine told me to be patient, because the recovery will be longer than 6 months. He tried to assure me the knee surgeries were done by him in the best possible conditions, and after 6 months I will be almost recovered.

After repeated alerts regarding my increased pain in the right leg, finally Dr. Levine fixed an appointment for me on 08/07/2012.

Because he couldn't understand why the right leg hurts me so much, he decided to have an X ray for both hips .

The result was shocking: the right hip was very bad, almost collapsed.

It was necessary to have an emergency surgery : total right hip replacement.

Now I want to emphasize my opinion that beside the wrong right knee surgery, the treatment after the knee surgery was improper.

Why Dr. Levine waited for 5 months to decide to have a right hip X ray? Why I didn't have these X ray for knees and hips together before the surgery? Why more 5 months of impossible pain ?

Also, I am sure that the leg length discrepancy causes more pain in the right knee, the right hip and the back . I am trying to minimize this defect by wearing a leg raise thing called Evenup . It is well known that “even small differences in the leg length, can mean major pain! The Evenup was developed by foot and ankle specialists that saw the need for a simple, effective way to help patients suffering from hip and back pain while recovering from an injury or surgery” (www.evenupcorp.com). This is what I am wearing right now , when it is possible(almost 40% of my standing up time):



Evenup tool for leg raising.

For the right hip surgery I had the first appointment with Dr. Frank Ebert on 08/08/12. To be able to endure the pain till surgery I had a hip cortisone injection under fluoroscopy on 08/15/2012 .

The surgery was scheduled on 09/25/2012. The next appointments with Dr. Ebert were on : 10/24/2012, 12/22/2012 , 04/10/2013 and 06/19/2013.

The recovery after these three surgeries is a very slow process.

Right now after 1 year and 6 months since the knee surgeries and 10 months since the hip surgery I am in the next situation:

- I am still on narcotics (Oxycodone and Phentanyl) enduring every single day the side effects. The worst fact is that I am starting to face the withdrawal symptoms which make me feel very bad;

- I have a limp, crooked walk, and a knee/ back pain because of the discrepancy in the leg lengths;
- I am wearing Evenup, a tool which is raising my right leg;
- Being sleepy and dizzy, I can't drive long distances and someone has to drop me and pick me up from my work (40 miles from my house),
- The upper part of the left leg is completely numb and painful, due to Meralgia Paraesthetica , which was caused by a tight nerve during the surgery. Only another surgery could resolve this problem, releasing the nerve.
- Because of this forever handicap, because of the pain in my back and right leg and the narcotics side effects, I have lost the ability to enjoy life's pleasures and the value of companionship in a marriage.
- After these surgeries I couldn't take the same job as before the surgeries. The dizziness, sleepiness, inability of thinking and judging don't give me the power to perform a challenging job with all responsibilities as I had before the surgeries. Right now I am working in a new position, under my qualification of scientist with PhD in Nuclear Physics.
- Even this work is a tough task for me, I can't afford to give up at my job and live having only the disability income. It is too less to pay for all my expenses.

2ndPart :Why this surgery is a medical malpractice?

The surgery done by Dr. Levine on 02/02/2013 is a clear example of malpractice because of the following reasons:

1. I had a physician-patient relationship with Doctor Levine that means I hired the doctor for his services and the doctor agreed to be hired. The doctor began seeing me and treating me directly. That means I completely trusted his judgment, 100%.
2. My opinion is that the right knee replacement was not a necessary surgery.

A good doctor, before to take this major decision of knee replacements, should investigate both joints (knee and hip) to decide which one could cause the leg pain. As Dr. Levine said "the right knee replacement was not so critical" but "because in the future will be is better to do both knees once" (Dr.Levine report).

Dr. Levine breached his duty by failing to perform his duties in line with the relevant standards of care, resulting in injury. Dr.Levine was negligent, not reasonably skillful and careful, causing my harm in a way that a competent doctor, under the same circumstances, would not have in my diagnosis and treatment.

He knew that 1 year before this surgery I had the breast cancer surgery followed by radiation and I shouldn't be exposed again to so tough, painful experience.

