

[www.drrichardkaul.com](http://www.drrichardkaul.com)

September 25<sup>th</sup> 2013

Reply To:  
Dr. Richard Arjun Kaul, MD  
973 338 0980 EXT 214  
[drrichardkaul@gmail.com](mailto:drrichardkaul@gmail.com)

Bharat Masrani  
Group President and CEO  
TD Bank Group  
55 King Street West  
Toronto- Dominion Centre  
Toronto, ON M5K 1A2, CA

Dear Mr. Masrani

Re: Bank Fraud- TD- New Jersey

I am writing this letter to file a formal complaint and request a thorough investigation into the almost criminal conduct of the New Jersey division of TD Bank that commenced in 2010, and specifically Divesh Kothari, with the substance and genesis of the fraudulent activity involving the administration of the current governor of New Jersey, Chris Christie.

#### **BACKGROUND**

I am a citizen of India, a physician and graduated in 1988 from the Royal Free Hospital School of Medicine, London University. As the attached CV indicates I undertook 8 years of post-graduate training in the United Kingdom and the United States in the fields of:

1. General Surgery
2. Anesthesiology
3. Interventional Pain

I entered private practice in 1996 and up until June 2012 have provided care to the following number of patients:

1. 8000- Anesthesiology
2. 10,000- Interventional Pain
3. 800- Minimally Invasive Spine Surgery

I performed the:

- 1<sup>st</sup> outpatient minimally invasive lumbar fusion in 2005
- 1<sup>st</sup> outpatient multi-level lumbar fusion in 2011
- 1<sup>st</sup> outpatient adolescent spondylolisthesis corrective fusion in 2011

From 2002- 2012 I was both the educator and participant in over 80 hands on cadaver and live training courses administered internationally.

The above information is relevant to this complaint as it is the foundation for one of the largest medical professional battles in the US referred to in the media and on the internet as :

## The Spine Turf Wars

I own New Jersey Spine and Rehabilitation Surgical Center which opened in March 2011 and was a Medicare Certified and AAAHC Accredited Ambulatory Surgical Center in Pompton Lakes that had a 0% infection rate in 2011 as reported in North Jersey. Com. The state of New Jersey was involved in the process for the credentialing of this facility and had complete knowledge of the cases that would be performed.

### CHRONOLOGY

2006- I commenced banking with Commerce.

2008- TD purchases Commerce in a transaction that raises suspicions in the US media

2008- Construction commences for the NJSR Surgical Center, Pompton Lakes, NJ

2010- To complete the construction of NJSR Surgical Center I obtain a loan from TD with the assistance of banker Robert Bennet.

2011- March- NJSR SC opens having obtained Medicare certification and full accreditation from AAAHC which is the highest standard a surgical facility can obtain in the US. Please see attached documents.

2011- June- I receive a message from TD offices in Lambertsville, New Jersey and am 'summoned' to a meeting with Terri McCoy and am informed that Robert Bennet has been taken off my loan with no explanation given as to why. The meeting occurs in the morning and lasts approximately one hour during which Mr. McCoy demands full repayment of the loans despite the FACT that none of the loans were in default which made no sense to me at that time. It is only now with hindsight and the benefit of events that have since transpired that I am able to conclude that the TD- New Jersey- were contacted by an agency of the Christie Administration and instructed to apply financial pressure to my business as Mr. Christie, as is detailed in the attached lawsuit (Kaul V Heary), had been bribed by a small group of neurosurgical competitors to drive me out of business in the state of New Jersey. There is no other explanation. There were at that time no defaults on any payments and the surgical center had just opened and was generating monthly charges to the insurance companies of \$3,000,000.

2011- March-2012 April- NJSR Surgical Center generates \$40,000,000 in charges to the insurance carriers and performs over 2000 cases with very good outcomes in 95% of cases.

2012-April- The New Jersey Medical Board suspends my medical license in a highly publicized and politicized case in which Christie has his attorney general, Jeffrey Chiesa, make extremely prejudicial comments to the US media.

2012- May- A meeting occurs at the offices of TD attorneys Meyner and Landis in Newark, NJ and is attended by my accountant, Robert Zelitsky, my financial advisor, Tom D'Angelo, William Fiore and a representative from the bank. The purpose of the meeting is to structure a deal to pay the loans but significantly I remember telling Mr. Fiore I also had obligation to the IRS which I needed to meet and his response was and I quote:

'I don't give a fuck about the IRS'

I was to say the least rather surprised at such a comment and could still not, at that time, work out why the bank was behaving in such a hostile manner and with no good economic reason. The only explanation is the pressure applied from Christie who had been bribed by a small group of neurosurgeons in New Jersey.

The meeting concludes with an agreement that a payment plan will be instituted.

2012-May-December- Multiple calls and e mails are made to both TD and their attorneys requesting a written loan repayment agreement but none is ever forwarded. Notwithstanding this I make monthly payments towards the loan. The Christie Administration and its agencies continue to harass and intimidate other physicians that worked at NJSR Surgical Center with threats of license suspension and in December 2012 the Department of Health attempts to close the surgical center. I am forced to go emergently into court and obtain a stay on this action.

2013- January- TD calls the office of my then attorney, Frank Brunetti, and informs him that they have filed a lawsuit in Morris County(which is the home base for Christie) and are going to

'go HARD after me".

This is despite the loans being current.

2013-March-The legal action that TD took in Morris County Superior Court, New Jersey was filed in a county in which I had no business interests but which is politically friendly to Christie and due to the fact that I was preparing for the legal hearing regarding my medical license the complaint went unaddressed. The court appointed a receiver who occupied the business from April 9<sup>th</sup> 2013 until June 17<sup>th</sup> 2013 when I filed for Chapter 11 Protection and the receiver, John Lorenzo, was forced to leave but during his tenure there had been many complaints from my staff about his obsession with my personal life.

2013- June- Chapter 11 is filed in the US Bankruptcy Court in Newark, New Jersey and I am able to resume the running of the business which Mr.Lorenzo had done everything to try and destroy. I have since been able to resurrect the business but due to the continued license suspension not to the level that it was in 2012.

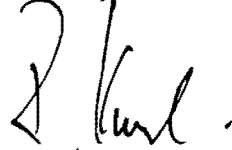
2013- August- TD files a complaint with checksystems alleging fraud in regards to a 501 c 3 charity I had created in 2008 called the Spine Africa Project [www.spineafricaproject-](http://www.spineafricaproject-) which provides free healthcare to the people of the Democratic Republic of Congo and which the Christie administration tried, unsuccessfully, to destroy with an avalanche of subpoenas and an issue to which I take great personal offense as it has hurt the people I was able to help in Africa.

### CONCLUSION

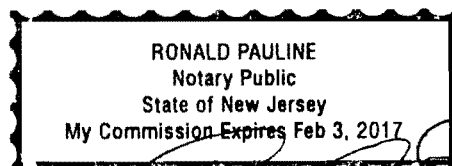
There are, off course, many other details about this rather sordid affair in which TD- New Jersey- has allowed itself to become embroiled and these will be provided as the investigation proceeds. The impact to NJSR Surgical Center has been profound and Christie is acutely aware of the attention this issue is now getting from the British media and specifically The Telegraph. Numerous other US media outlets will be running stories, including CNN about my case and the corruption within the Christie Administration and of course the involvement of TD- New Jersey. So I write this letter asking that your bank conduct an investigation into the illegal activities and racketeering between the state of New Jersey and TD.

I look forward to your response

Yours sincerely,



Richard Arjun Kaul, MD



*[Handwritten signature]*  
Notary 9-27-13

Cc: Mr. Dnyaeshwar M. Mulay  
Consul General of India  
New York  
Consulate General of India  
3 East 64<sup>th</sup> Street  
New York, NY 10065  
USA

**MEYNER AND LANDIS LLP**

REPLY TO:  
WILLIAM J. FIORE  
DIRECT EXTENSION: 459  
DIRECT DIAL: 973-602-3459  
WFIORE@MEYNER.COM

ATTORNEYS AT LAW  
ONE GATEWAY CENTER  
SUITE 2500  
NEWARK, NEW JERSEY 07102  
WWW.MEYNER.COM

ROBERT B. MEYNER  
(1908-1990)  
-  
973-624-2800  
FAX: 973-624-0356

April 24, 2013

Alexia N. Garin, Esq.  
Garin & Associates PLLC  
100 Park Avenue, Suite 1600  
New York, New York 10017

Re: Richard Kaul – Sale of 69 West 83<sup>rd</sup> Street, New York, NY

Dear Ms. Garin:

As you know we represent TD Bank in connection with the above matter. The mortgage held by TD Bank covers not only the \$1.0 million obligation of NJSR Holdings LLC, but all obligations of Dr. Kaul owed to the Bank. We refer you to recital paragraph of the Mortgage that it secures payment to TD Bank of all "obligations" as defined in the Guaranty.

Attached are current loan payments to be satisfied for a release of the mortgage.

If you have any questions, please call me directly. Please provide a copy of this letter to Buyer's title company.

Very truly yours,

MEYNER AND LANDIS LLP



William J. Fiore, Esq.

WJF:pm

cc: Charles Shaw, Esq.  
Joseph McCarthy, Esq.

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**COMMERCIAL LOAN PAYOFF QUOTE****LENDER/LOAN ADMINISTRATOR CONTACT INFORMATION**

Loan Officer: Divyesh Kothari

Phone: 856-874-2441

CLA: Lorice Chung

**CUSTOMER/LOAN INFORMATION**

Account NJSR Holdings, LLC

Name:

Customer

2241842

Note Number:

9002

Number:

**PAYOFF CALCULATION**

Payoff Effective Date:

4/15/2013

Date of Request: 4/15/2013

Principal: \$884,396.10

Interest: \$37,002.76

Escrow:

Late Fee(s): \$548.18

Discharge Fee(s):

Termination Fee:

Prepayment Fee:

Interest Rate Swap Unwind Fee:

Force Placed Flood Insurance:

Force Placed Property Insurance:

Legal Fee(s):

Appraisal Fee(s):

Real Estate Taxes:

Environmental Fee(s):

Misc. Fee(s):

Desc.

Total: \$921,947.04

Per Diem: \$184.25 Rate: 7.50%

Figures provided by: Lorice Chung

Verified By: Christy Garcia

Quote Approved By (Lender Signature):

**PAYMENT INFORMATION**

Payment may be made by check or wire transfer:

US Mail &amp; Overnight Delivery:

Make check payable to:

TD Bank, NA

Attention:

1701 Route 70 East

Cherry Hill, NJ 08034

Wire Instructions: TD Bank, NA

1701 Route 70 East

Cherry Hill, NJ 08034

Beneficiary - TD Bank

ABA #

Account

Further Credit -

Reference -

Address for In-Person Payment

**Kothari, Divyesh**

**From:** Laino, Frank  
**Sent:** Monday, April 15, 2013 3:00 PM  
**To:** Kothari, Divyesh; Chung, Lorice E  
**Cc:** William J. Fiore; Joseph McCarthy  
**Subject:** RE: Interventional Pain/NJSR/Dr. Kaul

Here is the Certificate of Amount Due

The amount due as of 04/30/12 is \$273,016.78 (exclusive of legal fees) was calculated by  
 1) We took the Net Present Value (NPV) of the forty two (42) unbilled lease payments PV at 2% which is \$272,913.79  
 2) Plus EOT purchase option \$102.99 Totaling \$272,016.78 as of 04/30/12 Plus legal fees

As of 4/30/12, the balance started accruing at 18% which is the default rate in our lease documents.

On 5/1/12 we have a recovery of \$6,733.44  
 On 6/1/12 we have a recovery of \$6,733.44  
 On 7/1/12 we have a recovery of \$6,733.44  
 On 8/8/12 we have a recovery of \$6,733.44  
 On 9/3/12 we have a recovery of \$6,733.44  
 On 10/1/12 we have a recovery of \$6,733.44  
 On 1/1/13 we have a recovery of \$6,733.44  
 On 4/5/13 we have a recovery of \$4,064.12

I have no record of any other recoveries.

The total due as of 4/30/13 is \$267,506.49 (360 day year, monthly compounding) plus expenses and legal fees.

Frank Laino | Collections Manager  
 TD Equipment Finance, Inc  
 NJ5-017-151 | 1006 Astoria Blvd. Cherry Hill, NJ 08034  
 T: 856-685-5277 | F: 856-685-5284

**From:** Kothari, Divyesh  
**Sent:** Monday, April 15, 2013 11:30 AM  
**To:** Chung, Lorice E; Laino, Frank  
**Cc:** William J. Fiore; Joseph McCarthy  
**Subject:** Interventional Pain/NJSR/Dr. Kaul  
**Importance:** High

Hi Lorice please request an updated payoff as of 4/15/13 on the following loans and upon receipt, please send it to all

Borrower Name	Account Number
INTERVENTIONAL PAIN ASSOCIATES PC	1829373-9002
NJSR HOLDINGS LLC	2241842-9002

4/22/2013



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**COMMERCIAL LOAN PAYOFF QUOTE**

**LENDER/LOAN ADMINISTRATOR CONTACT INFORMATION**

Loan Officer: Divyesh Kothari

Phone: 856-874-2441

CLA: Lorice Chung

**CUSTOMER/LOAN INFORMATION**

Account Interventional Pain Associates PC

Name:

Customer

1829373

Note Number:

9002

Number:

**PAYOFF CALCULATION**

Payoff Effective Date:

4/15/2013

Date of Request: 4/15/2013

Principal:

\$643,586.07

Interest:

\$63,203.90

Escrow:

Late Fee(s):

Discharge Fee(s):

Termination Fee:

Prepayment Fee:

Interest Rate Swap Unwind Fee:

Force Placed Flood Insurance:

Force Placed Property Insurance:

Legal Fee(s):

6,449.17

Appraisal Fee(s):

Real Estate Taxes:

Environmental Fee(s):

Misc. Fee(s):

\$25.00 Desc.

Total:

\$713,264.14

Per Diem:

\$151.96 Rate: 8.50%

Figures provided by: Lorice Chung

Verified By: Christy Garcia

Quote Approved By (Lender Signature):

**PAYMENT INFORMATION**

Payment may be made by check or wire transfer:

US Mail & Overnight Delivery:

Make check payable to:

TD Bank, NA

Attention:

1701 Route 70 East

Cherry Hill, NJ 08034

Wire Instructions: TD Bank, NA

1701 Route 70 East

Cherry Hill, NJ 08034

Beneficiary - TD Bank

ABA #

Account

Further Credit -

Reference -

Address for In-Person Payment

## MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING

THIS MORTGAGE, SECURITY AGREEMENT AND FIXTURE FILING made as of the 1<sup>st</sup> day of February, 2010, between **RICHARD KAUL** having his address at 111 Wanaque Avenue, Pompton Lakes, New Jersey 07224 ("Mortgagor"), and **TD BANK, N.A.**, a national banking association, having its business office at 1701 Route 70 East, Cherry Hill, New Jersey 08034-5406 ("Mortgagee").

### W I T N E S S E T H

A. Pursuant to a certain Loan and Security Agreement of even date herewith by and among NJSR Holdings, L.L.C., and NJSR Surgical Center, L.L.C., each a New Jersey limited liability company, as borrowers (individually a Borrower" and collectively the "Borrowers") and Mortgagee (as same may be supplemented, restated, superseded, amended or replaced from time to time, the "Loan Agreement"), Borrowers have executed and delivered to Mortgagee a certain Note bearing even date herewith in the principal amount of One Million Dollars (\$1,000,000.00) (as same may be amended, restated, supplemented or replaced, from time to time, the "Note").

B. Mortgagor, as the sole member of each Borrower, has executed and delivered a guaranty agreement of even date herewith (the "Guaranty Agreement") guaranteeing all of the obligations of the Borrowers under the Note and Loan Agreement.

C. As a condition to Mortgagee making the loan to Borrowers evidenced by the Note, Mortgagor has agreed to grant Mortgagee a mortgage on the Land (as defined below).

D. Capitalized terms not expressly defined herein shall have the meaning ascribed to such capitalized terms in the Loan Agreement.

NOW, THEREFORE, in consideration of the financing arrangements established under the Loan Agreement, and as security for:

- (1) payment to Mortgagee of all Obligations as defined in the Guaranty;
- (2) payment to Mortgagee of all future or additional advances which may be made by Mortgagee to or for the account of Mortgagor, together with interest on such advances (including, without limitation, all sums which Mortgagee may advance under this Mortgage with respect to the Real Estate (as defined below) to pay for taxes, assessments, maintenance charges, insurance premiums or costs incurred for the protection of the Real Estate or the lien of this Mortgage, and expenses incurred by Mortgagee by reason of default by Mortgagor under this Mortgage); and
- (3) performance of the undertakings and covenants contained in the Loan Documents.



Gordon Sokich <[gordon@luxornyc.com](mailto:gordon@luxornyc.com)> Apr 26

to me

Gordon Sokich  
President  
Luxor Homes Investment Realty  
129 West 72nd Street, Suite 2F  
New York, NY 10023  
Cell: 917-664-0025  
Office: 212-362-7557  
Fax: 212-362-7533

---

**From:** Dasher, Karl [<mailto:Karl.Dasher@Schroders.com>]  
**Sent:** Friday, April 26, 2013 5:41 PM  
**To:** 'rbadgett@firstrepublic.com'; 'jlee@cbtitlegroup.com';  
'lori.braverman@gmail.com'; 'jihrig@firstrepublic.com';  
'bjerro@romerdebbas.com'; 'agarinesq@gmail.com';  
'gordon@luxornyc.com'  
**Cc:** 'aharmon@cbtitlegroup.com'; 'TMiller@cbtitlegroup.com'  
**Subject:** Re: Update

How is it legally possible that a bank can refuse to issue a payoff letter if the mortgage is paid off and there are no other liens on the property? Aren't they obligated to do so?

While I sympathize with their desire to get all of their loans paid in full, if their other loans were not collateralized by this house, how can they use the status of the non-collateralized loans to block the sale of this home? Isn't that the distinction of a collateralized loan? Presumably the non-collateralized loan came at a higher fee to compensate for the additional risk taken.

I have a 1.1 million mortgage with TD on a property in Florida that is quite profitable for them and consistently paid. They are disrespecting a good customer in this process.

What are our options? If I am the one paying off the loan, can I sue TD for not issuing the letter?

Thanks  
Karl

**From:** Badgett, Renee [<mailto:rbadgett@firstrepublic.com>]

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**Sent:** Friday, April 26, 2013 09:52 PM

**To:** Janice Lee <[jlee@cbtitlegroup.com](mailto:jlee@cbtitlegroup.com)>; Dasher, Karl;  
[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com) <[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)>; Ihrig, Jeffrey  
<[jihrig@firstrepublic.com](mailto:jihrig@firstrepublic.com)>; [bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com)  
<[bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com)>; [agarinesq@gmail.com](mailto:agarinesq@gmail.com)  
<[agarinesq@gmail.com](mailto:agarinesq@gmail.com)>; [Gordon@luxornyc.com](mailto:Gordon@luxornyc.com)  
<[Gordon@luxornyc.com](mailto:Gordon@luxornyc.com)>

**Cc:** Amy Creighton <[aharmon@cbtitlegroup.com](mailto:aharmon@cbtitlegroup.com)>; Tracey Miller  
<[TMiller@cbtitlegroup.com](mailto:TMiller@cbtitlegroup.com)>

**Subject:** RE: Update

Good Afternoon,

First Republic Bank would require all liens holders at present (Valley National, TD Bank, the IRS, and the Jarrell's) to release their claim against the property and for Stewart to issue a final alta policy with FRB in 1<sup>st</sup> lien position. Are you stating TD bank won't give a payoff letter?

