

# AFFIDAVIT

The State of Georgia

County of DeKalb

BEFORE ME, the undersigned authority, on this day personally appeared who, being by me duly sworn, upon oath, stated the following facts:

I'm over the age of eighteen years, and I am of sound mind and competent to make this affidavit. I have personal knowledge of the facts stated in this affidavit, and I do solemnly swear, or affirm, that the following facts are true:

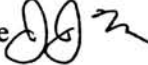
On September 12, 2006 I met Mr. Beloin at a Taxpayers Against Fraud (TAF) Convention in Washington, DC. Many Whistleblowers were in attendance. I am one of them. When I stood up to criminals masquerading as medical personnel, I was threatened and poisoned. I barely survived.

There are documented cases of poisoning that are not rare when persons stand up to public corruption. In my opinion, this is a serious circumstance that needs to be taken seriously.

When Mr. Beloin told me his story, bizarre as it may seem to you, it rang true to me. He brought tapes and other physical evidence that lead me to take what he says seriously.

Organized crime has stopped using the baseball bat and the gun to silence dissenters. It was too obvious and troublesome. Now subtle poisons that sicken and disables by mimicking common diseases is the weapon of choice. The money being stolen from the taxpayers is in the billions and these sophisticated criminals can afford the best.

"I have read the above and foregoing statements and the same is true and correct."

Please use my: James John Murtagh, Jr. MD full name 

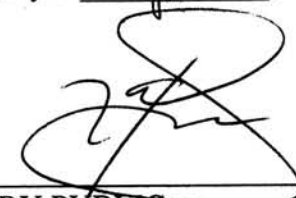
JJM initials only

Dr. James John Murtagh



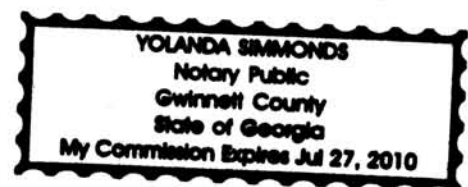


SUBSCRIBED AND SWORN TO before me, the undersigned authority, this 4 day of Sept, 2004 2007

  
NOTARY PUBLIC

Please print your name and address below

Dr. James John Murtagh  
511 Calibre Woods  
Atlanta, GA 30329



IN THE SUPERIOR COURT OF FULTON COUNTY  
STATE OF GEORGIA

JAMES J. MURTAGH, M.D	)	
	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	File No. 2004-CV-94259
	)	
	)	
FULTON-DEKALB HOSPITAL	)	
AUTHORITY, EMORY UNIVERSITY,	)	
EMORY HEALTHCARE, INC., GRADY	)	
HEALTH SERVICES COMPANY, INC.,	)	
JOHN DOES 1-10,	)	
	)	
Defendants.	)	
<hr/>		

**MOTION TO INTERVENE AND MOTION TO UNSEAL COURT RECORDS**

COME NOW SENATOR DAVID SHAFER, SENATOR DAN MOODY, SENATOR ERIC JOHNSON, SENATOR TOMMIE WILLIAMS, REPRESENTATIVE JOHN LUNSFORD and REPRESENTATIVE MELVIN EVERSON, Georgia citizens, and, pursuant to O.C.G.A. § 9-11-24(b) and Uniform Superior Court Rule 25.1, move the Court for an Order allowing them to intervene permissively in this case for the sole purpose of moving to have the record in this case unsealed and to allow public access to all pleadings and documents filed in the above-styled civil action.

In support of these motions, Movants show the Court that they have the requisite “good cause” to unseal these records. Movants rely on their Brief in Support of Motion to Intervene and Motion to Unseal Court Records.

WHEREFORE, MOVANTS respectfully request the Court enter an Order allowing them to intervene permissively and unsealing the pleadings and documents

previously filed in this matter and continuing to allow public access any pleadings or other documents filed in this case in the future.

This \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Respectfully submitted,

---

ROBIN FRAZER CLARK  
Georgia Bar No. 274620  
Attorney for Movants

Robin Frazer Clark, P.C.  
1230 Peachtree Street  
The Promenade II  
Suite 2323  
Atlanta, Georgia 30309  
404.873.3700  
robinclark@gatriallawyers.net

## Lawmakers ask court to open records on Grady settlement

By [James Salzer](#)

The Atlanta Journal-Constitution

Published on: 10/04/07

Top state lawmakers went to court Wednesday in hopes of unsealing a legal agreement among Emory University, Grady Health System and a doctor who accused the facilities of defrauding the federal government of millions of dollars.

Grady's refusal to release the agreement to Sen. David Shafer (R-Duluth) prompted the legislators to ask Fulton County Superior Court Judge Wendy Shoob to unseal court records in the case.

"Lawsuits alleging wrongdoing by public officials or misuse of public funds should never be litigated or settled under seal," Shafer said.

The motion was filed on behalf of members of a House committee studying ways to save the financially troubled hospital as well as Shafer, Senate President Pro-Tem Eric Johnson (R-Savannah), Senate Majority Leader Tommie Williams (R-Lyons) and Senate Republican Caucus Chairman Dan Moody (R-Alpharetta).

It is the latest in a series of questions lawmakers -- who are being asked to consider increased funding for the hospital -- have raised about Grady's operations.

Dr. James Murtagh, an Emory University physician, filed a lawsuit in 2000 accusing Emory and Grady of conspiring to defraud the government. The lawsuit said the doctor was cooperating in a separate federal investigation into wrongdoing at the hospital. The university denied the allegations at the time, and Grady had no comment. A settlement eventually was reached, officials said.

Shafer requested the settlement agreement and payment records in the case last month. Grady officials said the documents are exempt from the state's Open Records Act.

Shafer argues that the public has a right to know if the whistle-blower's allegations were investigated and what was found.