3. A clear relationship exists between the doctor's breach of the medical duty, his negligence and the injury that has occurred as a result of this breach. Before the surgery Dr. Levine assured me that in 6 months I will be completely recovered and I believed him.

It is not like, for example, if a patient dies after treatment for lung cancer, and the doctor did do something negligent, it could be hard to prove that the doctor's negligence caused the death rather than the cancer.

There are four elements of this tort of negligence :

- 1. A duty was owed by Dr. Levine, to make the best decision possible for the patient and to thoroughly research all options before going into such a big surgery.**
- 2. A duty was breached - the doctor did not conform to the expected standard of care. He should examine the both joints (hip and knee) before to decide the knee replacement. Especially for the right leg, because he knew that the pain in the right leg was spread over the entire leg not only around the knee, he should think profoundly at the cause of this pain.**

Also, no knee replacement surgery should leave the leg shorter (with almost 2 inches) than it was before the surgery .

- 3. The breach resulted in an injury, the breach being closely linked to the injury. The right knee replacement surgery generated a long, unnecessary suffering with a lot of bad consequences like:**

- the terrible state of hyperactive delirium for 3 days and 3 nights, due to morphine excess, misunderstanding the things which I saw or heard. If I wouldn't have the right leg surgery I didn't have so much pain and I didn't need so much morphine to try to reduce this pain.**

I have to add that I was among the last patients who used this morphine pump. Starting with March 2012 this morphine pump was not used at all in this Orthopedic Section of the UMHB.

- some symptoms which I have right now- like nausea, irritability, anxiety panic and depression – could be the signs of a brain injury (during the over sedation with morphine). I have lost 50 lbs since the surgery because of my nausea.

- my poor medical condition due to suffering .

4. I suffered considerable damage, either physical, emotional or pecuniary (financial).

It is not that I am just unhappy with the treatment or result, I am completely lost in my life, feeling pain, anxiety, without any hope for better. I have lost my professional plans and status, I have lost my family life, I am a handicapped woman which has a very limited life with low expectations.

This injury led to specific damages, considerable damages including suffering, enduring hardship, having to live in constant pain, considerable loss of income, and disability.

Generally speaking I was suffering two kinds of damages due to the Dr. Levine's negligence:

4.1. General damages, non-economical damages, assessed on the basis

of: - physical and mental pain,

- psychological harm as psychotic symptoms (hearing voices, noises , developing delusional thinking) during the over sedating with Morphine ,

- mental distress and suffering,
- loss of ability to enjoy life's pleasures,
- loss of consortium, or loss of the value of companionship in a marriage,
- permanent disability,
- some symptoms - like nausea, irritability, anxiety panic, and depression - may be signs of a brain injury. Brain injuries can affect my entire body - from motor function to internal organs - and the impact can last a lifetime.

General damages by their nature have a very high price.

They refer to my cost of suffering such as :

"loss of enjoyment of life". What kind of enjoyment I could have if for more than 1 year I was taking Oxicodeon continuously, feeling every minute all the side effects beside the pain,

"physical and mental pain “,

"loss of future earning capacity”,

"mental anguish”.

4.2.Special damages, economical damages, which cover the more quantifiable expenses caused by the medical malpractice, include

- medical bills and lost income due to time missed at work;
- financial losses (both past and future): the opportunity of an average salary of 100,000/year for the next 5 years and a retirement pension of about 50,000/year;

- lost work / wages and lost future earning capacity;
- expenses related to : rehabilitation, medical equipment, household help, special transportation.

4.3.Punitive damages. The doctor must have known that he was behaving in a harmful manner. The doctor is legally responsible for harm or injuries that resulted from his deviating from the quality of care that a competent doctor would normally provide in similar situations, and which resulted in harm or injury for the patient.

This medical malpractice claim falls into all of these categories:

1. Failure to diagnose, Improper treatment.

Failure to diagnose. Dr. Levine failed considering the right knee total replacement. If I would comply with Dr. Morgan diagnosis conclusions I would have a better outcome. Because the difference between the doctors diagnosis could avoid the right knee replacement surgery, I believe my medical malpractice claim is a viable one.