**From:** Janice Lee [<mailto:jlee@cbtitlegroup.com>]

**Sent:** Friday, April 26, 2013 4:24 PM

**To:** Badgett, Renee; 'Karl.Dasher@Schroders.com';  
[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com); Ihrig, Jeffrey; '[bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com)';  
'[agarinesq@gmail.com](mailto:agarinesq@gmail.com)'; '[Gordon@luxornyc.com](mailto:Gordon@luxornyc.com)'

**Cc:** Amy Creighton; Tracey Miller

**Subject:** FW: Update

To all concerned,

I believe you have been working with Amy Creighton from my office on this file. However, she has filled me in as to what is going on since she is on vacation now and all next week. I have amended the first and 2<sup>nd</sup> mortgages to reflect First Republic as the 1<sup>st</sup> Lien holder and the Jarrell's as the 2<sup>nd</sup> lien holder which mortgage will be subordinate to yours. However, my underwriter still has an issue with the TD Bank mortgage. Harold Boxer of Stewart Title says that we are aware of a potential problem and insists that unless TB Bank puts in there updated payoff letter that they will issue us a Satisfaction of Mortgage for our mortgage listed in our title report upon receiving \$XXXXXXX we can not omit that mortgage. I just spoke with him again this

afternoon.

I am not sure as to the remark about the lien being released once you restructure the loan. What lien are you referring to and how are you restructuring the loan? Please advise and I will speak with my underwriter before going forward.

Thank you,

Janice

Janice Lee

CB Title Agency of NY, LLC

140 Mountain Avenue, Ste 101

Springfield, NJ 07081

Phone: 973-921-0990 Ext. 241

Fax: 973-921-0902

jlee@cbtitlegroup.com

www.cbtitlegroup.com

**From:** Lori J. Braverman [mailto:[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)]

**Sent:** Friday, April 26, 2013 1:46 PM

**To:** Janice Lee

**Subject:** Fwd: Update

\*\*\*\*\*

Lori J. Braverman  
Attorney at Law

280 Riverside Drive  
Suite 4 A  
New York, NY 10025  
Phone & Fax (212) 721-7625  
Cell (917) 543-9872  
[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)

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Begin forwarded message:

**From:** "Lori J. Braverman"  
<[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)>

**Date:** April 26, 2013 1:39:25 PM EDT

**To:** Amy Creighton <[aharmon@cbtitlegroup.com](mailto:aharmon@cbtitlegroup.com)>

**Subject:** Fwd: Update

I am not clear on what they want...help!

\*\*\*\*\*

Lori J. Braverman  
Attorney at Law  
280 Riverside Drive  
Suite 4 A  
New York, NY 10025  
Phone & Fax (212) 721-7625  
Cell (917) 543-9872  
[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)

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delete this e-mail from your system.

Begin forwarded message:

**From:** "Badgett, Renee"  
<[rbadgett@firstrepublic.com](mailto:rbadgett@firstrepublic.com)>

**Date:** April 25, 2013 3:06:11 PM EDT

**To:** "Dasher, Karl" <[Karl.Dasher@Schroders.com](mailto:Karl.Dasher@Schroders.com)>,  
"Lori J. Braverman" <[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)>

**Cc:** "Ihrig, Jeffrey" <[jihrig@firstrepublic.com](mailto:jihrig@firstrepublic.com)>,  
<[bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com)>,  
<[agarinesq@gmail.com](mailto:agarinesq@gmail.com)>, Gordon Sokich  
<[Gordon@luxornyc.com](mailto:Gordon@luxornyc.com)>

**Subject: RE: Update**

Good Afternoon,

Did we hear from the title insurer yet as to if the lien will be released once we restructure the loan? please advise, Jeff will present the new structure to ELC momentarily, however they will want to insure we are definitely in 1<sup>st</sup> lien position prior to moving forward, please advise, thank you.

**From:** Dasher, Karl [<mailto:Karl.Dasher@Schroders.com>]  
**Sent:** Thursday, April 25, 2013 11:10 AM  
**To:** Lori J. Braverman; Badgett, Renee  
**Cc:** Ihrig, Jeffrey; [bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com); [agarinesq@gmail.com](mailto:agarinesq@gmail.com);  
Gordon Sokich; [Michael.Sussilleaux@corcoran.com](mailto:Michael.Sussilleaux@corcoran.com)

**Subject:** RE: Update

Thanks, everyone, for the efforts on this. It is my understanding that the title insurer is going to verify today whether or not TD has any further claim on the property and if not, we should be moving towards the close early next week.

When will I be able to get confirmation of the total closing amount needed from me after crediting for the two successful mortgage transfers and debiting for the higher upfront down-payment? I need to make sure that Lori has all the funds necessary to close on my behalf post modifications.

Thanks

Karl

**From:** Lori J. Braverman [<mailto:lori.braverman@gmail.com>]  
**Sent:** Thursday, April 25, 2013 1:06 PM  
**To:** Badgett, Renee  
**Cc:** Ihrig, Jeffrey; Dasher, Karl; [bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com)  
**Subject:** Re: Update

Sorry--

Correct Note attached

\*\*\*\*\*

Lori J. Braverman  
Attorney at Law  
280 Riverside Drive  
Suite 4 A  
New York, NY 10025  
Phone & Fax (212) 721-7625  
Cell (917) 543-9872  
[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)

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On Apr 25, 2013, at 7:50 AM, Badgett, Renee wrote:

Good Morning,

Our loan amount has not changed, just the second lien holder. We do need more information on the new second lien holder for approval, please furnish same. In addition, we need:

- a revised purchase agreement stating the new 2nd lien holder.
- a new second lien subordinate mortgage.
- a new subordination agreement.
- a revised title commitment stating new second lien holder.

Once we receive the above, Jeff we need to change PL, get ELC approval, and print new closing documents.

-----Original Message-----

From: Ihrig, Jeffrey  
Sent: Wednesday, April 24, 2013 6:03 PM  
To: Dasher, Karl  
Cc: '[lori.braverman@gmail.com](mailto:lori.braverman@gmail.com)'; Badgett, Renee; Bonnie Jerro ([bjerro@romerdebbas.com](mailto:bjerro@romerdebbas.com))  
Subject: RE: Update

Thanks Karl. Renee, see below and advise.

Thanks, Jeff

-----Original Message-----

From: Dasher, Karl [<mailto:Karl.Dasher@Schroders.com>]

Sent: Wednesday, April 24, 2013 5:59 PM

To: Ihrig, Jeffrey

Cc: 'lori.braverman@gmail.com'

Subject: Update

Hi Jeff

We are still working through all of the complexities of getting the deal closed. Here is the latest:

There are four lien-holders in order of seniority:

Valley National

TD Bank

IRS

Malpractice Judgement Plaintiffs (Jarrells)

The total at closing needed to payoff the first three appears to be gross proceeds of 7.65 million. Our original deal was for 7.5 million plus 800K in second liens. To clear this up, I agreed to increase the upfront by 150K and reduce the second mortgage amount by 150K.

The fourth lien-holders do not want to risk bankruptcy by Jarrell. So they want the second mortgage for 650K to be directly with me. I have agreed to have the second mortgage with them instead of the seller.

TD Bank is still trying to press to tie another loan to the deal, but it appears that they will be unlikely to succeed. We are waiting to hear back on that.

Do the above changes require that we re-run this through underwriting? We are basically reducing the second mortgage amount and changing the lending party from the seller to an existing lien-holder.

Thanks

Karl

---

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Richard Kaul

Apr 26

I agree that TD is taking a position that is both illegal and highly unethica...



Richard Kaul <[drrichardkaul@gmail.com](mailto:drrichardkaul@gmail.com)>

Apr 26

to **karl.dascher**, Gordon, rbadgett, jlee, lori.braverman, jihrig, bjerro, Nikki

Apologies I forgot to include Karl Dascher in the e mail chain

Regards  
Richard Kaul,MD



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**LAW OFFICES OF CHARLES SHAW, P.C.**

**Charles Shaw, Esq.**

170 Washington Avenue

Dumont, New Jersey 07628

(201) 501-0330

Attorneys for Plaintiff

Richard A. Kaul, M.D.

**RICHARD A. KAUL, M.D.,**

**Plaintiff,**

**v.**

**ROBERT F. HEARY, M.D., FRANK M.  
MOORE, M.D., PETER W. CARMEL, M.D.,  
GREGORY J. PRZYBYLSKI, M.D.,  
WILLIAM MITCHELL, M.D., JOHN DOES:  
1-5, and ABC ASSOCIATIONS 1-5,**

**Defendants.**

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION – BERGEN COUNTY**

**DOCKET NO.: L-2256-13**

**CIVIL ACTION**

**VERIFIED COMPLAINT  
AND JURY DEMAND**

Plaintiff Richard A. Kaul, M.D. ("Plaintiff"), by way of Complaint against Defendants Robert F. Heary, M.D., Frank M. Moore, M.D., Gregory J. Przybylski, M.D., Peter W. Carmel, M.D., William Mitchell, M.D., John Does 1-5, and ABC Associations 1-5 (collectively, "Defendants"), states the following:

**PARTIES**

1. The Plaintiff, Richard A. Kaul, M.D., is an individual residing in New York, New York. Plaintiff is an interventional pain specialist practicing at the New Jersey Spine Rehabilitation Center located in Pompton Lakes, Passaic County, New Jersey.

2. Upon information and belief, Defendant Dr. Heary is an individual residing at 68 Blackburn Road, Summit, Union County, New Jersey 07901. Dr. Heary is the Director of the Neurological Institute of the New Jersey Spine Center and Neurosurgical Intensive Care

**SUPERIOR COURT BERGEN COUNTY  
FILED**

**MAR 22 2013**

Unit located in Newark, Essex County, New Jersey, and is an attending neurosurgeon at Overlook Hospital in Summit, Union County, New Jersey.

3. Upon information and belief, Defendant Dr. Moore is an individual residing at 650 Park Avenue, Apartment 21C, New York, New York, 10065. Dr. Moore is a clinical professor of neurosurgery at Mount Sinai School of Medicine located in New York, New York. Dr. Moore also has a practice located at 309 Engle Street, Suite 6, City of Englewood, Bergen County, New Jersey.

4. Upon information and belief, Defendant Dr. Przybylski is an individual residing at 28 Quail Run, Warren, Somerset County, New Jersey. Dr. Przybylski is the director of neurosurgery at the New Jersey Neuroscience Institute at JFK Medical Center located in Edison, Middlesex County, New Jersey.

5. Upon information and belief, Defendant Dr. Carmel is an individual residing at 90 Bergen Street, Newark, Essex County, New Jersey. Dr. Carmel is a Co-Director of Neurosurgery at the Neurological Institute of New Jersey located in Newark, Essex County, New Jersey.

6. Upon information and belief, Defendant Dr. Mitchell is an individual residing at 895 Wood Avenue, Edison, Middlesex County, New Jersey. Dr. Mitchell is an attending neurosurgeon at JFK Medical Center located in Edison, Middlesex County, New Jersey.

7. Upon information and belief, John Does 1-5 are individuals residing in New Jersey and/or having significant ties to New Jersey, whose identities are presently unknown, and who have disparaged and/or publicized false statements regarding Dr. Kaul in order to interfere with his prospective economic advantage, and/or who have worked in concert with the named Defendants in order to preclude Dr. Kaul from the minimally invasive spinal procedure

market by, among other things, downgrading the relevant Current Procedural Terminology ("CPT") codes for endoscopic discectomies.

8. Upon information and belief, ABC Associations 1-5 are business and/or professional organizations, for profit or non-profit, organized in, operated in, or having significant ties to the State of New Jersey, whose identities are presently unknown, and who have assisted the named Defendants in lobbying to change, or changing, relevant CPT codes for endoscopic discectomies.

#### **FACTS COMMON TO ALL COUNTS**

##### **Dr. Kaul's Training and Experience**

9. Dr. Kaul has nearly thirty (30) years of experience in the medical profession, sixteen (16) of which Dr. Kaul spent performing minimally invasive spine procedures.

10. At the outset of his career, Dr. Kaul attended the London University Royal Free Hospital School of Medicine in London, England between 1983 and 1988.

11. Between 1988 and 1989, Dr. Kaul acted as the Surgical House Officer at Lister Hospital, Stevenage, in Herforshire, London.

12. Between 1989 and 1990, Dr. Kaul began and completed a surgical internship at Catholic Medical Center in Queens, New York.

13. Between 1990 and 1991, Dr. Kaul began and completed a surgical internship at the Nassau County Medical Center in East Meadow, New York.

14. Between 1991 and 1992, Dr. Kaul began and completed a PGY-2 residency at the Booth Memorial Medical Center in Queens, New York.

15. Between 1992 and 1995, Dr. Kaul began and completed an anesthesiology residence at the Albert Einstein-Montefiore Medical Center in Bronx, New York.



16. Between 1995 and 1996, Dr. Kaul was awarded a pain fellowship with the Department of Anesthetics at the Bristol Royal Infirmary in Bristol, England.

17. Dr. Kaul was awarded his medical license in the State of New Jersey in 1996.

18. In or around 1996, Dr. Kaul began practicing medicine at the Macclesfield General Hospital in Cheshire, England. Between September 1996 and December 1996, Dr. Kaul served as the attending physician in charge of the pain clinic.

19. Between January 1997 and January 2001, Dr. Kaul served as an attending physician at the Regency Clinic in London, England, specializing in anesthesiology and pain control procedures.

20. Between February 2002 and August 2002, Dr. Kaul served as the attending anesthesiologist and Director of Pain Services at Columbus Hospital in Newark, New Jersey.

21. Between October 2002 and December 2003, Dr. Kaul served as an attending physician at the Pain Management Center at St. Clare's Hospital in Denville and Dover, New Jersey.

22. In or around 2004, Dr. Kaul completed a visiting fellowship in Minimally Invasive Spine Surgery at Wooridul Spine Hospital in Seoul, Korea.

23. Between 2004 and March 2007, Dr. Kaul practiced privately as an attending physician at the Interventional Pain and Minimally Invasive Spine office in Saddle Brook, New Jersey, and served as Medical Director for both the Market Street Surgical Center and the North Jersey Center for Surgery. During this period, Dr. Kaul acquired skills in minimally invasive spinal surgery, and participated in hundreds of procedures similar to those that he was performing up until approximately April 2012.

24. Between May 2007 and December 2007, Dr. Kaul was an attending physician in the Interventional Pain and Minimally Invasive Spine, Pain & Surgery Ambulatory Center in Wyckoff, New Jersey.

25. Between April 2007 and October 2010, Dr. Kaul served as the Director of outpatient spine surgery at The Bergen Passaic Ambulatory Surgery Center in Clifton, New Jersey.

26. Between April 2010 and February 2011, Dr. Kaul served as an attending physician in interventional pain and minimally invasive spine procedures at the North Jersey Surgery Center in Englewood Cliffs, New Jersey.

27. From March 2007 to the present, Dr. Kaul has practiced privately at the New Jersey Spine & Rehabilitation Center in Pompton Lakes, New Jersey.

28. In addition to being formally trained and having performed several hundred minimally invasive spine procedures, Dr. Kaul is a member of The American Society of Interventional Pain Physicians (2006) and The American Academy of Minimally Invasive Spinal Medicine and Surgery (2004).

29. Dr. Kaul is also a diplomat of The American Board of Interventional Pain Management (2004) and the American Board of Anesthesiology (1996).

30. Dr. Kaul is also affiliated with The Spine Africa Project, a non-profit organization founded in August 2008 with the purpose of treating spinal conditions, education of African medical personnel, and social change.

#### **Dr. Kaul's Practice**

31. Dr. Kaul is an anesthesiologist specializing in minimally invasive spine surgeries including, among other procedures, minimally invasive discectomies, lumbar

interbody fusions, and endoscopic discogram decompressions.

32. Dr. Kaul formed the New Jersey Spine and Rehabilitation center in 2003 with the intent to innovate and develop minimally invasive spine procedures on an outpatient basis.

33. Minimally invasive procedures differ from traditional open spinal surgeries.

34. In traditional open spinal surgeries, a surgeon makes a large incision in order to get to the tissues in and around the spinal column.

35. Minimally invasive techniques use a telescope-like camera which allows physicians to access damaged tissues without cutting into the surrounding skin and muscle, which results in less trauma, pain, and recovery time for the patient.

36. Dr. Kaul's minimally invasive technique involves making a small incision at the surgical point, which allows Dr. Kaul access by way of a series of cameras and X-rays to identify the affected areas of each patient's spine. Once such areas are identified, Dr. Kaul slides surgical instruments between muscles and under bone and vertebral structures without the unnecessary exploration or cutting that goes along with traditional open surgical procedures.

37. In or around 2005, Dr. Kaul became the first physician to perform a lumbar interbody fusion in an outpatient setting with a successful outcome.

38. Lumbar interbody fusion surgery involves grafting bone to the spine, which triggers a biological response that causes the bone to grow between the two vertebral elements and thereby stops motion and resulting pain at that segment.

39. Since 2005, Dr. Kaul has performed nearly eight (800) hundred spinal-related surgeries with predominantly good to very good outcomes.

40. During the course of Dr. Kaul's three (3) year general surgical training, he performed over two (200) hundred discograms. Dr. Kaul supplemented his hands-on training with endoscopic discogram decompression training.

**The Spine Surgery Field**

41. Minimally invasive spine surgery is an emerging field with unclear parameters.

42. Minimally invasive surgical procedures used to be performed only by neurosurgeons.

43. In the past few decades, interventional pain physicians trained in anesthesiology, rather than neurosurgery, have expanded the scope of their interventional pain practice to include minimally invasive spinal surgeries.

44. According to a December 1998 Spine News article authored by Defendant Dr. Heary, the publication's editor, a fellowship in spinal surgery is "unnecessary for most graduating residents entering private practice."

45. The expansion of the scope of work that physicians like Dr. Kaul are now qualified to perform with proper training encroaches upon the practice area of neurosurgeons who, until recently, enjoyed a monopolistic hold over the minimally invasive surgical procedure market.

46. Consequently, several neurologists, including the Defendants named herein, have purposefully and intentionally attempted, through slanderous public statements and collusive pressure on legislatures and insurance companies to change billing codes in favor of neurologists, to exclude anesthesiologists from the spine surgery market, and to intimidate interventional pain practitioners from carrying out minimally invasive spinal surgeries and other related procedures.

## **COUNT ONE**

### **(Defamation + Defamation *Per Se*)**

47. Dr. Kaul repeats and realleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein.

48. Defendants began intentionally interfering with Dr. Kaul's medical practice in or around 2008, nearly five (5) years after Dr. Kaul began performing minimally invasive discectomies, when a patient of Defendant Dr. Heary (the "Patient") sought medical attention for complications arising from a leg injury.

49. Dr. Kaul had performed a minimally invasive spinal procedure on the Patient to address complications stemming from her extensive and complicated medical history.

50. A few months after the procedure, the Patient suffered new injuries unrelated to the operation performed by Dr. Kaul

51. The Patient went to see Dr. Heary in connection with her new injuries.

52. Upon information and belief, Dr. Heary told the Patient that Dr. Kaul did not have the credentials or qualifications to perform the minimally invasive spinal procedure on her.

53. Dr. Heary encouraged the Patient to file claims against Dr. Kaul for negligence and improper licensing.

54. Based upon Dr. Heary's improper and unsolicited advice, the Patient subsequently filed a lawsuit against Dr. Kaul.

55. As a direct result of Defendant Dr. Heary's false statements, Dr. Kaul came under review by the Board of Medical Examiners (the "Board").

56. The Board knew that Dr. Kaul had been performing minimally invasive surgeries for several years.

57. Upon information and belief, it was only after Defendant Dr. Heary encouraged the Patient to file an action with the Board, that the Board began investigating Dr. Kaul.