The lawmakers' filing states: "There have also been widespread allegations that Grady may have mismanaged public funds which resulted in the financial crisis it faces today. The silencing of whistleblowers through cash payments and confidential settlements and the conduct of whistleblower litigation under seal undermines public confidence in Grady, interferes with the ability of the Georgia General Assembly to properly investigate the crisis involving Grady, deters the State of Georgia from financially assisting Grady and potentially jeopardizes the survival of Grady."

Emory's attorney sent a letter Wednesday to Grady's attorney saying Emory will encourage Grady to withdraw its objection if Murtagh agrees to ask the judge to unseal not only the settlement agreement but the entire court record.

"That way, the settlement agreement will not be viewed in isolation, and Sen. Shafer and the public can draw their own conclusions about the facts surrounding the agreement," Emory attorney Todd Wozniak wrote.

Murtagh on Wednesday referred comment to his attorney.

Staff writer Craig Schneider contributed to this article.

--

## **Six-year-old lawsuit against Grady, Emory unsealed \$1.6 million was paid to whistleblower alleging fraud**

**By CRAIG SCHNEIDER**  
**The Atlanta Journal-Constitution**  
**Published on: 10/05/07**

A Fulton County judge on Friday unsealed a controversial case in which a physician accused Emory University and Grady Health System of defrauding the federal government of millions of dollars.

Though the case was settled about six years ago, the lawsuit by former Emory doctor James Murtagh recently created concern among state lawmakers as they consider increased funding for Grady hospital.

Several lawmakers went to court this week to unseal the case, concerned that they could not review the doctor's accusations regarding the misuse of public funds.

Superior Court Judge Wendy Shoob unsealed the case after all the parties agreed to open the file.

Murtagh's 2000 lawsuit contended that Grady and Emory conspired to defraud the U.S. government of millions of dollars through an improper use of federal funds in compensating Emory and Grady employees. Grady is a teaching hospital where most Emory medical students are trained.

During the hearing on unsealing the case Friday, Emory and Grady attorneys denied that the facilities had done anything wrong. While the entire case file was not available Friday, comments during the hearing and some Emory court papers shed some light on the case.

The two facilities entered into a settlement in 2001 that paid Murtagh and his attorneys about \$1.6 million over 10 years. He has received about \$550,000 so far. Emory paid the lion's share of the settlement with Grady contributing about \$100,000. Murtagh made the request to seal the case.

After the hearing, Sen. David Shafer (R-Duluth), who has fought to unseal the case, questioned why the facilities, if they denied the allegations, settled with the doctor.

He added, "I am surprised by the amount of the payment to the whistleblower."

Emory officials said they were spending a great deal of money defending against Murtagh's lawsuits and complaints. The agreement called for his resignation, and the settlement allowed the facilities to buy out his tenured faculty position and ensure "he never practiced medicine" at Grady or Emory again.

The agreement also bound the parties to not publicly disparage one another, as Emory officials asserted that Murtagh was on a campaign to defame the facilities.

Also in the court papers, Emory officials denied Murtagh's assertion that Emory was retaliating against him for being a whistle blower who went public with his assertions. Murtagh declined to comment after the hearing.

Emory spokesman Ron Sauder said, "Emory supported the unsealing of these records and we are happy for fair, independent observers to see them and draw their own conclusions."

## State Politicians Request Grady-Emory Records

By Susan McMillan

Posted: 10/05/2007

A group of Georgia legislators filed a court motion Wednesday to unseal a settlement agreement among Emory, Grady Memorial Hospital and a former Emory physician.

James Murtagh, who no longer works at Emory, filed suit against Emory and Grady in 2000, alleging misuse of federal funds at the hospital, which is staffed largely by Emory doctors. The settlement reached by the parties was sealed in 2001.

Six members of the Georgia General Assembly filed the motion in Fulton County Superior Court after Grady denied them the documents.

State Sen. David Shafer, who has consistently accused Emory of misconduct at Grady, said he first heard of Murtagh's case from Bill Loughrey, a former hospital trustee. Loughrey alleged that "large financial payments" were made to Murtagh and another whistleblower.

Shafer said it's "difficult to imagine" appropriate circumstances for sealing such an agreement.

"I don't believe that any lawsuit alleging wrongdoing by public officials should be settled under seal," he said.

Emory supports unsealing the entire court record, according to a letter by outside counsel Todd Wozniak.

**According to the lawmakers' brief, the records of Murtagh's case reveal "extensive testimony and documents alleging financial wrongdoing, public corruption and whistleblower retaliation."**

Shafer requested a copy of the agreement from the Fulton-DeKalb Hospital Authority in September under Georgia's open records laws. E. Timothy Jefferson, Grady's general counsel, told Shafer the documents are exempted from open records laws as "facts concerning or pertaining to pending litigation or settlements."

"The Fulton-DeKalb Hospital Authority has continuing obligations under the requested settlement agreement, including the duty to maintain the confidentiality of the settlement agreement absent the consent of all parties," Jefferson wrote.

Emory officials declined to comment on the matter. But in a letter Wednesday, Wozniak encouraged Grady to reconsider if Murtagh consents to the unsealing.

"That way, the Settlement Agreement will not be viewed in isolation, and Senator Shafer and the public can draw their own conclusions about the facts surrounding the Agreement," Wozniak wrote.

Even without the consent of the parties, Fulton Superior Court Judge Wendy Shoob can compel Grady to unseal the settlement.

"The public has a right to know if Grady is following good faith processes, if patients are being protected, if the public purse is being used properly and if closed door sessions determining the fate of Grady are being properly conducted," the legislators' brief states.

— Contact Susan McMillan at [smcmillan@emorywheel.com](mailto:smcmillan@emorywheel.com)