Doctor Levine made a mistake, misdiagnosing my illness, doing my right knee replacement instead of right hip replacement. This negligence caused my harm/ injury.

Dr.Levine violated the standard of care for my particular medical problem.

2. Failure to warn a patient of known risks.

I know that the doctors have a duty to warn patients of known risks of a procedure or course of treatment - this is known as the duty of informed consent. Dr. Levine didn't warn me at all of the surgery risks

like as leg shortness, hip replacement, psychological harm as psychotic symptoms (hearing voices, noises , developing delusional thinking) during the sedation with Morphine . If I would know all of these risks before the surgery I would choose another surgeon .

3. Surgical errors such as operating on the wrong body part.

Misinterpretation of x-rays or other diagnostic imaging scans.

The reports from both surgeries, the MRI/Xray films are my "expert witnesses" that prove my damage / harm is caused by the doctor's negligence, doctor's mistake. It is "more likely than not" that the doctor's negligence directly caused the injury .

Because the narcotics keep me dizzy , sleepy and very tired and because the income from short /long term disabilities was not enough to cope with all medical and daily expenses I had to accept whatever job was available at my company, without responsibilities, under my qualifications, with lower salary.

Also I have lost forever the opportunity to have a very good retirement pension by losing the opportunity to accept the job for a nuclear international company which has very good benefits (good wages and a retirement pension after only 5 years of work).This I mentioned already in the beginning.

It was not enough that my doctor made a misdiagnosis operating the wrong part of the body, but this mistake caused me further harm. My increased, persistent pain in the right leg after knee replacement, my poor medical condition due to suffering, my brain damage due to the over sedating during and after surgery, the possibility that after 10-15 years to be confined to a wheelchair, because both knees being

replaced at the same time could become worn out in the same time resulting in an inability to walk , my considerable loss of income, my impossibility to apply for a very qualified job at an international company with a 2x bigger salary, all of these are real arguments for considering my case a medical malpractice case.

I believe I should receive compensation for all of these:

- Medication
- Medical equipment
- Household help
- Expenses from injury-related traveling,
- Loss of job and revenue
- Physical pain and suffering
- Emotional suffering.

Thank you for taking the time to read this. Please feel free to contact me if you have further questions or need further clarification on any of the details I have mentioned above.

Sincerely,

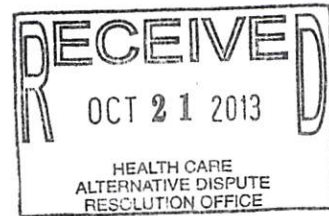
Elena Avram



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Re : Elena Avram Claim vs. Richard G. Levine M.D.

October 13, 2013

HCADRO No. : 2013-447

To Whom It May Concern,

My name is Elena Avram and I have to supplement my statement claim vs. Dr. Richard G. Levine with the next information.

Friday, October 11th, 2013, I had an appointment with Dr. Frank Ebert (Union Memorial Hospital, Baltimore), the doctor who replaced my right hip and he tried to find the reason why my right knee is still hurting me, after the right knee replacement surgery done by Dr. Richard Levine (Union Memorial Hospital, Baltimore) a year and 7 months ago.

Dr. Ebert did an arthrogram during which he found out the cause of the problem with my right knee. The 2 prostheses on my right knee are not cemented at all on the right side of the bone and they are also too far apart, being held very loosely by the lateral tendons. This is the reason why my right knee doesn't have any stability and still hurt me all the time. Every move I make is painful and also dangerous. If one of this prosthesis snaps out of place because is not tightly held, I can no longer walk.

Dr. Ebert said that the only solution I have is another surgery to replace the superior part of the prosthesis. This surgery needs to be done a.s.a.p.

Right now I am not able to handle another major surgery, since I have had already 4 major surgeries in 2 years which have destroyed my physical and emotional health.

Please include this information in the claim that I submitted. I believe this information is crucial to understanding where the problem lies in my case and why I am still in pain after such a long time since the right knee replacement surgery.

Regards,

Elena Avram

A handwritten signature in black ink, appearing to read "E. Avram".

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