58. Upon information and belief, Defendant Dr. Heary was able to ensure that the Patient's complaint was entertained by the Board due to his close business and personal relationships with one or more Board members.

59. On or about May 9, 2012, the Board issued an Interim Consent Order (the "Order") which granted Defendants' collective wish to preclude Dr. Kaul from the surgical treatment industry by preventing Dr. Kaul from performing minimally invasive spinal procedures.

60. In light of the Order's proscriptions, Dr. Kaul ceased all minimally invasive surgical operations in or around May 2012.

61. Notwithstanding Dr. Kaul's cooperation with the Board's Order, the Attorney General of the State of New Jersey brought a Motion to Enforce Litigant's Rights based on Dr. Kaul's alleged failure to satisfy the terms of the Order.

62. Upon information and belief, Defendants conspired to bring about the Attorney General's Motion and, specifically, Dr. Przybylski gave oral testimony during the hearing of the Motion intending to ensure that permanent suspension of Dr. Kaul's medical license in the State of New Jersey.

63. In each Board hearing in which Dr. Kaul and his professional credentials has been the subject of scrutiny, there has not once been a concern about Dr. Kaul's skills as a

physician. Rather, the main focus is on the scope of his practice and whether he is qualified to perform specific minimally invasive procedures.

64. Dr. Heary has advised other patients and doctors that Dr. Kaul is not qualified to perform minimally invasive spinal procedures.

65. The purpose of these statements was to dissuade potential patients from obtaining minimally invasive spinal procedures from Dr. Kaul, and to encourage such patients to obtain treatment by the neurosurgeon Defendants.

66. Dr. Kaul's business and reputation have been damaged by these false statements.

67. In addition, Defendant Dr. Moore disparaged Dr. Kaul and advised a surgical representative to cease doing business with Dr. Kaul. This surgical representative represented the sole supplier of a medical device that Dr. Kaul needed to perform fusions. Without access to the device, Dr. Moore was aware that Dr. Kaul would be unable to perform his minimally invasive spinal procedures.

68. The defamatory statements made by the Defendants to patients, fellow medical professionals, and the Board disparaged Dr. Kaul's reputation as a physician because they characterized Dr. Kaul as lacking professional skill, training, and competence to perform minimally invasive surgical procedures.

69. The defamatory statements were false because, among other things, Dr. Kaul is qualified to perform minimally invasive spine procedures and, in fact, has performed nearly eight hundred (800) surgical procedures, the majority of which resulted in good to very good outcomes.

70. Defendants knew that the defamatory statements were false, or acted in reckless

disregard of the truth or falsity of the defamatory statements before making them, or acted negligently in failing to ascertain the truth or falsity of the defamatory statements before making them.

71. The defamatory statements imputed occupational incompetence and/or misconduct to Dr. Kaul.

72. As a direct and proximate result of the defamatory statements, Dr. Kaul has suffered actual, pecuniary damages in his profession based on the harm to his professional reputation.

**WHEREFORE**, Plaintiff seeks judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages;
- (b) Consequential damages;
- (c) Punitive damages;
- (d) Costs, interest and attorneys' fees; and
- (e) Such other relief as the Court deems just and equitable.

## **COUNT TWO**

### **(Commercial Disparagement)**

73. Dr. Kaul repeats and realleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein.

74. Defendants publicized disparaging general assertions regarding Dr. Kaul's business practices and medical practice.

75. Defendants publicized these assertions with the intent to hinder Dr. Kaul's professional endeavors, and to prevent other patients and physicians from dealing with Dr.



Kaul.

76. Defendants' actions played a material role in inducing other patients and physicians into not dealing with Dr. Kaul, and deterring other patients and physicians from having professional relationships with Dr. Kaul.

77. Defendants' assertions were injurious and false, and proximately caused damage to Dr. Kaul.

**WHEREFORE**, Plaintiff seeks judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages;
- (b) Consequential damages;
- (c) Punitive damages;
- (d) Costs, interest and attorneys' fees; and
- (e) Such other relief as the Court deems just and equitable.

**COUNT THREE**

**(Intentional Interference With Prospective Economic Advantage)**

78. Dr. Kaul repeats and realleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein.

79. Defendants interfered with Dr. Kaul's prospective economic business relationships with other patients and physicians through Defendants' campaign of misinformation regarding Dr. Kaul.

80. Dr. Kaul had a successful medical practice.

81. Dr. Kaul had a reasonable expectation that his continued performance of minimally invasive spine procedures would provide him with an economic advantage.

82. There is a reasonable probability that Defendants' interference with Dr. Kaul's professional relationships – to which Defendants were not a party – caused the loss of Dr. Kaul's prospective gain.

83. Defendants' conduct was fraudulent, dishonest, and illegal.

84. Defendants are liable for the damages proximately caused to Dr. Kaul stemming from the interference.

**WHEREFORE**, Plaintiff seeks judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages;
- (b) Consequential damages;
- (c) Punitive damages;
- (d) Costs, interest and attorneys' fees; and
- (e) Such other relief as the Court deems just and equitable.

#### **COUNT FOUR**

**(Competition Unlawfully Restrained, N.J.S.A. 56:9-1 et seq.)**

85. Dr. Kaul repeats and realleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein.

86. Specifically, in addition to publicly demeaning Dr. Kaul's skills and qualifications as a physician, Defendants intentionally attempted to phase Dr. Kaul out of the minimally invasive spinal surgery market beginning in or around 2011.

87. In 2011, Dr. Przybylski was the President of North American Spine Society.

88. Dr. Mitchell was and is a close friend of, and colleague of, Dr. Przybylski's at the JFK Medical Center.

89. In 2011, Dr. Carmel was the President of the American Medical Association.

90. Defendants used their power, influence, and positions to downgrade the CPT code for endoscopic discectomies performed by interventional pain practitioners.

91. The Defendants knew that such a downgrade would ensure that only neurosurgeons would profit from such procedures, and that physicians in the interventional pain community would no longer be able to perform such procedures.

92. The purpose behind Defendants' actions was to secure the neurosurgeon's monopolistic hold on performing these types of procedures.

93. Upon information and belief, the CPT code was changed without following the proper protocol for public review and comment.

94. Neither Dr. Kaul nor the interventional pain community was given the opportunity to challenge or weigh in on the code downgrades.

95. Defendants succeeded in, attempted to, and conspired to restrain commerce by seeking to persuade others to refuse to deal with Dr. Kaul in his professional capacity.

96. Defendants sought to ensure that neurosurgeons, like themselves, could monopolize the provision of certain spine procedures throughout New Jersey, and sought to exclude Dr. Kaul and other physicians – despite their skill, experience, and training – from sharing in this lucrative enterprise.

97. Defendants targeted Dr. Kaul for reputational and professional destruction to suppress the fair-market competition within the medical industry, and to reduce the number of qualified physicians offering minimally invasive spine procedures in this practice area.

98. Defendants are liable to Dr. Kaul for the injuries to his business interests proximately caused by Defendants' conduct.

**WHEREFORE**, Plaintiff seeks judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages;
- (b) Consequential damages;
- (c) Treble damages;
- (d) Costs, interest and attorneys' fees; and
- (e) Such other relief as the Court deems just and equitable.

**COUNT FIVE**

**(Conspiracy)**

99. Dr. Kaul repeats and realleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein.

100. During the relevant time period, Defendants and each of them knowingly and willfully conspired and agreed among themselves to publish the defamatory statements to Dr. Kaul's established and prospective patients.

101. Defendants and each of them did so pursuant to and in furtherance of the conspiracy and agreement described above.

102. As a proximate and actual result of Defendants' wrongful acts, Dr. Kaul has suffered financial and reputational damages.

103. Each Defendant is equally and vicariously liable for the damages visited upon Dr. Kaul as a result of the publication of the defamatory statements.

104. Each Defendant acted in concert to facilitate a change to the CPT code for endoscopic discectomies.

105. The Defendants' actions served no lawful purpose.

106. The Defendants improper purpose was to exclude Dr. Kaul and other interventional pain physicians from performing such procedures, and to ensure that only neurosurgeons would be entitled to perform same.

107. Dr. Kaul has been and continues to be damaged as a result of Defendants' actions.

**WHEREFORE**, Plaintiff seeks judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages;
- (b) Consequential damages;
- (c) Punitive damages;
- (d) Costs, interest and attorneys' fees; and
- (e) Such other relief as the Court deems just and equitable.

**COUNT SIX**

**(Aid in the Commission of Tort)**

108. Dr. Kaul repeats and realleges the allegations set forth in the preceding paragraphs and incorporates same as if set forth fully herein.

109. Defendants pursued a common plan or design to commit a series of torts upon Dr. Kaul, through their active participation, encouragement, or ratification of the harm done to Dr. Kaul, which inured to Defendants' collective benefit.

110. Defendants are jointly and severally liable to Dr. Kaul for his damages suffered as a result of the aforementioned torts.

**WHEREFORE**, Plaintiff seeks judgment against the Defendants, jointly and severally, as follows:

- (a) Compensatory damages;
- (b) Consequential damages;
- (c) Punitive damages;
- (d) Costs, interest and attorneys' fees; and
- (e) Such other relief as the Court deems just and equitable.

**LAW OFFICES OF CHARLES SHAW, P.C.**

~~Attorneys for Plaintiff~~

~~Richard A. Kaul, M.D.~~

By: \_\_\_\_\_

**CHARLES SHAW, ESQ.**

Date: March 22, 2013

**JURY DEMAND**

Plaintiff requests a jury trial as to all issues pursuant to R. 1:8-2(b) and R. 4:35-1(a).

**DEMAND FOR INSURANCE**

Demand is hereby made for all insurance policies which may cover the damages alleged in this Complaint.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to R. 4:5-1(c), Charles Shaw, Esq. is hereby designated as Trial Counsel in this matter.

**LAW OFFICES OF CHARLES SHAW, P.C.**

~~Attorneys for Plaintiff~~

~~Richard A. Kaul, M.D.~~

By: \_\_\_\_\_

**CHARLES SHAW, ESQ.**

Date: March 22, 2013

**RULE 4:5-1 CERTIFICATION**

Pursuant to R 4:5-1, the undersigned hereby certifies that at the time of filing the within, the matter in controversy is the subject of the following actions:

*Kuren v. Dr. Kaul et al.*, Docket No. BER-L-2867-11; and

*In re Dr. Kaul*, Docket No. BDS 08959-2012 N.

The matter in controversy is not the subject of any other action pending in any court and/or arbitration proceeding, and no other action or arbitration proceeding is contemplated. Further, the undersigned is unaware of any other party who is potentially responsible to any party on the basis of the facts set forth herein and who should be joined in this action pursuant to Rules 4:28 and 4:29-1 *et seq.*

**LAW OFFICES OF CHARLES SHAW, P.C.**

~~Attorneys for Plaintiff~~

~~Richard A. Kaul, M.D.~~

By: 

**CHARLES SHAW, ESQ.**

Date: March 22, 2013

**VERIFICATION**

I am the Plaintiff named herein. I am fully familiar with the facts and circumstances of this Verified Complaint. I hereby certify that the allegations set forth in the Verified Complaint are made to the best of my knowledge, information, and belief. This Verified Complaint is being made in truth in good faith and without collusion.



The within statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

By:   
RICHARD A. KAUL, M.D.

Dated: March 22 2013



**Appendix XII-B1**

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
	Use for initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>,          if information above the black bar is not completed          or attorney's signature is not affixed</b>		CHG/CK NO.
			AMOUNT:
			OVERPAYMENT:
			BATCH NUMBER:
ATTORNEY / PRO SE NAME Charles Shaw, Esq.		TELEPHONE NUMBER (201) 501-0330	COUNTY OF VENUE Bergen
FIRM NAME (if applicable) Law Offices of Charles Shaw, P.C.			DOCKET NUMBER (when available)
OFFICE ADDRESS 170 Washington Avenue Dumont, NJ 07628			DOCUMENT TYPE Complaint
			JURY DEMAND <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
NAME OF PARTY (e.g., John Doe, Plaintiff) Richard A. Kaul, M.D., Plaintiff		CAPTION Richard A. Kaul, M.D. v. Robert F. Heary, M.D. et al.	
CASE TYPE NUMBER (See reverse side for listing) 609		IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A -27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS BER-L-2867-11; BDS 08959-2012 N	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input checked="" type="checkbox"/> OTHER (explain) <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS	
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: <u>Charles Shaw</u>			



# CIVIL CASE INFORMATION STATEMENT (CIS)

Use for initial pleadings (not motions) under Rule 4:5-1

## CASE TYPES (Choose one and enter number of case type in appropriate space on the reverse side.)

### Track I - 150 days' discovery

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT (debt collection matters only)
- 505 OTHER INSURANCE CLAIM (including declaratory judgment actions)
- 508 PIP COVERAGE
- 510 UM or UIM CLAIM (coverage issues only)
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 501 SUMMARY ACTION
- 502 OPEN PUBLIC RECORDS ACT (summary action)
- 999 OTHER (briefly describe nature of action)

### Track II - 300 days' discovery

- 505 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 603N AUTO NEGLIGENCE - PERSONAL INJURY (non-verbal threshold)
- 603Y AUTO NEGLIGENCE - PERSONAL INJURY (verbal threshold)
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 621 UM or UIM CLAIM (includes bodily injury)
- 699 TORT - OTHER

### Track III - 450 days' discovery

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 602 ASSAULT AND BATTERY
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER / CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

### Track IV - Active Case Management by Individual Judge / 450 days' discovery

- 158 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 513 COMPLEX CONSTRUCTION
- 514 INSURANCE FRAUD
- 620 FALSE CLAIMS ACT
- 701 ACTIONS IN LIEU OF PREROGATIVE WRITS

### Centrally Managed Litigation (Track IV)

- |  |   |
|--|---|
| 265 STRYKER TRIDENT HIP IMPLANTS           | 291 PELVIC MESH/GYNECARE                |
| 268 PRUDENTIAL TORT LITIGATION             | 292 PELVIC MESH/BARD                    |
| 289 REGLAN                                 | 293 DEPUY ASR HIP IMPLANT LITIGATION    |
| 290 POMPTON LAKES ENVIRONMENTAL LITIGATION | 295 ALLODERM REGENERATIVE TISSUE MATRIX |
|  | 623 PROPECIA                            |



### Mass Tort (Track IV)

- |                                       |  |
|---------------------------------------|--|
| 266 HORMONE REPLACEMENT THERAPY (HRT) | 281 BRISTOL-MYERS SQUIBB ENVIRONMENTAL |
| 271 ACCUTANE/ISOTRETINOIN             | 282 FOSAMAX                            |
| 274 RISPERDAL/SEROQUEL/ZYPREXA        | 284 NUVARING                           |
| 278 ZOMETHA/AREXIA                    | 286 LEVAQUIN                           |
| 279 GADOLINIUM                        | 287 YAZ/YASMIN/OCELLA                  |
|                                       | 601 ASBESTOS                           |

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category ☐ Putative Class Action ☐ Title 59

**Appendix XII-B1**

	<b>CIVIL CASE INFORMATION STATEMENT (CIS)</b>		PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA
	Use for Initial Law Division Civil Part pleadings (not motions) under <i>Rule 4:5-1</i> <b>Pleading will be rejected for filing, under <i>Rule 1:5-6(c)</i>,          if information above the black bar is not completed          or attorney's signature is not affixed</b>		CHG/CK NO.
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ATTORNEY / PRO SE NAME Charles Shaw, Esq.		TELEPHONE NUMBER (201) 501-0330	COUNTY OF VENUE Bergen
FIRM NAME (if applicable) Law Offices of Charles Shaw, P.C.		DOCKET NUMBER (when available)	
OFFICE ADDRESS 170 Washington Avenue Dumont, NJ 07628		DOCUMENT TYPE Complaint	
		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	
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DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN	
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I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with <i>Rule 1:38-7(b)</i> .			
ATTORNEY SIGNATURE: <u>Charles Shaw</u>			



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BERGEN COUNTY COURTHOUSE  
SUPERIOR COURT LAW DIV  
BERGEN COUNTY JUSTICE CTR RM 415  
HACKENSACK NJ 07601-7680

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 527-2600  
COURT HOURS

DATE: MARCH 26, 2013  
RE: KAUL MD VS HEARY MD  
DOCKET: BER L -002256 13

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS  
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON ESTELA M. DE LA CRUZ

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 002  
AT: (201) 527-2600.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A  
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.  
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE  
WITH R.4:5A-2.

ATTENTION:

ATT: CHARLES SHAW  
SHAW LAW OFFICES PC CHARLES  
170 WASHINGTON AVE  
DUMONT NJ 07628-2339

JUBSWI1

Dr. Richard A. Kaul

April 26, 2013

Divyesh Kothari

TD Bank

RE: UNETHICAL CONDUCT

Dear Mr. Kothari:

My name is Dr. Richard A. Kaul.

I am a client, account holder and borrower with TD bank.

This is my letter to you regarding my belief that you are engaged in extortion, racketeering , and blackmail. The reason I am directing this letter to you is that you are listed as the "loan officer" on the payoffs and you submitted an affidavit in New Jersey court as a vice president of TD bank.

Simply put, I borrowed money from T.D. Bank in connection with my medical practice. In particular the February 2010 \$1,000,000 loan to NJSR, my medical company, was secured by my residence at 69 West 83<sup>rd</sup> Street ("NYC property") via a mortgage.

Let me make this very clear. If you continue to prevent me from paying off the loans secured by my NYC property, in full, to TD Bank, I will bring all of the issues raised in this letter to the New Jersey and New York State banking department. I will file an action in New York State court for racketeering, fraud, misrepresentation, and determination of NYS mortgage documents. If I am unable to sell my NYC property due to your extortion and blackmail, I will bring an action in Federal Court, including raising this issue before the bankruptcy judge, since I will be forced to file for bankruptcy protection.

Yes. I understand that I have defaulted on various commercial loans to TD Bank. I recognized that I have a media presence since your New Jersey court affidavit makes reference to the fact that my medical license has been suspended. You even went so far as to print out the actual media article about my license despite the fact I have been strenuously fighting for this. Just look at my website at [www.DrRichardKaul.com](http://www.DrRichardKaul.com).

So let's get to business.

There is a TD bank mortgage filed against my NYC property in connection with a commercial loan for my medical practice in New Jersey. The first page of the mortgage clearly states the following in paragraph A: "Pursuant to a certain Loan and Security Agreement...by and among NJSR Holdings and NJSR Surgical

Center...[b]orrowers have executed and delivered to [TD bank] a certain Note...in the principle amount of One Million Dollars (\$1,000,000)." I have attached a copy of the first page of the mortgage.

You and your lawyers are aware that I am in contract to sell my NYC property and I am ready to close the deal. You and your lawyers are aware that in addition to the NJSR TD bank loan, legally filed, against my NYC property, I have federal tax liens, a TD bank home equity line of credit, judgments, and various outstanding liens and costs to pay. Yet you, as a representative of TD bank, are attempting to blackmail and extort me by stating that TD bank will refuse to satisfy the NYC mortgage if I do not also pay the other loans that are not connected to my NYC property and are only connected to my New Jersey practice and New Jersey property. You are currently suing me in New Jersey court for the very same loans and you have a receiver in place, who has taken over \$140,000 which has yet to be accounted for.

Now it does not take an advance legal degree to see that the mortgage filed against my NYC property specifically states that is in connection to a February 2010 \$1,000,000 note signed by and owed by my NJSR limited liability companies. It is abundantly clear that the NJSR mortgage was placed on my NYC property to secure the \$1,000,000 loan from TD bank to my NJSR limited liability companies. On top of that your lawyer sent a payoff for that NJSR loan indicating that I owe \$925,000. Guess what? I intend to pay that loan in full since it is a legally filed mortgage lien against my NYC property.

