

Arkansas Marine veteran, wife awarded over \$3 million from VA after surgery caused brain damage

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by [Dale Ellis](#)

Gavel and scales. (Getty)

A Baxter County man and his wife were awarded just over \$3 million by a federal judge in Little Rock who found the Veterans Administration liable for medical malpractice after the man, a former Marine, was left brain-damaged after a routine spinal procedure.

Craig Dobbs, 66, of Cotter, a decorated combat veteran of 32 years and seven combat tours in the U.S. Marine Corps, entered the VA hospital on Oct. 9, 2018, according to a complaint filed two years later, in October of 2020, for a spinal fusion performed by Dr. Diaa Bahgat. According to court records, during the four-and-a-half-hour procedure, Dobbs suffered a dural tear -- a tear in the covering that encases the brain and spinal cord and contains cerebrospinal fluid -- that was not properly repaired and resulted in severe brain damage. In a judgment rendered last week after a four-day bench trial during which eight plaintiff and two defense witnesses gave testimony, U.S. District Judge Lee Rudofsky awarded Dobbs and his wife, Eileen, \$3,122,538.09 in total damages and compensation.

According to court records, Dobbs first saw Dr. Bahgat in mid-2017 for treatment of neck and arm pain, which was treated with physical therapy and steroid injections. By February 2018, Dobbs was suffering increased lower back pain that had worsened despite treatment. By July 2018, records said, Dobbs' back pain had increased and had begun to affect his ability to stand or walk.

Following his Oct. 9, 2018, surgery, records said, Dobbs began to experience expressive aphasia -- an inability to talk -- and by Oct. 20, when he was transferred to Houston Methodist Hospital by helicopter, he was in a coma and had to be put on a ventilator. After spending a month at Houston Methodist Hospital, Rudofsky noted in the records, Dobbs was moved to inpatient rehabilitation. His discharge notes indicated that he had "gradually improved" but required a period of 24-hour rehabilitation nursing, which included several hours each week of physical and occupational therapy, speech-language pathology and neuropsychology.

Following the surgery, according to testimony by Eileen Dobbs, her husband could no longer fish, hike, garden or engage in many of the activities she said he enjoyed prior to the surgery. In his order, Rudofsky wrote that Eileen Dobbs had described her husband prior to the surgery as a "neat and tidy, meticulous" man who "could pretty much do just about anything" but that since the surgery he had become forgetful, suffers from balance issues and had become withdrawn from others.

Rudofsky noted in his order that a neighbor to the Dobbs' who testified at the bench trial -- Dave Hussey -- said in the past the two would go on hog hunts, fishing trips and camping outings together and said that following the surgery, Dobbs became "180-degree[s] different ... he's not the same person."

The judge's 107-page order included an expansive description of trial testimony and a detailed breakdown of the expenses the Dobbs' could expect to incur as the result of Craig Dobbs' brain injury.

In his order, Rudofsky said that expert testimony had established that Dobbs had suffered significant cognitive and physical deficits due to the brain hemorrhage and as part of the judgment awarded him \$1 million for "past and future pain and suffering directly and proximately caused by the hemorrhage."

"Simply put," Rudofsky wrote, "Mr. Dobbs is unable to live life as he once did. And he will never be able to do so again. His pain and suffering will be constantly with him, as it has been since the brain hemorrhage."

In addition, Rudofsky awarded Dobbs \$1,417,844.56 for future care and medical expenses and \$74,013.53 for past medical expenses. He awarded Eileen Dobbs \$500,000 for loss of consortium with her husband and \$130,680 in compensation for her caretaking of her husband following his surgery.

According to a press release issued by Dobbs' attorneys, the award is believed to be one of the largest malpractice judgments against the VA in Arkansas history.

Craig and Eileen Dobbs were represented by Laurie Higginbotham, Steven Haspel and Tom Jacob of the Austin, Texas, law firm of Whitehurst Harkness Brees Cheng Alsaffar Higginbotham & Jacob PLLC, and by George Wise with the Little Rock law firm of Brad Hendricks.

"While no amount of money can make this decorated Marine whole again, VA must now take full accountability for its negligence and ensure the Dobbs finally receive justice," said Jacob in the press release. "After five painful years pursuing justice, it is past time for the VA to ensure this hero gets the care he deserves."