

STATE OF VERMONT

SUPERIOR COURT
Chittenden Unit

CIVIL DIVISION
Docket No. 441-5-19 Cncv

Brown vs. Backus

ENTRY REGARDING MOTION

Count 1, Malpractice - Medical (441-5-19 Cncv)

VERMONT SUPERIOR
COURT

Title: Motion to Dismiss (Motion 1)

JUL 10 2019

Filer: Verne Backus

Attorney: Ritchie E. Berger

CHITTENDEN UNIT

Filed Date: June 10, 2019

Response filed on 06/21/2019 by Attorney Stuart Jay Robinson for Plaintiff Cheryl J. Brown
Plaintiff's Opposition;


Response filed on 07/02/2019 by Attorney Ritchie E. Berger for Defendant Verne Backus
Defendant's Reply;

The motion is granted. The complaint fails to state any valid legal claim. First, it is undisputed that Dr. Backus merely did an IME of Plaintiff. He was not Plaintiff's treating doctor and no doctor-patient relationship was created. Therefore, the claim for lack of informed consent under 12 V.S.A. § 1909 fails. Second, the other statute Plaintiff cites relates only to worker's compensation claims. 21 V.S.A. § 667. That also does not apply to the facts alleged here.

Order

The motion is granted and the case is dismissed.

Dated at Burlington this 8th day of July, 2019.



Helen M. Toor
Superior Court Judge

Notifications:

Stuart Jay Robinson (ERN 4200), Attorney for Plaintiff Cheryl J. Brown
Ritchie E. Berger (ERN 2871), Attorney for Defendant Verne Backus