Now let's dig deeper into your extortion and blackmail. In an obscene and obvious illegal attempt to collect on other commercial loans (including an equipment lease), owed to TD Bank, yet not secured by my NYC property, you are claiming that the NYC mortgage which clearly references the \$1,000,000 borrowed by NJSR also secures all of the other loans made by TD Bank to my other businesses. Hmmm. Now how do you suppose that can be. I am not a lawyer but I know enough that a written contract can only deal with what is in writing on the contract not about "other stuff" that is not clearly written.

And here is the specific instance of blackmail, extortion, and racketeering. Your lawyer, in a fit of legal "mumbo jumbo" sends a bogus letter to my lawyer dated April 24, 2013 wherein he says *"The mortgage held by TD Bank covers not only the \$1.0 million obligation of NJSR Holdings, LLC but all obligations of Dr. Kaul to the Bank. We refer you to recital paragraph of the Mortgage that it secures payment to TD Bank of all "obligations" as defined in the Guaranty"*. I have attached a copy of this letter and the payoffs. (By the way I do not see the deductions or any credits against the loan balances for the \$140000 taken from my office receipts by the Receiver.)

NOW let's talk about this April 24, 2013 letter from your lawyer:

1. If the mortgage "covers" other loans in addition to the NJSR loan then why doesn't the mortgage specifically refer to those other loans?
2. Normally a skilled attorney would specifically point out the "recital paragraph" unlike your attorney. Well I found it. It is paragraph B. Your attorney conveniently left out the following language that's contained in the mortgage "recital paragraph" B which states: "Mortgagor...has executed and delivered a guaranty agreement...guaranteeing all of the obligations of the Borrowers under the Note and Loan Agreement". Hello!!...as you can read the "obligations" refer to the Note and Loan Agreement which specifically refers to the NJSR \$1,000,000 loan.

3. You and your lawyer claim that the mortgage covers an equipment lease and another loan that's filed against my New Jersey practice. How can you get a mortgage on an equipment lease? How can you get a mortgage for a loan that is not specifically stated in the mortgage?
4. Why does your TD bank or even your attorney's believe it can get away by defining "obligations" in any way they see fit. Basically expanding the term "obligations" to artificially, improperly, and illegally cast a wide net over loans that were never legally or properly secured by my NYC property. . Simply put this fantasy definition of "obligations" by you and your attorney's is simply being used as a "Clintonesque: What is sexual relations?" Basically it's a "whole lotta of B.S."
5. How about this...I, the borrower and signer of the mortgage, state that "obligations" mean the \$1,000,000 loan NJSR borrowed in February 2010. I define "obligations" as the NJSR loan balance which will be totally satisfied at the sale of my NYC property.

Look, don't play games with me. I may have major issues but I am not stupid. I have nothing to lose and I am fighting from a position of strength. A contract is a contract. The mortgage does not refer to any other loan except the NJSR loan for \$1,000,000 that currently has a balance of \$925,000. When I borrowed the money and agreed to put up my NYC home as collateral I knew full well what loan it covered. I was led to believe by TD Bank representatives that the mortgage on my NYC home only covered the NJSR \$1,000,000 loan. This bogus attempt to create a "wrap around" despite you and your lawyer's failure to include the language for a "wrap round" is a clearly blackmail and extortion. It is an attempt to "scare" me into believing that TD bank will hold up what is an otherwise proper and legal closing. A closing which will satisfy many of my obligations to other creditors in addition to paying back off TD bank's legally secured loans.

By the way, I also plan to pay off TD Bank \$1,000,000 Home Equity line of credit. The current payoff is \$640,000. This loan is not a commercial loan and you have nothing to do with it. Yet, are you telling me that TD bank does not want this money.

Also, you currently have a receiver taking money from my medical facility and practice. You have a receiver, with no knowledge as to how to run and operate a medical practice, basically interfering with the care for patients. The receiver has collected over \$140,000. Where is this money? Also, TD Bank has a mortgage filed against my New Jersey medical facility, why didn't you or your lawyers file a foreclosure action against the facility to pay off the other loans.

So let's be clear. There will be no negotiations. Your NJ lawyer has a lawsuit against me in New Jersey for all of the commercial loans. The receiver has taken over \$140,000 (so far unaccounted for) which has deprived me of all income. Your NJ lawyer, who is not licensed in New York State, should stay out of NYS law and stop pretending that a mortgage that does not specifically refer to certain loans all of a sudden and "magically" refers to certain loans.

This letter has been forwarded to executives at TD Bank. You see, I have begun my campaign to paint a picture as to, what I believe, are your unethical practices. I am so angry at what you are doing that I am

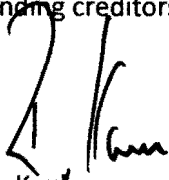


also forwarding this document to all of the other parties involved with the sale of my NYC property and seeking the payment of their debts.

Finally, you have 24 hours to instruct your lawyers to provide a clear letter to my lawyer indicating that TD bank will accept full payment of the NJSR 2010 \$1,000,000 loan in exchange for the release and satisfaction of the NYC mortgage. This will allow me to close the sale of the NYC property and pay off all of the outstanding creditors including the loans legally and properly secured against the NYC property by TD bank.

Sincerely,

Dr. Richard A. Kauf

A handwritten signature in black ink, appearing to read 'R. Kauf', is written over the word 'Sincerely,'.

**NJSR PC**  
**NEW JERSEY SPINE AND REHABILITATION**  
**MINIMALLY INVASIVE SPINE SURGERY**  
**200 BROADACRES DRIVE**  
**SUITE 130**  
**BLOOMFIELD, NEW JERSEY 07003**  
**WWW.NJSRLASERSPINE.COM**

August 6<sup>th</sup> 2013

REPLY TO:  
RICHARD ARJUN KAUL, MD  
DIRECT EXTENSION: 214  
DIRECT DIAL: 973 338 0980  
RKAUL@NJSRLASERSPINE.COM

David Westman,  
CEO  
Congress of Neurological Surgeons  
725 Fifteenth Street, NW, Suite 500  
Washington, DC 20005

Re: Gregory Przybylski, MD- Violation of ethical conduct during expert witness testimony

Dear Mr. Westman

I am writing to file a formal complaint against Gregory Przybylski, MD for grossly unprofessional and unethical conduct in the provision of knowingly false expert testimony in the matter of New Jersey V Richard Kaul, MD.  
Docket No: BDS 08959- 2012

Gregory Przybylski, MD was retained by the New Jersey Board of Medical Examiners in September 2011 and rendered an expert report in which he made multiple false allegations about purported deviations from a standard of care that he subsequently admitted on cross examination did not exist. The fact that he knew about the lack of any standard of care with regards to the education and training required for the performance of minimally invasive spine surgery became clearly evident on his cross examination.

Gregory Przybylski, MD, as is clear from his attached CV, has for 15 years been actively involved in multiple professional societies and was the president of The North American Spine Society in 2011. There is therefore no question that he knows and understands the ethical and professional responsibilities of an expert witness which makes his multiple and continued acts of fabricated testimony even more egregious. His grossly misleading statements to the court, regarding the purported deviations from a standard of care that he knew did not exist and had it not been for a probing cross-examination would never have been exposed. He had a duty as an expert witness to provide truthful testimony not subject to influence from either the New Jersey Attorney General or his own professional rivalries and as his cross examination clearly demonstrates he was, at the very least, grossly negligent in that duty but more likely willfully dishonest.

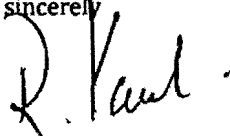
I have attached an article published in Orthopedics This Week in which the senior writer, Walter Eisner, independently observed the cross examination of Dr. Przybylski, during which he admitted the lack of any standard of care with regards to the performance of minimally invasive spine surgery which completely contradicted all of his previous testimony.

The importance, for many reasons, of impartial expert testimony is without question but what makes the conduct of Dr. Przybylski so deserving of further investigation is the fact that he was the 2011 President of The North American Spine Society whose guidelines regarding ethical expert testimony demand complete integrity which he obviously did not demonstrate in this matter.

Dr. Przybylski was named as a defendant in a verified complaint filed 3/22/13 in Bergen County Superior Court, New Jersey, Docket No: BER-L-2256-13, in which he was accused of engaging with 4 other neurosurgeons in anti-trust conduct, collusion and conspiracy in addition to a number of other charges with direct relevance to the central matters in New Jersey V Richard Kaul, MD in which he provided expert testimony. Dr. Przybylski knew or should have known that there was a clear conflict of interest, should have adhered to the ethical guidelines of his professional societies and should have recused himself from the case but he did not, and this is further evidence of his gross deviation from the standard of ethical practice expected from an expert witness, especially one that is the past-president of The North American Spine Society.

I look forward to your response.

Yours sincerely  
NJSR



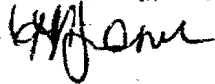
Richard Arjun Kaul, MD

Cc: Dr. Charles Mick, President North American Society (via certified and regular mail, return receipt requested)

Dr. Gregory Przybylski, New Jersey Neuroscience Institute at JFK Medical Center (via certified and regular mail, return receipt requested)

Sworn to and subscribed  
before me this  
6th day of August 2013

HEATHER N. FROMMELT  
ID # 2381689  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires 1/21/2014



## Legal & Regulatory Feature



Photo Creation by RRY Publications LLC / Source: Morguefile and wax115

# IN JERSEY: NO CREDENTIALS, NO PROBLEM?

Walter Elsner • Tue, April 30th, 2013

[Print this article](#)

**Who is Richard Kaul? Is he the victim of a professional witch hunt or is he such a danger to patients that his license to practice medicine must be permanently revoked?**

According to New Jersey's Attorney General (AG), Dr. Kaul is a danger and should permanently lose his license to practice medicine. The AG's expert witness to bolster his case is former NASS (North American Spine Society) President Greg Przybylski, M.D.

Dr. Kaul, however, not only vehemently disagrees but has launched a defense which includes defamation, anti-trust, slander and libel lawsuits against William Mitchell, M.D., head of NASS' coding committee, local competitors, Robert Heary, M.D., Frank Moore, M.D. and Peter Carmel, M.D., a past president of the American Medical Association (AMA).



Greg Przybylski, M.D.

Who IS Richard Kaul?

### **Medical Warfare Jersey Style**

This entire saga started over a year ago when the AG filed a complaint with the New Jersey Medical Board over Kaul's alleged, "flagrant disregard of his own lack of training and expertise and his continuing performance of surgical spinal procedures for which he is not qualified."

As far as we know, no charges were presented to the board that Kaul has harmed any New Jersey patients. There were, however, malpractice suits against him by former patients. Kaul claims those lawsuits are the result of the false statements made by the defendants in his suit.

The issue was not about Dr. Kaul's professional behavior, but about his qualifications. Not who he is, but what he is.

Kaul's medical board hearing took place on June 13, 2012 and his license was temporarily suspended. Kaul had earlier agreed to temporarily stop performing any more spine surgeries.

The temporary decision is now coming to an end and the AG is seeking to permanently prevent Kaul from practicing medicine. The hearings are continuing and later this year the judge will make a recommendation to the medical board.

Kaul claims his "successful" business threatened the business interests of a small group of local doctors who used their political connections with "certain members of the medical board" to suspend his license.

### **Qualifications and Training**



*R to right: Peter Carmel, M.D. / Robert Heery, M.D. / Frank Moore, M.D.*

What is at stake is whether Kaul has the proper qualifications to perform certain spinal surgeries traditionally performed by board certified surgeons. The AG says that Kaul did not receive any training in spinal surgeries during his residency at Albert Einstein-Montefiore Medical Center in the Bronx.

Kaul says he took many continuing education courses on spinal surgical procedures. He also studied minimally invasive spinal surgeries during a two-week fellowship in Seoul, South Korea, a trip that "falls far short" of the training needed for spinal surgeries, states the complaint by the AG.

Kaul was an attending physician at the Interventional Pain and Minimally Invasive Spine office in Saddle Brook, New Jersey, and served as medical director for both the Market Street Surgical Center and the North Jersey Center for Surgery from 2004 to 2007. During this period, Kaul says he acquired skills in minimally invasive spinal surgery, and participated in hundreds of procedures similar to those he does now.

In the ensuing years, Kaul served as a director of outpatient spine surgery and attending physician in minimally interventional pain and spine procedures in two other northern New Jersey surgical centers. In March 2007 he started his own center.

He is a member of The American Society of Interventional Pain Physicians (2006) and The American Academy of Minimally Invasive Spinal Medicine and Surgery (2004). He is also a diplomat of The American Board of Interventional Pain Management (2004) and the American Board of Anesthesiology (1996).

#### ***Surgical Center***

The AG's complaint says that Kaul's facility in Pompton Lakes became "a one-room surgical office" in March 2011. Officials say doctors who operate in one-room clinics must have hospital privileges or board permission to perform that surgery. Kaul has neither, according to the complaint.

#### ***Kaul – A Wounded Fighter***

Kaul may not be the best poster child for interventional pain specialists to put up to fight former heads of NASS and the AMA who say lumbar fusion procedures should be left up to board certified surgeons who have followed the traditional surgeon fellowship pathway.

In 2001, Dr. Kaul was convicted by a jury in London of negligent manslaughter after a woman he sedated during a dental procedure, went into cardiac arrest and died. Dr. Kaul had his medical license stripped in England and moved to New Jersey. He did not disclose the criminal conviction to the state's licensing board and began practicing medicine. He was later given a six-month suspension and subsequent probation by the state.

But Kaul is what they've got and he's the one willing to make the fight in court.



*Richard Kaul, M.D.*

#### ***Question of Credentialing***

Charles Branch, M.D., a former NASS president and *Spine Journal* editor told us the real question here is: are there interventional fusion techniques that are effective, if so, what are they and for which indications, and are the interventional pain physicians the appropriate resource to provide that care? "There is not a clear answer to any of those questions which fuels bigger turf and economic wrangling that is coming to a head in New Jersey."

Branch said credentialing has always been local. While national boards certify general competence, states license physicians to practice medicine and hospitals determine who is credentialed. "This is less burdensome when health care is delivered inside of a hospital system with credentialing committees and processes. As the free standing entities have evolved, that process has really become messy."

**"Hence, in New Jersey, a regional or community effort to establish a credible credential is now polluted with politics, power, economic restraint of trade and on we go."**

While he personally has "heartburn" with an interventional pain management physician performing surgical procedures, Branch says those lines have become blurred.

Branch says that even if Kaul is a good technician, his credential cannot be validated by or transferred to the entire anesthesia interventional pain community "unless we have clear guidance for indications, and rigid outcome mandates that can truly determine competence or quality. Until then, I believe the public is best served by letting surgical techniques such as fusion remain in the realm of trained and credentialed surgeons."

Kaul argues in his lawsuit that in consequence of the lack of clear credentialing, the defendants "have purposefully and intentionally attempted, through slanderous public statements and collusive pressure on legislatures and insurance companies to change billing codes in favor of neurologists, to exclude anesthesiologists from the spine surgery market, and to intimidate interventional pain practitioners from carrying out minimally invasive spinal surgeries and other related procedures."

#### ***Defamation***

The defendants, according to Kaul, began intentionally interfering with his practice in 2008, nearly five years after he began performing minimally invasive discectomies, when a patient of defendant Heary sought medical attention for complications arising from a leg injury. Kaul had previously performed a minimally invasive spinal procedure on the patient.

A few months after the procedure, the patient suffered new injuries unrelated to the operation performed by Kaul, says the suit. The patient went to see Heary in connection with her new injuries. Heary allegedly told the patient that Kaul did not have the credentials or qualifications to perform the minimally invasive spinal procedure on her.

Heary, claims Kaul, encouraged the patient to file claims against him for negligence and improper licensing. The patient subsequently filed a lawsuit against Kaul.

"Dr. Heary has advised other patients and doctors that Dr. Kaul is not qualified to perform minimally invasive spinal procedures," claims Kaul.

Kaul says his business and reputation have been damaged by these false statements and as a direct result of Heary's false statements, has come under review by the Board of Medical Examiners.

#### ***Power, Politics and Conspiracy***

Heary was allegedly able to ensure that the patient's complaint was entertained by the Board "due to his close business and personal relationships with one or more Board members."

Kaul claims that as a result of a conspiracy between the defendants, the AG is currently trying to make Kaul's temporary suspension permanent. He specifically cites Przybylski's oral testimony during the hearing to ensure the permanent suspension of his medical license.

Kaul also claims that Mitchell disparaged him and advised a surgical representative to cease doing business with him. Since this was the sole supplier of the device Kaul needed, Mitchell was aware that Kaul would be unable to perform his minimally invasive spinal procedures without the device.

The defendants also allegedly disparaged Kaul's reputation as a physician because they characterized him as lacking professional skill, training, and competence to perform minimally invasive surgical procedures. These "defamatory statements were false," claims Kaul.

He says the defamatory statements "falsely imputed occupational incompetence and/or misconduct" to himself.

In his lawsuit, Kaul also alleges "Commercial Disparagement." He claims the defendants statements induced patients

and physicians to not deal with him.

Additionally, Kaul claims "Intentional Interference With Prospective Economic Advantage."

He says he had a reasonable expectation that his continued performance of minimally invasive spine procedures would provide him with an economic advantage. "Defendants' interference (a 'reasonable probability') caused the loss of that gain."

### ***Keeping Out Competition***

Perhaps Kaul's most significant and far-reaching claim is an anti-trust claim.

Kaul alleges the defendants intentionally attempted to phase him out of the minimally invasive spinal surgery market by using their power, influence and positions as presidents of NASS and the AMA to downgrade the billing code for endoscopic discectomies performed by interventional pain practitioners, knowing that such a downgrade would crippled the interventional pain community and ensure that only neurosurgeons would profit from such procedures.

He says the defendants sought to ensure that neurosurgeons, like themselves, could monopolize the provision of certain spine procedures throughout New Jersey, and sought to exclude Kaul and other physicians from sharing in this lucrative enterprise.


They allegedly targeted Kaul for "reputational and professional destruction" to suppress the fair-market competition within the medical industry, and to reduce the number of qualified physicians offering minimally invasive spine procedures in this practice area."

Kaul seeks compensatory damages, consequential damages, punitive damages, costs, interest and attorneys' fees.

The next act in this Runyon-esq drama takes place on May 6 when Dr. Przybylski is cross-examined by Dr. Kaul's lawyer at the medical board hearing. We'll bring you the details.

[Comments \(1\)](#) | [Share](#)

### **One Response to "In Jersey: No Credentials, No Problem?"**

1.  **Anthony Yeung** says:  
[May 8, 2013 at 1:24 pm](#)

If the readers review the Article "Duel in the Desert", The Senario is almost identical to the actions of neurosurgeon Curtis Dickman providing rogue and false testimony in a malpractice suit against me. Dr Dickman lied about having experience with the endoscopic discectomy and thermal annuloplasty procedure. He then tried to get the Arizona Medical board to review my license. The Board rejected jurisdiction since they had already reviewed the case and dismissed it. I sued Dr Dickman for slander and he got the suit dismissed because Arizona law provides absolute immunity. A surgeon professing expertise in a procedure that he performs should be able to handle the adverse outcomes and complications that may arise as a result of the procedure. Credentialling is a local issue, and may relate to having privileges at facilities such as hospitals that can handle potential complications.

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## Legal & Regulatory Feature



Image created by RRY Publications, LLC

### SPINE ON TRIAL

Walter Elsner • Wed, June 5th, 2013

[Print this article](#)

**D**eciding whether or not pain specialists should be allowed to perform spine surgery is going to take the Wisdom of Solomon. Not the biblical one, but the Honorable Jay Solomon, an administrative law judge for the State of New Jersey.

As the presiding judge of a state board of medical examiners hearing, Solomon has to recommend whether or not pain specialist, Richard Kaul, M.D., should lose his medical license for performing spinal surgical procedures now performed by board-certified surgeons.

"It is my opinion based on the materials that I have reviewed that Dr. Kaul does not have the training and background to be able to competently perform open spinal fusion surgeries," Greg Przybylski, M.D., a neurosurgeon and the state's key expert witness told the judge during testimony. The former president of the North American Spine Society (NASS) alleges that Kaul "deviated" from standard clinical guidelines in treating 11 former patients.

Przybylski's blood is as blue as it gets as the spine establishment fights off the incursion of non-surgeon physicians performing minimally invasive, endoscopic spine surgeries in ambulatory surgical centers.

After Przybylski's testimony, Kaul's lawyer Charles Shaw got his chance to cross examine the surgeon. We were there to witness the (respectful) confrontation on May 6, 2013.

#### ***State of Spine on Trial***

Respectfully, Shaw launched an all-out attack on the professional and scientific underpinnings of the current state of spine surgery. Who decides what is competent? What are the standards and guidelines that determine whether or not a physician has "deviated" from standard medical practices?

That's where Shaw began.

Shaw reminded Przybylski that he had "opined on generally accepted standards of medical practice" and Kaul's "purported deviations." They agreed that the state relied on a "compendium of articles...and medical literature which establish guidelines" supplied by Przybylski and serve as the basis for establishing Kaul's "deviations."

Przybylski agreed that most of the articles related to guidelines or options and had very few standards.

#### ***Non-FDA Approved Use Deviation***

One of the alleged deviations involved Kaul's use of mesh cages, a device specifically excluded by the FDA for approved use in the manner used by Kaul. Przybylski made similar statements about other deviations by Kaul

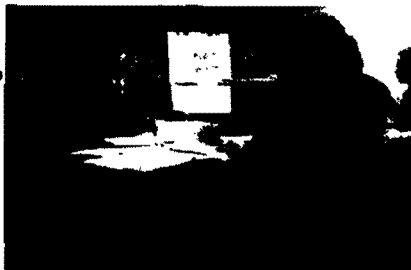
because of "non-FDA approved" use.

"Doctor, do you utilize medical devices and products that are not FDA approved for their specific purpose?" asked Shaw. "Yes," answered Przybylski. "Aren't medical devices in the spine realm commonly used off label?" continued Shaw. "Define commonly, but yes, they are used [off label]," replied Przybylski.

Shaw asked for an example of an off label use in spine. "Until last year placement of lateral mass screws in the cervical spine posteriorly was considered off label," said Przybylski. He admitted that this was commonly done and was an accepted practice.

"And why is that allowed?" asked Shaw.

"Because the FDA does not regulate physician practice. Rather, it regulates industry, and therefore, if a physician feels that it's clinically appropriate to use a medical device off label, then it's the purview of the physician and the people that are responsible for supervising physicians," answered Przybylski.



Dr. Przybylski testifying. / Source: RRY Publications, LLC

### **Coding Deviations**

Shaw asked Przybylski about his report of a number of deviations noting improper coding for multiple procedures.

"Coding is a post-operative procedure, right?" asked Shaw.

Przybylski agreed with Shaw that coding has no direct effect on the "health, safety and welfare of the patient."

### **Non-Indicated Fusion Deviations**

"Doctor, you indicated that the performance of a fusion on [Kaul's patient] was potentially not indicated," Shaw said to Przybylski.

Shaw then walked Przybylski through a March 2012 article published in *Becker Spine Review* where the surgeon was interviewed about spinal fusion reimbursements.



Dr. Kaul (left) and his attorney Charles Shaw/Source: RRY Publications, LLC

### **Indication Controversy**

In the article, Przybylski gave his opinion about appropriate use for fusions and proper patient selection. Shaw quotes Przybylski from the article: "There are some things we agree on. Fusion is appropriate in patients with fractures, dislocation, some infections and patients with cancer of the spine. The controversy surrounds patients with pain of an unknown origin, and we assume it's coming from degenerative disc disease (DDD)."

Przybylski continued in the article, "Often times surgeons decide that a patient's pain is from DDD through a process of exclusion."

### **No Definitive Guideline**

Shaw: "What you said was that often times [physicians] do not actually know where the pain is coming from. True?"

Przybylski: "True"

Shaw: "So these individuals, just like you, not only are they not definitively guided to determine whether a fusion is appropriate or not, but they can't all the time find the source of that pain, is that true?"

Przybylski: "That's true."

Shaw: "So they do it by doing testing that excludes pieces and thoughts of what may be the pain until we get down to what we think possibly it could be, true?"

Przybylski: "Yes."

Shaw: "And unfortunately, that's the state of medicine today, isn't it true?"

Przybylski: "Yes."

### ***Discography Deviation***

Shaw challenged Przybylski for criticizing Kaul for the use of discography and asked if that wasn't one of the mechanisms used to determine the source of the pain? "That's true," said Przybylski, and then added that he wasn't criticizing discography in and of itself as a tool, but how it was applied. Shaw pushed back saying that Przybylski had criticized Kaul "no matter if he used it or not in the manner which you saw fit."

Shaw noted that Przybylski said in the *Becker* article that "Discography tries to gain insight into the disc and the source of the pain, but that isn't always the best test... We haven't quite achieved the technology to figure out which patients will have good outcomes from spinal fusions and which will not." Przybylski stood by his comments and also said, "when we look at what has been studied, there is a limited amount of information to guide us as to what predicts who will benefit or not benefit from fusions."

### ***No Standards***

Przybylski agreed that if the word standard is used in terms of standard guidelines and options, he would agree that there is no standard by which individuals—with the same level of training and expertise as he has—are guided with regard to the applicability or use of a fusion.

He also acknowledged that respective randomized studies have shown mixed results between those getting surgery and those who don't.

Shaw then went back to Kaul's purported deviation and Przybylski's basis for his opinion of deviation based in part on "Professional Society Guidelines."

### ***NASS Clinical Guidelines Disclaimer***

Przybylski agreed that he relied on the NASS evidence-based Clinical Guideline for Multi-Disciplinary Spine Care to support what he believed to be Kaul's deviations. He admitted that most of the articles related to guidelines and not standards and that some actually related to options.

Shaw jumped on that. "Inside the [Guideline], isn't it true that there is a disclaimer: 'This clinical guideline should not be construed as including all proper methods of care or excluding other acceptable methods of care reasonably directed to obtain the same results. The ultimate judgment regarding any specific procedure or treatment is to be made by the physician and patient in light of all circumstances presented by the patient and the needs and resource particular to the locality or institution.'"



Courtesy: NASS

"That's accurate," said Przybylski. He added that the disclaimer indicates that physicians will need to use their clinical judgment when making a decision of a treatment recommendation for a patient and agreed it clearly demonstrates the deference to the physician's judgment.

Shaw continued and Przybylski agreed that the Guidelines offer potential solutions reviewed and evaluated by a host of doctors in the field but also indicate the physician could take another course and were not the dispositive answer to the treatment.

"Matter of fact," said Shaw, "These Guidelines indicate that you could take another course that was not the dispositive answer to the treatment. True?" "Yes," replied Przybylski.

### ***Deviating From Standards and Guidelines Isn't Deviation***

Shaw reminded Przybylski of his previous statement about published guidelines and asked if the quote was still

correct.

Przybylski: "We can rely on it much of the time, but not necessarily all of the time. There isn't very good evidence that you should be doing this, but the level of evidence that we have isn't so robust that we can make it a standard. We can't say under all circumstances you should be doing this. We think that is the case, but there is not enough data to be able to say that. The fact that you deviate from the guidelines isn't in and of itself something that says you deviated from what you should be doing."

Przybylski stood by the statement.

Shaw pressed on.

Shaw: "Regarding options. You testified that 'We have weak evidence that says you can choose to do this or not to do this, but they are just options for the physician to consider.' True?"

Przybylski: "Agree."

Shaw: "If an individual took one option versus the other, he would not be considered to deviate in any manner from the standard of the industry, true?"

Przybylski: "True."

Shaw: "And regarding guidelines, taking any approach separate from the one that's considered the guideline approach...is not considered to be out of space of deviation, true?"

Przybylski: "Not on its face."

#### ***Continuing Education***

Shaw also pursued the timeliness of guidelines and keeping up with the current state of the industry. Przybylski agreed that to keep up, one needed, in part, to take CME (Continuing Medical Education) classes.

Przybylski acknowledged that he has taught CME classes regarding minimally invasive spine surgery and agreed that non-board certified surgeons attended the classes. He also acknowledged that he knew pain management, anesthesiologists and other non-board certified individuals were there to learn from him in order to conduct or perform the procedures.

Shaw continued, and Przybylski agreed that NASS understood that individuals who take these classes are there to learn to perform the procedures and that the society doesn't exclude individuals who they think should not be performing those procedures.

Shaw: "But NASS still takes their money and teaches them?"

Przybylski: "That is true."

#### ***Credentialing and Certification***

Przybylski also acknowledged that credentialing procedures are not standardized and vary from hospital to hospital and that there is no specific American Board of Medical Specialties certification for spine surgery.

Other topics covered by Shaw in a 78-page transcript included Przybylski's own training and record of providing expert testimony; fellowship training; time lags between published guidelines and contemporary practices; risk disclosures and consent forms.

#### ***Defense Strategy***

Shaw told OTW that he had a lot of respect for Dr. Przybylski's commitment to his science. Because of that he felt pursuing the unsettled science of spine care and lack of universally agreed upon standards, guidelines and treatment options were the best argument to make to Judge Solomon.

It was clear from Shaw's questioning that he was trying to put the current state of spine on trial, instead of his client. Since the allegations against Dr. Kaul involved professional credentials, training and practice guidelines, Shaw's strategy will test the Wisdom of Solomon.

We'll let you know if and how he splits the baby.

[Comments \(2\)](#) | [Share](#)

## 2 Responses to "Spine on Trial"



1. **Anthony Yeung** says:

[June 4, 2013 at 6:57 pm](#)

This is similar with Yeung versus Dickman, where Dickman testified that thermal annuloplasty had "zero chance of success for the treatment of a painful disc in a patient with a painful disc that also had mild spondylolisthesis.

Curtis Dickman lied to the court and Jury by fabricating false exhibits to support his rogue testimony. After

Dickman's two level fusion, the patient became disabled, and Dickman blamed me for the poor result.

The judge in this case made an error by allowing Dickman's rogue testimony over my objection.

[Reply](#)



2. **Key Darrow** says:

[June 7, 2013 at 5:20 pm](#)

This case clearly is brought about by physicians being able to influence a political party to ask for and receive favors of inquisition to another doctor. Dr. Kaul has clearly delivered a health care model that is called for under the Affordable Health Care Act before it was enacted. Since the implementation of his health care model, the cost effectiveness of his model has been very successful. The "Good Ole Boys Club" is loosing money to this type of care as well as the highly paid hospital administrators.

Let this case and assault on the good character and excellent surgical skills of Dr. Richard A. Kaul show that the medical community cannot use political pressure to protect their cash cow turf!

Dr. Richard A. Kaul should be acquitted and an official apology from the Attorney General should be issued.

We need more doctors like Dr. Richard A. Kaul in this world. May he victorious in this fight!!

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Logged in as [richard kaul](#). [Log out »](#)

Comment:

STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW  
OAL DOCKET NO. BDS 8959-12

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STATE OF NEW JERSEY,

Petitioner,

-vs-

RICHARD A. KAUL, M.D.,

Respondent.

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TRANSCRIPT  
OF  
RECORDED PROCEEDINGS

May 6, 2013

BEFORE:

THE HONORABLE JAY HOWARD SOLOMON, A.L.J.

APPEARANCES:

OFFICE OF THE ATTORNEY GENERAL

By: Doreen A. Hafner, DAG

Attorney(s) for Petitioner

By: CHARLES SHAW, ESQ.

Attorney for Respondent

CRT SUPPORT CORPORATION

Transcriber: Kathleen A. Cosentino

# I N D E X

2

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
GREG PRZYBYLSKI				
By Mr. Shaw		5		68
By Ms. Hafner			59	

E X H I B I T S

3

NO.

DESCRIPTION

I.D. EVID.

{NO EXHIBITS MARKED.}



1 THE COURT: Good morning. This is the  
2 continuation of In the Matter of Richard Kaul, M.D.,  
3 docket BDS 08959-12. Ms. Hafner, you're here. Mr.  
4 Shaw, you're here. Before we continue with I believe  
5 it's cross examination today, Mr. Shaw, you indicated  
6 last time there was going to be a Mr. Randolph here?

7 MR. SHAW: There were discussions with Mr.  
8 Randolph, Judge. Apparently he's not coming in.

9 THE COURT: Okay. All right. Ms. Hafner.

10 MS. HAFNER: Yes.

11 THE COURT: And by the way, Ms. Hafner, just  
12 one administrative matter. I like to start a little  
13 early, on time. So if you need binders and so forth,  
14 can you be here earlier?

15 MS. HAFNER: We were here at 9:10, your Honor,  
16 and the binders shouldn't have held us up. I just  
17 wanted to make sure Dr. Przybylski had the exhibits on  
18 the table. Mr. Shaw asked me to make sure they were  
19 there.

20 THE COURT: All right, because security told  
21 me somebody needed five more minutes.

22 MS. HAFNER: Oh, okay.

23 THE COURT: And I was ready to start before  
24 then.

25 MS. HAFNER: I'm sorry.

1 THE COURT: All right. Let's continue please.

2 DR. PRZYBYLSKI: Good morning, your Honor.

3 THE COURT: Good morning, Dr. Przybylski.

4 Doctor, you're still under oath as you've been through  
5 these proceedings.

6 G R E G P R Z Y B Y L S K I, PETITIONER'S WITNESS,  
7 PREVIOUSLY SWORN, RESUMES THE STAND.

8 DR. PRZYBYLSKI: I understand.

9 THE COURT: Ms. Hafner, before we turn it over  
10 to cross, do you have anything left?

11 MS. HAFNER: Nothing further, your Honor.

12 THE COURT: All right. Thank you. Mr. Shaw.

13 CROSS EXAMINATION BY MR. SHAW:

14 Q Good morning, Doctor.

15 A Good morning, Mr. Shaw.

16 Q Previously we discussed at least in voir dire  
17 your C.V., your training experience, have we not?

18 A We have.

19 Q So you and I have had some level of discourse  
20 with regard to the substance of this case in part,  
21 isn't that true?

22 A Yes.

23 Q Before you -- I believe I asked to have  
24 presented in front of you what has been marked and in  
25 evidence now as P-91. Do you have that?

1 A I have that in front of me.

2 Q In a general sense, Doctor, before we get  
3 into P-91, you were asked or retained, were you not, by  
4 the State of New Jersey in order to serve as an expert  
5 in this case, true?

6 A Yes.

7 Q And you've been qualified over my objection.  
8 You were here for my objections, were you not?

9 A I was.

10 Q And you heard my objections, did you?

11 A I did.

12 Q I saw you nodding in disagreement during my  
13 objections, but you were qualified as an expert in two  
14 fields, is that true?

15 A I'm not sure what two fields you're representing.

16 Q Well, tell me the fields in which you were  
17 retained to testify in this case for.

18 A I am a board certified neurological surgeon. I am  
19 also a fellowship trained spine surgeon, so if the two  
20 fields are neurosurgery and spine surgery, then I would  
21 agree with your question.

22 Q Now, over my objection you would agree, true?

23 A I understand that it was over your objection.

24 Q Now, with regard to your qualifications as a  
25 board certified neurosurgeon, you are board certified,

1 true?

2 A Yes.

3 Q And your C.V. indicates I believe, if I'm  
4 accurate, and I have it somewhere, but let me go off my  
5 recollection if you don't mind. I believe you became  
6 board certified in the year 2000, is that true?

7 A That is correct.

8 Q And I believe that there was an 11 year -- 10  
9 year, I believe, 10 year lapse between the 2000 board  
10 certification and your recertification for that  
11 specific board certification, and that was in  
12 neurosurgery, true?

13 A That was sort of a compound question, so true that  
14 it was in neurosurgery, not true that there is a 10  
15 year lag, depending on how you define lag.

16 Q Okay. But you were recertified in 2010,  
17 true?

18 A That is correct.

19 Q So that would be the ten years between -- my  
20 point was, isn't that true, that it was a ten year  
21 distance between the time you were initially board  
22 certified and when you became, let me use my word,  
23 recertified, true?

24 A It was a ten year interval between certification  
25 and recertification, correct.

1           Q     When you opined, and you did a fairly  
2                 significant, if you would agree with me, amount of  
3                 testimony with regard to your expert opinion in this  
4                 case, and you were asked on direct if this was a  
5                 generally accepted standard of medical practice. Do  
6                 you remember that?

7           A     Yes.

8           Q     And then from that general theory and that  
9                 question, that standard that was given to you by the  
10                State, you then opined as to what you believed were  
11                purported deviations, isn't that true?

12          A     Yes.

13          Q     Now, with regard to the standard, you  
14                 remember that there was an exhibit, I don't have it in  
15                 front of me, but I remember the number. It's P-92, do  
16                 you remember that? It was a compendium of articles in  
17                 which you relied upon. Do you remember that?

18          A     I remember that.

19          Q     Now, that compendium of articles was medical  
20                 literature, was it not? In my kind of layman's manner.

21          A     That is correct.

22          Q     And from your testimony, isn't it true that  
23                 that little body of work, and I don't mean to diminish  
24                 its value or its importance in the people who did it,  
25                 but P-92 is the background or the backbone of where you

1 establish your standards for evaluating the procedures  
2 and efficacy of Dr. Kaul's procedures, isn't that true?

3 A Well, that is true. In part, I also rely on  
4 obviously my training, education, background and  
5 experience.

6 Q So aside from your personal experience,  
7 training and skill literature wise, or let's go data  
8 wise, that was the background in which you were able to  
9 render an opinion, isn't that true?

10 A Yes.

11 Q And that compendium, if you don't mind me  
12 calling it that, compendium of medical literature, they  
13 established, according to their own words, clinical  
14 guidelines, isn't that true?

15 A That is true for most of the articles in that  
16 list.

17 Q Correct. And there is a difference, is there  
18 not, as far as you know in your opinion and experience,  
19 that there is a difference in the word standard and  
20 guideline, is that true?

21 A Yes.

22 Q And there is a difference in the word  
23 standard and option, is that true?

24 A Yes.

25 Q And there is a difference in the word

1 guideline and option, true?

2 A Yes.

3 Q Those articles that you utilized, I believe  
4 part of your testimony -- and I'm not -- and if I'm  
5 wrong, you can correct me, but I believe that you  
6 indicated in the last 12 minutes of your testimony on  
7 direct what I was hearing, that those documents were  
8 supplied to you by the State, is that true?

9 A That is not true. I supplied them to the State.

10 Q Okay. So these are documents in which you  
11 relied upon for this case, true?

12 A As I already qualified in part, but yes.

13 Q And these are documents now that I understand  
14 more clearly is that you hand picked these or found  
15 these to utilize in connection with opining about this  
16 case, true?

17 A Yes.

18 Q And then you supplied those to the State,  
19 right?

20 A That is correct.

21 Q Okay. Now, we know that standard guideline  
22 and option are completely separate and apart different  
23 meanings with regard to medical procedure, right?

24 Their applicability is just different, right?

25 A Meaning each of the three different categories?

1 Q Yes.

2 A Yes.

3 Q And the articles in which you supplied,  
4 almost all of them relate to guidelines, is that true?

5 A I would say most offered guidelines or option  
6 level recommendations, few standards, correct.

7 Q Very few standards, true?

8 A Correct.

9 Q And as you testified, there is a -- and we'll  
10 get into it -- a significant qualitative difference and  
11 meaning between standard and guideline, true?

12 A There is a difference.

13 Q Okay. Now, I want you to look for me at  
14 P-91, page 11. Page 12.

15 A I have it.

16 Q Now, let's talk about J.J., okay? You see  
17 that you've opined on page 12 on what is plaintiff's 91  
18 about, "Patient, J.J." Do you see that?

19 A I do.

20 Q Now, as a basis in a general sense in that  
21 paragraph, because that's a paragraph, would you agree,  
22 just so I can be accurate, in this report, there is a  
23 paragraph about J.J. about your conclusions, true?

24 A Correct.

25 THE COURT: Mr. Shaw, excuse me, and I



1 apologize. I thought I brought them with me, but I did  
2 not.

3 MR. SHAW: Whatever you need.

4 THE COURT: I have the reports back in my  
5 chambers. Let me get them, and hold on to the  
6 question.

7 (BRIEF RECESS)

8 THE COURT: Mr. Shaw, what page was that?

9 MR. SHAW: Twelve, Judge.

10 THE COURT: Twelve. Okay. Go ahead, sir.

11 BY MR. SHAW:

12 Q Now, Doctor, in that paragraph, one, two,  
13 three, four, five, sixth line from the bottom, in there  
14 you talk about Dr. Kaul's use of "mesh cages." Do you  
15 see that?

16 A I do.

17 Q And in there, you indicate that this specific  
18 device, I guess it's a medical device, true?

19 A Yes.

20 Q That that specific medical device is  
21 specifically excluded by the FDA, do you see that?

22 A I do.

23 Q You actually say that, "It's specifically  
24 excluded by the FDA for approved use in that manner."  
25 Do you see that?

1 A I do.

2 Q And you utilized that -- and you found that  
3 to be a deviation, true?

4 A Yes.

5 Q And throughout the report, and I believe that  
6 you opined about 11 different patients, true?

7 A Yes.

8 Q And a fair number of those, you similarly  
9 opine that the use of some medical device not FDA  
10 approved for that specific purpose was a deviation,  
11 true?

12 A Yes.

13 Q You're aware, I'm sure you are, of the term,  
14 "Off label."

15 A Yes.

16 Q Can you define off label as best you can as  
17 far as your knowledge and experience is concerned?

18 A The term off label with respect to the Food and  
19 Drug Administration describes a physician's use of a  
20 medical device or product in a way different than what  
21 the FDA has approved.

22 Q And you're aware, are you not, I'm sure you  
23 are, that -- well, let me ask you a question. Do you  
24 in the course of your practice utilize medical devices  
25 and products that are not FDA approved for their

1 specific purpose? Isn't that true?

2 A Yes.

3 Q And isn't it also true that the use of a  
4 specific medical device, let's say Optimesh, in a way  
5 not prescribed for that specific use by the FDA, is a  
6 common use in the spine industry, isn't that true?

7 A Is your question that Optimesh is commonly used by  
8 physicians in the spine?

9 Q Well, here is my question, that medical  
10 devices in the spine realm, off label or commonly used.

11 A It depends on how you define commonly, but they  
12 are used.

13 Q And isn't it true that you used for example  
14 of medical devices as far as you know, I'm talking  
15 about your personal knowledge, that medical devices  
16 utilized in spine surgery that are not FDA approved for  
17 a specific purpose has been reviewed by New Jersey  
18 courts? You're aware of that, true?

19 A Not specifically aware of what the New Jersey  
20 courts have said about that.

21 Q Are you aware that it's been reviewed by the  
22 United States Supreme Court?

23 A I am not aware of that.

24 Q Are you aware that it is encompassed within  
25 the New Jersey Administrative Code?

1 A Likewise not aware.

2 Q Are you aware that for example, that 50  
3 percent of cancer patients in this State anyway, are  
4 treated by -- 50 percent are treated by off label  
5 drugs? Are you aware of that?

6 A I am not.

7 Q Or a combination of those?

8 A I am not.

9 Q But you are aware, are you not, that the use  
10 of a medical device by Dr. Kaul utilized in connection  
11 with these patients is considered off label? Would you  
12 agree with that?

13 A I am, and I mean, I agree.

14 Q So you would agree that throughout the  
15 confines of your two reports, because you did write  
16 two, right?

17 A Yes.

18 Q When you refer to Dr. Kaul's "use of Optimesh  
19 for a specific purpose," isn't it true that's  
20 considered off label?

21 A Yes.

22 Q And it's also not only is it considered off  
23 label, but you as a physician utilized off label  
24 medical devices in the confines of your spine practice,  
25 true?

1 A True.

2 Q Give me an example of one medical device  
3 utilized in the confines of your spine practice off  
4 label.

5 A So up until I believe it was last year, a  
6 placement of lateral mass screws in the cervical spine  
7 posteriorly was considered, and off label use, it was  
8 something that the FDA had not ruled on one way or  
9 another in terms of its applicability there, yet that  
10 was commonly used and taught in training for more than  
11 a decade.

12 Q And the use of screws, and you had some of  
13 those screws which you showed the Court very early in  
14 your testimony, I believe it was day one, do you  
15 remember that?

16 A I do.

17 Q The use of pedicle screws and minimally  
18 invasive, is that considered off label?

19 A Use of pedicle screws, it depends on the location,  
20 and the labeling of it I do not believe describes  
21 whether it is approved or not approved for open or  
22 minimally invasive use. It's specifically for  
23 application and certain parts of the spine for certain  
24 clinical conditions.

25 Q Right. But it's true that the use of pedicle

1 screws in certain spots on the spine are considered off  
2 label, true?

3 A Yes.

4 Q And that's also in the spine industry very  
5 commonly done, isn't that true?

6 A Again, depending on how you define commonly, but  
7 it is done.

8 Q Well, it's an accepted practice in your  
9 industry, is it not, these pedicle screws in an off  
10 label fashion? True?

11 A Yes.

12 Q And it's also an accepted standard of  
13 practice to utilize other medical device in spine  
14 surgery today in an off label manner, true?

15 A Yes.

16 Q Are you aware, Doctor, are you not, that the  
17 rationale for utilizing medical devices off label and  
18 spine surgery as well as other imageries is that this  
19 has been reviewed? Are you aware that the government  
20 has reviewed why they permit this? Do you understand  
21 why?

22 A Well, I'm not sure what the government's take on  
23 it is. My understanding is that the FDA does not  
24 regulate physician practice. Rather, it regulates  
25 industry, and therefore, if a physician feels that it's

1 clinically appropriate to use a medical device or  
2 pharmaceutical off label, then it's the purview of the  
3 physician and the people that are responsible for  
4 supervising physicians.

5 Q Right. That would be one of them, right?  
6 One of them is that the government understands that the  
7 doctors, any industry or any field, that uses a medical  
8 device or drug off label, that the reliance is on the  
9 physician's judgement, true? You understand that.

10 A I do.

11 Q You understand also that the reason that off  
12 labeling has become not just prevalent but accepted in  
13 the industry, yours and everybody else's, is because  
14 the trials take so long that it would deprive the  
15 patient of potentially a valuable treatment that may  
16 help them. Isn't that true?

17 A That is part of the reason.

18 Q All right. And the process to be FDA  
19 approved to that level, to that class, for example,  
20 takes so long that it increased the costs of those  
21 medications so dramatically that it's become accepted  
22 to use them off label, medical device and drugs in  
23 every industry, true?

24 A True, under specific circumstances.

25 Q In your reports, you indicate that you viewed

1 some legal background, some legal citations. Do you  
2 remember that?

3 A I don't recall off hand, but if you would guide  
4 me, I think you're referring to the second page of P-  
5 90, bottom of the first incomplete paragraph. Is that  
6 what you're referring to?

7 Q Yes. Are those the only statutes in which  
8 you reviewed?

9 A Those statutes were provided by the State, and  
10 those are the only ones that I reviewed to my  
11 recollection in preparation for this.

12 Q Prior to being involved in this case, was  
13 that the first time that you've seen those statutes,  
14 when you came into this case?

15 A Yes.

16 Q Okay. You have testified previously in other  
17 cases as an expert, true?

18 A I have.

19 Q And when you testified as an expert in other  
20 cases, were you always plaintiff's counsel or were you  
21 ever defendant's counsel?

22 A I've been both.

23 Q And when did you start becoming an expert?

24 A I think the first time that I provided expert  
25 testimony but likely as a treating physician and an



1 expert was somewhere around 1996, 1997 and probably  
2 later that decade, so I would estimate '98-'99 solely  
3 as an expert, not just as a treating physician.

4 Q Okay. The -- in the last five years, how  
5 many cases have you testified in as an expert either on  
6 the plaintiff's or defendant's side?

7 A I can't give you specifically. Over the last  
8 five years, I would estimate that I review probably on  
9 average two cases per month, some of which go on to  
10 depositions only, some of which go on to trial  
11 testimony, and some of which stop before any deposition  
12 is taken.

13 Q Okay. I understand, but during all of those,  
14 I can assume, can I not, that you've been retained in  
15 those cases to some extent.

16 A Yes.

17 Q Okay. Regardless of their disposition, you  
18 have been retained on either side.

19 A Correct.

20 Q Okay. Now, with regard to being retained,  
21 you estimate that it's about two a month for the last  
22 five years?

23 A That would be fair.

24 Q Okay. And can you give me the percentage?  
25 So that would be about 24 a year, true?

1 A Correct.

2 Q With regard to that, can you give me a  
3 percentage breakdown of where your plaintiffs and where  
4 your defendants lie?

5 A Over the past decade, I'd estimate that it's been  
6 about 60 percent on the plaintiff's side and about 40  
7 percent on the defense side. I would say in the past  
8 year and a half, it's probably a closer balance of  
9 50/50.

10 Q Okay. And in the confines of this case, it's  
11 true that in no time when you opined about alleged  
12 deviation by Dr. Kaul with regards to the use as an off  
13 label medical device, at no time during your report  
14 isn't it true that you never used the word off label?  
15 True?

16 A I believe I just referred to it as "non-FDA  
17 approved" and not using the term off label.

18 Q But the term you did use means "off label,"  
19 does it not?

20 A I think that's a fair interpretation.

21 Q Okay. Going back to page 12, J.J., you  
22 indicate a number of what are purported deviations,  
23 true?

24 A Yes.

25 Q And if you look at one, two, three, the

1 fourth line, the third line you start with your  
2 conclusions where you delineate the number of which you  
3 are believe were deviations by Dr. Kaul, true?

4 A Yes.

5 Q Inside the opinions where you identify and  
6 delineate purported deviations, you put the improper  
7 coding for multiple procedures. Do you see that?

8 A I do.

9 Q Coding is a --

10 MS. HAFNER: Objection, your Honor. It's  
11 going outside the scope of direct.

12 THE COURT: Well, it's cross examination. I'm  
13 going to allow it some latitude.

14 BY MR. SHAW:

15 Q Coding is an issue that does not -- is a post  
16 operative procedure by a physician, true?

17 A It is the --

18 Q Pre and post.

19 A It is essentially recording in numerical language  
20 what a physician did.

21 Q And inside your report, pursuant to the off  
22 labeling use by Dr. Kaul of the medical device, a  
23 number of patients you opined in your report now in  
24 evidence, that there was coding deficiencies. Let me  
25 call them that. Isn't that true?

1 A I would describe them as coding inaccuracies.

2 Q Okay.

3 THE COURT: Excuse me, Mr. Shaw. Is that one  
4 of the allegations with regard to J.J.?

5 MR. SHAW: Yes, sir.

6 THE COURT: Can you show me where it is in the  
7 report?

8 THE WITNESS: Fourth sentence in that  
9 paragraph on page 12 towards the right.

10 THE COURT: Okay.

11 BY MR. SHAW:

12 Q The improper coding you put in here, that  
13 improper coding, would you agree with me, has no effect  
14 on the health, safety and welfare of any of the  
15 patients. Isn't that true?

16 A That is true directly, but indirectly if one is  
17 as an insurer spending money paying for services that  
18 were either not provided or bundled into other  
19 services, then that leaves the insurer to be able to  
20 pay for other services that are indicated. So there  
21 are downstream and direct effects.

22 Q No, I understand that, but what I'm saying,  
23 and I understand you're an expert on coding, true?

24 A Yes.

25 Q You're considered an expert. I've seen, you

1 know, in the confines of your C.V. that a significant  
2 amount of the articles you authored are related to  
3 coding, isn't that true?

4 MS. HAFNER: Objection, your Honor. Again,  
5 this is well outside the scope of the direct. We have  
6 not offered Dr. Przybylski as an expert in coding, and  
7 that is not one of the allegations in our case.

8 THE COURT: Ms. Hafner, you moved his report  
9 into evidence, did you not?

10 MS. HAFNER: Yes, your Honor.

11 THE COURT: And in his report, there is an  
12 allegation of improper coding for multiple procedures.  
13 I'm quoting from the report.

14 MS. HAFNER: Yes, your Honor.

15 THE COURT: So why would you suggest that he  
16 is precluded from talking about coding?

17 MS. HAFNER: Because it wasn't one of the  
18 allegations of the complaint, within the four corners  
19 of the complaint, your Honor. It's not contained  
20 therein.

21 THE COURT: Well, it's in the report that was  
22 moved into evidence, so I'm going to allow it.

23 BY MR. SHAW:

24 Q You've authored a significant amount,  
25 according to your C.V. anyway, of articles with regard

1 to coding, true?

2 A Yes.

3 Q And with regard to this specific case where  
4 you were retained by the State to be an expert, isn't  
5 it a fact that none of these reported coding  
6 deficiencies had any potential or actual effect on any  
7 of the 11 patients with regard to their health, safety  
8 and welfare? Isn't that true?

9 A No direct effect on those 11 patients, correct?  
10 Let me qualify that. Unless they had, and I don't know  
11 if they did or did not, copays that were affected by  
12 the coding, so potentially there was a financial effect  
13 but not a health effect.

14 Q Economic.

15 A Correct.

16 Q But we know now that there was no health  
17 effect, true?

18 A That is true.

19 Q Your first purported deviation, Doctor, you  
20 indicate that the performance of a fusion potentially  
21 was not indicated, true?

22 A Yes.

23 Q For J.J.

24 A Yes.

25 Q Are you aware of "Becker's Spine Review?"

1 A I am aware of it.

2 Q Are you aware, do you recall you were  
3 interviewed by somebody for that specific -- and that's  
4 a website, right? That's a publication.

5 A It is a publication.

6 Q And there are articles, is it not true, that  
7 appear on "Becker's Spine Review" that have you as an  
8 author. Isn't that true?

9 A I would expect so.

10 Q All right. And at one point, is it not true  
11 that in March of last year or some time in and around  
12 March of last year you were interviewed by "Becker's  
13 Spine Review," and individual by the name of Laura  
14 Miller? Do you remember that?

15 A I don't recall, but perhaps you can tell me what  
16 the interview was about, to refresh my memory.

17 Q Do you remember the interview about there was  
18 a Q and A review at the time you were NASS president?  
19 Are you NASS president today?

20 A I am two past presidents I think removed.

21 Q Okay. So you are now the former past  
22 president of NASS.

23 A Yes.

24 Q Can you tell me on the record what NASS  
25 stands for.

1 A North American Spine Society.

2 Q Okay. And you were the -- how long were you  
3 president?

4 A President for one year.

5 Q Okay. What was that year?

6 A That year would have finished two years ago this  
7 October, I believe.

8 Q Okay. Do you remember there was a Q and A  
9 with NASS president Dr. Przybylski about spinal fusion  
10 reimbursement? Do you remember that?

11 A I vaguely recollect the interview but not the  
12 specifics of it.

13 Q But you remember you were interviewed with  
14 regard to that topic, true?

15 A Yes.

16 Q So you're familiar what I'm talking about,  
17 the interview that appeared. Did you read the article  
18 that appeared on "Becker's Spine Review" after your  
19 interview?

20 A I believe I did, but it was a while back.

21 Q In that interview, you opine or gave your  
22 opinion about what was an appropriate use for fusions,  
23 what types of patients. Do you remember that?

24 A Vaguely.

25 Q In there, you are quoted as saying, "There



1 are some things we agree on. Fusion is appropriate in  
2 patients with fractures, dislocation, some infections  
3 and patients with cancer of the spine." Do you  
4 remember that?

5 A Yes.

6 Q Is that true today?

7 A Yes.

8 Q You then said the controversy, "The  
9 controversy surrounds patients with pain of an unknown  
10 origin, and we assume it's coming from degenerative  
11 disk disease." Do you remember that?

12 A Yes.

13 Q So there is in your experience and training  
14 a controversy with regard to when it's appropriate to  
15 use a fusion, isn't that true?

16 A Yes.

17 Q And when you were referring to the  
18 controversy, you were referring, were you not, to  
19 doctors in your industry similarly credentialed and  
20 privileged as you are, were you not?

21 A Yes.

22 Q Because that's the background of your  
23 research and resources, am I right? You're not talking  
24 about just anybody. You're talking about people like  
25 you, true?

1 A Yes.

2 Q So we can agree that individuals similarly  
3 credentialed and privileged and educated and skilled as  
4 you are, Doctor, that there was a controversy with  
5 regard to when to use fusions, true?

6 A True.

7 Q And it's not dispositive. It's a  
8 controversy. It still from 2011 till today goes on,  
9 true?

10 A Yes.

11 Q In that interview, you go on. Remember, tell  
12 me if you remember saying this and if this is accurate.  
13 "Often times surgeons decide that a patient's pain is  
14 coming from DDD from a process of exclusion." DDD  
15 means degenerative disk disease, does it not?

16 A Yes.

17 Q And that's what you were addressing, DDD, in  
18 the confines of that article, and those were your  
19 statements, correct?

20 A In that part of the article? Correct. Yes.

21 Q And what you said was often times, your  
22 words, that individuals who diagnose patients do not  
23 actually know where the pain is coming from, true?

24 A True.

25 Q And even if they're similarly skilled,

1       trained and experienced, privileged and qualified as  
2       you, Doctor, they still can't figure out where that  
3       pain is coming from, true?

4       A     True.

5           Q     So they do it through this process of  
6       exclusion, do they not?

7       A     That is one way.

8           Q     Well, you go on to say, tell me if you  
9       remember, "In other words, we haven't found another  
10      source for the pain. As part of spine aging, disks  
11      degenerate, and it becomes challenging to separate the  
12      normal aging effects of the spine from other things  
13      that are causing pain for the patient." Do you  
14      remember that?

15      A     Yes.

16          Q     So we know now, do we not, that individuals  
17      similarly situated as you -- and when I say that, I  
18      want just for the record, that means training, skill,  
19      experience, privilege, certified -- that these  
20      individuals just like you, not only are they not  
21      definitively guided to determine whether a fusion is  
22      appropriate or not, but they can't all the time find  
23      the source of that pain, isn't that true?

24      A     That's true.

25          Q     And they do it by doing testing that excludes

1 pieces and thoughts of what may be the pain until we  
2 get down to what we think possibly it could be, true?

3 A Yes.

4 Q And unfortunately, that's the state of  
5 medicine today, isn't it true?

6 A Yes.

7 Q One day potentially they may figure out a way  
8 to definitively put their finger on that pain, but it's  
9 not today, am I right?

10 A I agree.

11 Q Now, you have during the course of your  
12 testimony criticized -- I'll use that word --  
13 criticized Dr. Kaul for the use of discography, true?

14 A Yes.

15 Q Isn't it true that discography is one of the  
16 mechanisms by which doctors who perform spine surgery  
17 try to determine the source of the pain? Isn't that  
18 true?

19 A That is true, and just to qualify the previous  
20 answer and why I hesitated was it wasn't the specific  
21 criticism of using discography in and of itself as a  
22 tool but how it was applied.

23 Q I understand.

24 A Okay.

25 Q Well, there was some parts of your testimony,

1 let's be fair, that it wasn't always about how it was  
2 used. It was that it was used instead of potentially  
3 -- and pardon me again, because I'm not a doctor, but  
4 instead of an MRI, for example, the use of a  
5 discography at times during the course of this case,  
6 you were, you found to be a deviation by Dr. Kaul no  
7 matter if he used it or not in the manner which you saw  
8 fit, true?

9 A Let's be specific about the term use. So the  
10 actual performance of the test is not a criticism.  
11 It's how the information gathered from the results of  
12 that test, that's how I defined use of discography.

13 Q But you would agree with that discography is  
14 an important diagnostic tool that spine surgeons use  
15 today to discover the source of the pain or discomfort,  
16 true?

17 A It can be.

18 Q In the article further, you indicate, your  
19 quote, tell me if you remember it, "Discography tries  
20 to gain insight into the disk and the source of the  
21 pain, but that isn't always the best test," true?

22 A True.

23 Q You would agree with that statement today,  
24 would you not?

25 A I would.

1           Q    "We haven't quite achieved the technology to  
2 figure out which patients will have good outcomes from  
3 spinal fusions and which will not." Let me say that  
4 again. "We haven't quite achieved the technology to  
5 figure out which patients will have good outcomes from  
6 spinal fusions and which will not," true?

7           A    True.

8           Q    And that's true today, right?

9           A    Agree.

10          Q    When we look at what has been studied, there  
11 is a limited amount of information to guide us as to  
12 what predicts who will benefit or not benefit from  
13 fusions, true?

14          A    True.

15          Q    Those are your words, right?

16          A    Yes.

17          Q    As we sit here today, we know that there is  
18 no standard by which individuals similarly situated as  
19 you, Doctor, are guided with regard to the  
20 applicability or use of a fusion, true?

21          A    Again, it would depend on how you use the term  
22 standard. If you use the word standard in terms of  
23 standard guidelines and options, then I would agree  
24 with you.

25          Q    "Respective randomized studies have shown

1 mixed results. Some say there are better outcomes for  
2 patients who undergo surgery than those who don't  
3 undergo surgery. Others say there isn't a difference  
4 in the outcomes," true?

5 A Yes.

6 Q And that's true today as it was back in 2011,  
7 true?

8 A Yes.

9 Q And that's the state of where the spine  
10 surgery arena is today, is that true?

11 A I would agree.

12 Q Now, inside that paragraph, you indicate that  
13 your purported deviations with regard to J.J., the  
14 first one involves the fusion and the appropriate  
15 indications, true?

16 A Yes.

17 Q We went through the coding, true?

18 A Yes.

19 Q Discography, true?

20 A Yes.

21 Q And then you had the improper performance of  
22 the procedure in and of itself, true?

23 A Yes.

24 Q If you look down below that, one, two, three  
25 lines down to the right, you put that, "Professional

1 Society Guidelines," right?

2 A Yes.

3 Q That was the basis for your opinion in part  
4 in the context of the opinion with regard to J.J.,  
5 true?

6 A Yes.

7 Q And with regard to these guidelines, we  
8 already discussed previously early on cross that the  
9 guidelines of which you cited to in P-92, they  
10 supported or buffered what you believed to be these  
11 supported deviations by Dr. Kaul, true?

12 A Yes.

13 Q And most of those articles significant, my  
14 term, significantly most of those articles relate to  
15 guidelines, not standards, true?

16 A True.

17 Q And some of them actually relate to options,  
18 isn't that true?

19 A Also true.

20 Q Are you familiar with the North American  
21 Spine Society?

22 A Yes.

23 Q And that is the one you were president of,  
24 true?

25 A Yes.



1           Q     And inside there, I believe inside P-92, you  
2     relied, am I right, on the North American Spine  
3     Society's evidence based Clinical Guideline for Multi-  
4     Disciplinary Spine Care, is that true?

5     A     In part, yes.

6           Q     In part, but that also, once again, that's a  
7     guideline, right?

8     A     Yes.

9           Q     It represents a guideline.

10    A     Yes.

11           Q     Okay. And as we've already testified to and  
12    we've gone through, most of the body is guidelines  
13    similar to what's contained inside that North American  
14    Spine Society guideline, right?

15    A     Yes.

16           Q     Inside that document which you relied upon,  
17    isn't it true that there is a disclaimer by the society  
18    in which you were present? Do you remember the  
19    disclaimer? It's on page 3 actually of that document.

20    A     I recall that there is a disclaimer. I can't read  
21    it to you word for word without seeing it.

22           Q     Tell me if you recall this. "This clinical  
23    guideline should not be construed as including all  
24    proper methods of care or excluding other acceptable  
25    methods of care reasonably directed to obtain the same

1 results. The ultimate judgement regarding any specific  
2 procedure or treatment as you made by the physician and  
3 patient in light of all circumstances presented by the  
4 patient and the needs and resource particular to the  
5 locality or institution." Do you remember that?

6 A I don't recall it in those words, but it's  
7 accurate.

8 Q I know you don't recall, but maybe you  
9 haven't even read it, but you understand that it's  
10 within the confines of the document you relied upon,  
11 true?

12 A Yes.

13 Q And that, and that specific paragraph from  
14 the society of which you're a former president  
15 indicates the weight and importance of what a guideline  
16 is to the medical community. Isn't that true?

17 A Well, it indicates the fact that physicians still  
18 need to use their clinical judgement when making a  
19 decision of a treatment recommendation for a patient.  
20 That's one of the factors that they should consider,  
21 but there are others.

22 Q But it clearly demonstrates, does it not, the  
23 deference to the position of judgement, does it not?

24 A It does.

25 Q And what this does, these guidelines, and I

1 don't mean to simplify in a way that disrespects or  
2 disregards, but what it does is it offers potential  
3 solutions for them to review or utilize that has been  
4 reviewed and evaluated by a host of doctors in your  
5 field, true?

6 A Yes.

7 Q And it doesn't say to you in any of these  
8 guidelines you have to do it this way or it's  
9 incorrect. Isn't that true?

10 A That is true.

11 Q Matter of fact, these guidelines of which you  
12 cite specifically indicate that you could take another  
13 course, that we're not the dispositive answer to the  
14 treatment. Isn't that true?

15 A Yes.

16 Q It's a mechanism to help the doctor in a  
17 specific field, true?

18 A Also true.

19 Q This body of literature, these guidelines  
20 that are developed, they're developed, I believe you  
21 stated, by a team of physicians who conduct research of  
22 medical literature concerning a particular topic, true?

23 A Yes.

24 Q And I believe during your testimony that the  
25 development of these guidelines is a very fluid process

1 based on what's been developing in the industry as a  
2 year goes by, isn't that true?

3 A Yes.

4 Q The technology is moving so quickly, and  
5 there is so many good people at work that isn't it true  
6 that when these publications come out, that that may  
7 not be actually the current state of the industry as it  
8 may be? Isn't that true?

9 A Yes.

10 Q And it's critical for the position, well, any  
11 position, but let's talk about the spine industry,  
12 positions in the spine industry, in order to really  
13 keep up with regard to what you need to do in your  
14 business is to take CME classes, true?

15 A In part, yes.

16 Q In part, but the CME classes, are they not  
17 attempting to at least keep pace in a better fashion  
18 with the ongoing developments and technology in your  
19 industry, isn't that true?

20 A Yes.

21 Q Because these guidelines, isn't it true they  
22 take a significant amount of time, effort, and  
23 commitment to get accomplished? Isn't that true?

24 A Yes.

25 Q For example, the one, the NASS, and I had it

1 here, I don't have it here, the NASS article I cited  
2 with the disclaimer, can you recall, do you recall how  
3 long from beginning to end that specific article took  
4 to publish?

5 A I don't recall, but my experience with guideline  
6 publications is typically from idea to publication is  
7 in the two year to two and a half year range.

8 Q Correct, and during that two -- that's right.  
9 Correct.

10 A Thank you.

11 Q But during the two to two and a half year  
12 developmental period, you would agree, would you not,  
13 that the technology and the manner in which treatment  
14 is offered to a patient in this industry evolved  
15 dramatically in a two and a half year period, true?

16 A It can.

17 Q And that guideline that you may read on May  
18 6<sup>th</sup>, 2013, without denigrating may be old news, isn't  
19 that true?

20 A Yes.

21 Q On direct talking about guidelines, you said  
22 that, "We can rely on it --," it meaning guidelines if  
23 you accept my representation, " -- much of the time but  
24 not necessarily all of the time. There isn't very good  
25 evidence that you should be doing this, but the level

1 of evidence that we have isn't so robust that we can  
2 make it a standard. We can't say under all  
3 circumstances you should be doing this. We think that  
4 is the case, but there is not enough data to be able to  
5 say that. The fact that you deviate from the  
6 guidelines isn't and of itself something that says you  
7 deviated from what you should be doing." Do you  
8 remember testifying to that?

9 A Yes.

10 Q You would agree with me that that is  
11 absolutely accurate, true?

12 A Yes.

13 Q Options, also discussed in P-92, correct?

14 A Yes.

15 Q With regard to options, I believe your  
16 testimony was that we have weak evidence that says you  
17 cannot choose -- you can choose, pardon me, "We have  
18 weak evidence that says you can choose to do this or  
19 not to do this, but they are just options for the  
20 position to consider," true?

21 A Agree.

22 Q And if an individual positioned to take one  
23 option versus the other, he would not be considered to  
24 deviate in any manner from the standard of the  
25 industry, true?

1 A True.

2 Q And also with regard to a guideline, taking  
3 any approach separate from the one that's considered  
4 the guideline approach what's called is not considered  
5 to be out of space at deviation, true?

6 A Not on its face.

7 Q We know that we now understand a little bit  
8 more I think, Doctor, about the fluidness, particularly  
9 in the spine industry as it relates to let's say  
10 fusions, correct?

11 A Yes.

12 Q Also, you would agree with me the level of  
13 uncertainty with regard to individuals, doctors like  
14 you similarly situated remains a significant obstacle  
15 to determining with absolute certainty or any certainty  
16 for that matter what the cause of an individual's pain  
17 is, true?

18 A I agree.

19 Q And that requires doctors to test in various  
20 manners in order to exclude pieces of the spine from  
21 being the subject of a treatment of procedure, true?

22 A Yes.

23 Q You're also, according to your C.V., part of  
24 a credentialing committee, true?

25 A Yes.

1 Q And that's with JFK?

2 A Correct.

3 Q Medical Center. And the credentialing  
4 committee, can you define for me what your  
5 responsibilities are in connection with your  
6 credentialing committee position?

7 A So I was part of a workgroup subset of the  
8 credentialing committee. This workgroup comprised  
9 different specialists who are head of their departments  
10 who would look over the application for a physician  
11 looking for privileges in spine treatment of some sort  
12 or other. So I represented neurosurgeons as director  
13 of neurosurgery. There was also the chair  
14 anesthesiology, the chair of physiatry, the chair of  
15 radiology, and the chief medical officer of the  
16 hospital.

17 So if a physician, regardless of specialty was  
18 applying for privileges to do some sort of spine  
19 procedure, if it was not considered within their scope  
20 of practice as previously defined by the credentials  
21 committee, this work would review their C.V., training,  
22 experience to make a recommendation to the credentials  
23 committee as to whether they should or should not be  
24 allowed those privileges that they're requesting.

25 Q Okay. And how long have you been on the



1       credentialing committee for that specific facility?

2       A     Again, it's that subgroup of the credentialing  
3       committee, and I would estimate probably three years.

4           Q     Is the criteria by which you credential  
5       positions, is it to your knowledge included in the  
6       facility's bylaws?

7       A     I don't think it would be specifically delineated  
8       in the bylaws. I think the process, the general  
9       process of credentialing I believe is, but not the  
10      specifics.

11          Q     And with regard to your functions and your  
12      responsibilities on the committee, without telling me  
13      what is said, is there any interaction by you and the  
14      committee with regard to legal counsel?

15      A     I would say not directly, but the chief medical  
16      officer is also an attorney, so I don't know in what  
17      role that he plays.

18          Q     I understand. I was reading an article, you  
19      know, about credentialing committees, Doctor. Did you  
20      ever hear of a guy named Daniel A. Rauch, Committee on  
21      Hospital Care and on Hospital Medicine? Did you ever  
22      hear of that?

23      A     I have not.

24          Q     Would you agree that the credentialing from  
25      hospital to hospital varies? It's different, isn't

1       that true?

2       A     Yes.

3           Q     And as a matter of fact, that the  
4       credentialing because of differences among individual  
5       hospitals, not one method for credentialing is  
6       universally applicable, isn't that true?

7       A     I would agree.

8           Q     And whatever the factors are that are  
9       considered by an individual hospital in order to  
10      credential a position for a specific purpose, some of  
11      that has no relationship to medicine. Isn't that true?

12      A     It I think generally shouldn't, but it can play a  
13      role.

14           Q     Part of that is, for example, insurance  
15      concerns, true?

16      A     Agree.

17           Q     Some of those are legal concerns, are they  
18      not?

19      A     Agree.

20           Q     And have you ever been on a credentialing  
21      committee or in a credentialing capacity for any other  
22      facility, hospital?

23      A     No.

24           Q     So this is your only one, true?

25      A     Yes.

1           Q     Because you're aware of the distinct  
2 differences from hospital to hospital with regard to  
3 how they credential individual positions, true?

4           A     True.

5                     MR. SHAW: Judge, can I have five minutes  
6 here, just to gather?

7                     THE COURT: All right. We'll be back at --  
8 I'll give you ten. We'll be back at 11 o'clock.

9                     MR. SHAW: Judge, thank you.

10                    (BRIEF RECESS)

11                    THE COURT: Mr. Shaw.

12                    MR. SHAW: Thank you, Judge.

13           BY MR. SHAW:

14           Q     Doctor, there was a portion of your testimony  
15 with regard to a specific patient, L.M., and my notes  
16 indicate that, "A right S-1 pedicle screw was  
17 inappropriately placed." Do you remember that  
18 testimony?

19           A     Yes.

20           Q     In your experience and your educational,  
21 current educational background, can you tell me if you  
22 have any kind of qualitative data with regard to the  
23 frequency of that misplacement of a pedicle screw being  
24 a risk? In other words, what percentage of screws does  
25 that happen to?

1 A That's a small risk. What is published I think  
2 varies in terms of percentages. Probably in the one to  
3 five percent range would encompass most publications.

4 Q With regard to minimally invasive spine  
5 surgery, do you have a rate of infection that's known  
6 in the industry?

7 A With respect to minimally invasive, I'm not sure  
8 how well that's known. With respect to open surgery,  
9 it's estimated with hardware placement about five  
10 percent, and it's expected that it's less with  
11 minimally invasive. That's what's typically published,  
12 but I can't give you a specific number.

13 Q And risks that are disclosed either through  
14 consent forms or discourse with a physician and his  
15 staff, would you say in the industry that five percent  
16 likelihood of occurrence is a baseline for the  
17 disclosure of that specific side effect or adverse  
18 reaction to a patient?

19 A The specific one you're referring to is infection  
20 or any adverse effect.

21 Q Any adverse effect at the five percent.

22 A I think that would cover probably most.

23 Q That would cover most. And would those be  
24 considered in my term, not yours, I don't even like the  
25 word, common side effects disclosed to patients?

1 A They should be, and they usually are.

2 Q Okay. And those because their rate of  
3 occurrence is nothing that occurs in the normal course  
4 of these procedures, true?

5 A Correct.

6 Q What risks, if you know any, that are not  
7 disclosed or should not or do not have to be disclosed  
8 because the percentage of occurrence is so minor?

9 A I mean, as a simple example, death is a risk any  
10 time you go under anesthesia. That risk is exceedingly  
11 small, and I don't think most practitioners regularly  
12 cite death as a potential complication. Now, for a  
13 very complex surgery where that mortality rate might be  
14 more than insignificant, then it should it be  
15 disclosed, but that would be one example where possible  
16 but very, very infrequent in most procedures.

17 Q Okay. So there would be a distinguishing  
18 point between disclosing an adverse effect so  
19 infrequent like that versus let's say for example an  
20 infection, true?

21 A Agreed.

22 Q An infection, because it does occur, is  
23 considered I don't want to say normal, it happens,  
24 true?

25 A Yes.

1           Q     And the misplacement of the pedicle screw,  
2           another effect that happens, although unfortunate,  
3           true?

4           A     Yes.

5           Q     Now, when we talked a little about your  
6           experience in your current practice, you wear an awful  
7           lot of hats, Doctor, true? Credentialing; physician --

8           A     It depends on your definition, but I do a lot of  
9           things.

10          Q     You do a lot of things, right? I think you  
11          have less time than me. Now, we had a discourse during  
12          your voir dire where we talked about your training and  
13          experience, and I came up with a in you words -- date,  
14          which was 2005, do you remember that, for minimally  
15          invasive technologies.

16          A     I remember the discussion. I remember that I told  
17          you that I had started minimally invasive surgeries  
18          before that, but that became the predominant part of my  
19          practice around that time.

20          Q     And around 2005, my question was, and tell me  
21          if you recall or if it's still accurate today, that  
22          around that time, around 2005, the technology let's say  
23          from, you know, the mid '90's when a million faces  
24          started to appear on the horizon from 2005 to the  
25          present, the technology and techniques escalated

1 significantly as with regard to the sophistication,  
2 true?

3 A Agreed.

4 Q And you graduated medical school what year?

5 A '87.

6 Q So do you know what year Dr. Kaul graduated?

7 A I think it was one year before or after or around  
8 that time.

9 Q You guys were contemporaries, true?

10 A Correct.

11 Q You would agree with that --

12 A Yes.

13 Q -- kind of demographic information?

14 A Yes.

15 Q And as contemporaries, you understand that in  
16 your experience that during the course of your medical  
17 career, that with these technology advances in spine  
18 surgery, you've had to take CME classes in connection  
19 with keeping up with the training and knowledge, isn't  
20 that true?

21 A Agreed.

22 Q And individuals who are similarly aged as you  
23 and Dr. Kaul, as a matter of fact, the other expert who  
24 testified here, Dr. Kaufman, you gentlemen all are, I  
25 can represent to you, in the same age group as far as

1 graduation. In order to be able to practice in that  
2 current either specialty or sub specialty, spine  
3 surgery, minimally invasive spine surgery, percutaneous  
4 or open surgery, you've had to take from 2005 to the  
5 present, a significant amount of CME classes in order  
6 to keep pace with the techniques and the knowledge.  
7 Isn't that true?

8 A I agree.

9 Q And wouldn't you agree also that because the  
10 development of the technology with regard to let's say  
11 minimally invasive spine surgery, for example, has  
12 escalated. Well, it came out in the horizon in the  
13 '90's unfortunately for you, gentlemen, because that's  
14 when you guys were about to graduate or graduated  
15 medical school shortly before that, that individuals  
16 similarly situated as you, physicians who now practice  
17 minimally invasive spine surgery, that they were  
18 required and forced because of their age and  
19 development of technology to take those CME classes to  
20 venture into that field? Isn't that true?

21 A I would qualify by your comment about required. I  
22 don't know that you were necessarily required to do  
23 that specific thing, but if you wanted to keep up, you  
24 would either have to read or take CME courses.

25 A Right. So and we went through this before. You



1 taught CME classes with regard to minimally invasive  
2 spine surgery, true?

3 A I have.

4 Q And in the confines of teaching that as a  
5 lecture, and I'm assuming you were not the only  
6 lecturer at that CME class, true?

7 A Correct.

8 Q And I've seen some of the literature with  
9 regard to your CME classes that you've taught, and I  
10 see that there is a number, like a panel of physicians  
11 who lecture those also, true?

12 A Correct.

13 Q And each of you take a separate topic with  
14 regard to that specific overall topic, true?

15 A Correct.

16 Q Now, minimally invasive, you've taught CME  
17 classes with regard to minimally invasive, and we went  
18 through this before, but you would agree, would you  
19 not, that the only practitioners that were there,  
20 physicians that are there listening to you, learning  
21 from you are not only board certified neurosurgeons or  
22 board certified orthopedists, true?

23 A I would agree.

24 Q And you're aware, are you not, that those  
25 individuals, pain management, anesthesiologists, other

1 physicians, board certified or not, are there to learn  
2 in order to conduct or perform these procedures in this  
3 State? Isn't that true?

4 A Well, I know that they're there to learn. I don't  
5 know what the purpose of their learning is on an  
6 individual basis. Some of them I would assume would be  
7 using that learning to perform those procedures.

8 Q True. But in the material in which, you  
9 know, you teach these CME classes, it's true, is it  
10 not, that it doesn't require that only neurosurgeons or  
11 orthopedists attend in order to perform those  
12 procedures or learn from you? Isn't that true?

13 A It does not require the attendee to be a  
14 neurosurgery or orthopedic surgeon.

15 Q As a matter of fact, it doesn't even require  
16 that the individual physician who comes to those CME  
17 classes is board certified, true?

18 A That is also true.

19 Q So wouldn't you agree with me that your level  
20 of expectation as the lecturer, the person who teaches  
21 these positions, is that some of the people there are  
22 there for informational purposes, true?

23 A Agreed.

24 Q They're just interested, correct?

25 A Right.

1 Q Some of the people are educators, true?

2 A Yes.

3 Q And there is a significant body of those  
4 individuals who are then going to take the wealth of  
5 information of which you bestowed upon them and go  
6 perform these procedures, isn't that true?

7 A I agree.

8 Q And you're aware of that when you're up  
9 there teaching these people, true?

10 A Yes.

11 Q And you're aware, are you not, that  
12 individuals, like I said, similarly aged, graduated  
13 contemporaries around your time, in order for them to  
14 venture into that spine industry, minimally invasive,  
15 let's say take that, their course of action was to take  
16 CME classes and ultimately perform the procedures to  
17 become skilled in that venue, true?

18 A Yes.

19 Q In fact, your specific C.V. and your  
20 testimony which enlightened the C.V. is that you  
21 yourself at a certain point started taking a wealth of  
22 CME classes with regard to minimally invasive spine  
23 surgery, true?

24 A Yes.

25 Q And we can agree because on voir dire you

1 indicated that there was no specific class that you  
2 took, I believe even during your residency, during any  
3 time of your education that was specifically entitled  
4 fluoroscopic, that had anything that was  
5 fluoroscopically defined. In other words, it was a  
6 component, but it wasn't the whole class, true?

7 A Agreed.

8 Q And all these technologies, fluoroscopic  
9 technology and use, minimally invasive all were you  
10 indicated a small part of your prior training and  
11 education back in the late '90's, mid to late '90's,  
12 true?

13 A Yes.

14 Q But the real, the substance of your current  
15 practice, the technology and the knowledge in which you  
16 practiced for the last three or four years was  
17 predominantly obtained by completing procedures,  
18 performing procedures and by CME classes, true?

19 A I would agree.

20 Q And through all that wealth of knowledge and  
21 experience, you then have now aside from just  
22 performing the procedures in treating patients, you  
23 have educated other physicians and individuals who want  
24 to come and hear your experience and knowledge  
25 concerning that specific field, true?

1 A Yes.

2 Q There has been discussion about your specific  
3 board certification, and you are board certified, true?

4 A I am.

5 Q We went through that. You would agree, would  
6 you not, that there is no specific board certification,  
7 ABMS board certification for spine surgery? True?

8 A True.

9 Q And we went through this before on voir dire,  
10 and just so I can clear my record, because I believe I  
11 was objected to and the Judge sustained, there is a  
12 distinction, is there not, between minimally invasive,  
13 percutaneous, and open spine surgery, true?

14 A Yes.

15 Q And when I mean difference, I mean diagnosis,  
16 true, for the appropriateness of the procedure, true?

17 A It will vary, meaning more than one of those  
18 techniques may be applicable to a certain diagnosis,  
19 and it will vary from diagnosis to diagnosis.

20 Q Okay. But clearly with regard to minimally  
21 invasive and percutaneous, the technology was new and  
22 evolving in the mid '90's, true?

23 A Agreed.

24 Q And after 2005, became a completely different  
25 animal than it was back in the mid '90's than it was

1 after 2005, true?

2 A Agreed.

3 Q And the only way for an individual who was  
4 your age, and I use that as kind of a bell whether what  
5 we're talking about time line wise, individuals had to  
6 educate themselves through CME classes taught by  
7 individuals like yourself who had previously educated  
8 themselves in a similar manner and performed the  
9 procedures, true?

10 A Agreed.

11 Q There is no board certification, nor has  
12 there ever been, true, that's ABMS anyway for minimally  
13 invasive spine surgery, true?

14 A Correct.

15 Q There are non-ABMS certifications with regard  
16 to minimally invasive spine surgery, true?

17 A I believe that's correct.

18 Q And those individual physicians become  
19 certified in minimally invasive spine surgery outside  
20 of the ABMS if one is not offered by the ABMS, true?

21 A That may be one reason.

22 Q Okay. But you're aware that there are  
23 individuals that are certified by non-ABMS  
24 organizations in minimally invasive spine surgery,  
25 true?

1 A Yes.

2 Q And that's become, I don't want to use the  
3 word common again, accepted in your industry. Isn't  
4 that true?

5 A I have a hard time agreeing with that statement.  
6 It depends on who you're asking as to the value that's  
7 placed on the non-ABMS certifications.

8 Q But you would agree, would you not, that the  
9 non-ABMS certifications let's say as a credential or as  
10 a person who evaluates the competence of a doctor would  
11 give rise to start to consider his level of competency?  
12 Wouldn't you agree with that?

13 A I would agree with that.

14 THE COURT: Mr. Shaw, just so the record is  
15 complete, initials ABMS.

16 THE WITNESS: American Board of Medical  
17 Specialties.

18 THE COURT: Thank you.

19 THE WITNESS: You're welcome.

20 MR. SHAW: Better from a doctor, Judge, not a  
21 lawyer.

22 THE WITNESS: Sorry to interrupt, Mr. Shaw.

23 MR. SHAW: That's all right. I'm sorry,  
24 Judge. I have one more. Judge, I have no more  
25 questions.

Updated: Mar 2012

## CURRICULUM VITAE

Gregory J. Przybylski, M.D.

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Fax: (732) 632-1584

**Education:** 1982-1985 BS Penn State University Science  
1983-1987 MD Jefferson Medical College  
1991-TBD PhD University of Pittsburgh Bioengineering  
(passed oral/written exams and completed coursework)

### Postgraduate Training and Fellowship Appointments:

1987-1988 Internship in General Surgery, University of Pittsburgh Medical Center, Pittsburgh  
1988-1994 Residency in Neurological Surgery, University of Pittsburgh Medical Center, Pittsburgh  
1994-1995 Fellowship in Spinal Surgery, University of Pittsburgh Medical Center, Pittsburgh  
1995 Fellowship in Spinal Surgery, Hospital St. Vincent de Paul; Paris, France  
1995 Fellowship in Spinal Surgery, Hospital St. Roch; Nice, France  
1995-1996 Fellowship in Spinal Surgery, Medical College of Wisconsin, Milwaukee

### Faculty Appointments:

1995-1996 Instructor in Neurological Surgery, Department of Neurological Surgery, Medical College of Wisconsin  
1996-2000 Assistant Professor of Neurological Surgery, Department of Neurological Surgery, Jefferson Medical College of Thomas Jefferson University  
2000-2002 Associate Professor of Neurological Surgery, Department of Neurological Surgery, Northwestern University Medical School  
2002- Professor of Neuroscience, Seton Hall University



**Hospital and Department Appointments:**

1999-2000	Director of Neurotrauma Thomas Jefferson University Hospital
1999-2000	Co-Associate Director Delaware Valley Regional Spinal Cord Injury Center Thomas Jefferson University Hospital
1999-2000	Surgical Scheduling/OR Management Workgroup Physician Compensation Committee Thomas Jefferson University Hospital
2000-2002	Neurosurgical Director Northwestern Spinal Cord Injury Center Spinal Surgery Clinical Pathways Workgroup Spinal Surgery Oversight Committee Northwestern Memorial Hospital
2001-2002	Internship Director, Residency Advisory Committee Northwestern University Managed Care Committee Quality Assurance Committee Northwestern Memorial Hospital
2002	Chief, Neurosurgical Service Lakeside Veteran's Administration Hospital Surgery Clerkship Implementation Committee Northwestern University
2002-	Director, Neurosurgery The New Jersey Neuroscience Institute JFK Medical Center Muhlenberg Regional Medical Center (closed 2008)
2004-	Operating Room Committee OR Strategic Surgical Planning Committee Co-Chairman, Block OR Process Workgroup
2006-	Physicians Advisory Committee, Solaris Health Systems
2007-	Director, Neurosurgery Jersey Shore Medical Center, Meridian Health Systems
2011	Credentialing Workgroup for Interventional Pain Management JFK Medical Center

**Specialty Certification:**

2000- Board Certified, American Board of Neurological Surgery  
(Written Exam Passed 3/93; Oral Exam Passed 5/00  
Maintenance of Certification Exam Passed 3/10)

**Licensure:** Illinois, New Jersey, Pennsylvania, Wisconsin

**Awards, Honors, and Membership in Honorary Societies:**

1982 Class of 1992 Scholarship Award  
1985 Hobart Amory Hare Honor Medical Society  
1986 NINCDS Elective Program  
1993 Whitaker Foundation Graduate Fellow  
1994 Congress of Neurological Surgeons Clinical Fellow  
2001 Kellogg Physician Management Development Program  
2003 Medical Liability Forum with President George W. Bush  
2008- Top Docs, NJ and NY Metro, Castle-Connolly  
2011 Top 100 Spine Surgeons in US, Becker Orthopedics  
2011 Top 100 Neurosurgical Programs, Becker Orthopedics

**Memberships in Professional and Scientific Societies:**

**National Societies:**

American Association of Neurological Surgeons  
American Medical Association  
Congress of Neurological Surgeons  
Council of State Neurosurgical Societies: Treasurer, 2007-2009  
Joint Section on Disorders of the Spine and Peripheral Nerves  
North American Spine Society: Secretary, 2006-2008, 2<sup>nd</sup> Vice-President, 2008-  
2009, 1<sup>st</sup> Vice-President, 2009-2010, President 2010-2011, Past President,  
2011-2012.  
Rachidian Society: Secretary, 2003-2007, Vice-President, 2008-

**Appointments to Professional Committees:**

American Association of Neurological Surgeons  
RVS Update Committee Representative to the American Medical Association  
Past-Chairman, Professional Liability Insurance Workgroup  
PEAC Committee Representative to the American Medical Association  
CPT Task Force; Past-Chairman of E & M Subcommittee  
Quarterly Bulletin Editorial Committee  
Education Committee  
Coding and Reimbursement Committee, Past Chairman  
Representative to the Council of State Neurosurgical Societies  
Congress of Neurological Surgeons  
CPT Advisory Committee Representative to the American Medical Association

**Appointments to Professional Committees (continued):**

- North American Spine Society
  - Past Director, Council of Socioeconomic Affairs
  - Past Chair, Coding Courses
  - Operative Coding Committee, Spine Task Force Co-chairman
  - Advocacy Committee, Spine Executive Forum
- Joint Section on Disorders of the Spine and Peripheral Nerves
  - Past-Chairman, CPT Coding Committee
  - Executive Committee, Representative of Young Neurosurgeons Committee
  - Spinal Cord Injury Guidelines Workgroup, Outcomes Committee
- Joint Section on Neurotrauma and Critical Care
  - Spinal Cord Injury Committee
- Council of State Neurosurgical Societies
  - Past Chairman, Reimbursement Committee
  - Co-Chairman, Ad-Hoc Committee on Organizing Neurosurgical Administrators
  - Ad-Hoc Committee on Professional Liability, Young Neurosurgeons Committee
  - Reference Committee from Northwest Quadrant
- American Medical Association, Musculoskeletal Task Force

**Appointment to Governmental Committees:**

- Practicing Physicians Advisory Committee of Centers for Medicare and Medicaid Services
- Ambulatory Panel Committee of Centers for Medicare and Medicaid Services

**Election to Governmental Office:**

- Board of Education, Warren Township, 2006-present, President 2008-2009, 2010-2012

**Appointments/Elections to Professional Boards:**

- American Board of Neurological Surgeons, Guest examiner
- North American Spine Society, Board of Directors, President
- Council of State Neurosurgical Societies, Past-treasurer
- National Association of Spine Specialists, Board of Directors, Past President
- Spine Editorial Board, Ad Hoc Reviewer
- Orthopedics, Ad Hoc Reviewer
- Pain Management, Ad Hoc Reviewer
- American Association of Professional Coders, Advisory Board Member
- United Health Group Scientific Advisory Board for Spine
- Humana Physician Advisory Board
- Depuy Spine Leadership Advisory Board

**Editorial Board Appointments:**

- The Spine Journal Editorial Board, Associate Editor
- Neurosurgery Coding Alert, Consulting Editor

**Principal Investigator of Grants:**

Quantitative Three-Dimensional Anatomy, Histopathology and Mechanical Properties of Human Cervical Spinal Ligaments, Pittsburgh Foundation, Walter E. Copeland Fund, 1993-1995, \$20,160.00

Quantitative Three-Dimensional Anatomy, Histopathology and Mechanical Properties of Human Cervical Spinal Ligaments, Chairman's Fund, Department of Orthopaedic Surgery, 1993-1995, \$5,000.00

**Teaching Responsibilities:**

1995-1996	Attending Physician, Resident's Clinic, Medical College of Wisconsin
1995-1996	Weekly Journal Club, Medical College of Wisconsin
1996-1997	Instructor, Thoracolumbar Instrumentation Course, American Association of Neurological Surgeons Annual Meeting, Minneapolis, MN (May, 1996), New Orleans, LA (Apr, 1997)
1996-2000	Bimonthly Case Conference for Neurology Residents and Students Jefferson Medical College
1996-2000	Monthly Journal Club, Neurosurgery Residents, Jefferson Medical College
1997-2000	Neuroanatomy Grand Rounds for Jefferson Medical Students, Spinal Cord Anatomy and Injury
1997-2000	Co-Director of Weekly Neurosurgery Grand Rounds Resident Presentations
1998	Instructor, Rheumatologic Disorders of the Cervical Spine, Joint Spine Section Annual Meeting, Rancho Mirage, CA
1996-2007	Coding and Reimbursement Update Professional Development Course Chairman and Faculty for American Association of Neurological Surgeons, Costa Mesa, CA (Feb 1998), Boston, MA (Mar 1998), Orlando, FL (May 1998), Minneapolis, MN (Jun 1998), Chicago, IL (Aug 1998), Cancun, Mexico (Nov 1998), Baltimore, MD (Mar 1999), San Francisco, CA (Jun 1999), Chicago, IL (Aug 1999), Honolulu, HI (Feb 2000), Orlando, FL (Jan 2001), Chicago, IL (Aug 2001), Anaheim, CA (May 2002), Chicago, IL (Sep 2002), Baltimore, MD (Sep 2003), Philadelphia, PA (Sep 2004), Washington, DC (Dec 2005), Chicago, IL (Sep 2006), Scottsdale, AZ (Feb 2007)
1999-2005	Spine Surgery: Hands-On Professional Development Course Faculty for American Association of Neurological Surgeons, Albuquerque, NM (May 1999), Cleveland, OH (2002-2005)
1999-2008	Director, CPT Coding Update for Congress of Neurological Surgeons Annual Meeting Coding Update Course
2000-	Annual Coding Update Course, Past-Chairman and Current Faculty, North American Spine Society: Vail, CO (Jan 2000), Philadelphia, PA (Mar 2000), New Orleans, LA (Oct 2000), Park City, UT (Feb 2001), Boston, MA (April 2001), Seattle, WA (Oct 2001), Telluride, CO (Feb 2002), Chicago, IL (Apr 2002), Montreal, QU (Oct 2002), Jackson Hole, WY (Feb 2003), Buckhead, GA (Apr 2003), San Diego, CA (Oct 2003), Aspen, CO (Jan 2004), Scottsdale, AZ (Apr 2004), Chicago, IL (Oct 2004), Lake Tahoe, CA (Jan 2005), New Orleans, LA (Apr 2005), Philadelphia, PA (Sep 2005), Breckenridge, CO (Jan 2006), Boston, MA (Apr 2006), Snowbird, UT (Jan 2007), Orlando, FL (Apr 2007), Jackson Hole, WY (January 2008),

Las Vegas, NV (April 2008), Washington, DC (July 2008) Toronto, ON  
(October 2008), Breckenridge, CO (Jan 2009), San Francisco, CA (Oct  
2009), Copper Mountain, CO (January 2010), Orlando, FL (October 2010),  
Sundance, UT (March 2011), San Diego, CA (2011)

2000-2002 Weekly Neurosurgery Spine Conference for Residents and Fellows  
2000-2002 Weekly Interdisciplinary Spinal Cord Injury Conference  
2001 Practice Management Seminar for American Association of Neurological  
Surgeons, Chicago, IL (Aug 2001)

2002- Weekly Neurosurgery Case Conference for Faculty and Residents  
2002- Monthly Neuroscience Morbidity and Mortality Conference  
2005- DePuy Minimally-invasive Spinal Surgery Course Co-Chair. Dallas, TX  
(Jul 2005), Baltimore, MD (May 2006), Denver, CO (Aug 2006)

**Publications:**

Peer-reviewed Papers:

- Przybylski GJ, Pollack IF, Ward WT: Monostotic fibrous dysplasia of the thoracic spine: case report and review of the literature. *Spine* 21:860-5, 1996.
- Przybylski GJ, Welch WC: Longitudinal atlanto-axial dislocation with Type III odontoid fracture. Case report and review of the literature. *J Neurosurgery* 84:666-670, 1996.
- Przybylski GJ, Clyde BL, Fitz C: Craniocervical subarachnoid hemorrhage associated with atlanto-occipital dislocation. *Spine* 21:1761-8, 1996.
- Przybylski GJ, Carlin GJ, Patel PR, Woo SLY: Human anterior and posterior cervical longitudinal ligaments possess similar tensile properties. *J Orthop Research* 14:1005-8, 1996.
- Przybylski GJ, Albright AL, Martinez AJ: Spinal cord astrocytomas: evaluation of treatment and long-term results in children. *Child's Nervous System* 13:375-82, 1997.
- Przybylski GJ, Patel PR, Carlin GJ, Woo SLY: Quantitative anthropometry of the subatlantal cervical longitudinal ligaments. *Spine* 23:893-8, 1998.
- Przybylski GJ, Yonas H, Smith HA: Reduced stroke risk in patients with compromised CBF reactivity treated with STA-MCA bypass surgery. *J Stroke Cerebrovascular Diseases* 7:302-9, 1998.
- Wagner SC, Schweitzer ME, Morrison WB, Przybylski GJ, Parker L: Can imaging findings differentiate the neuropathic spine from disc space infection? *Radiology* 214:693-699, 2000.
- Sharan AD, Przybylski GJ, Tartaglino L: Approaching the upper thoracic vertebrae without sternotomy or thoracotomy: A radiographic analysis with clinical application. *Spine* 25:910-916, 2000.
- Przybylski GJ, Sharan AD: Autogenous bone grafting and internal fixation in the surgical management of pyogenic discitis and osteomyelitis. *J Neurosurg*, 94:1-7, 2001.
- Harrop JS, Vaccaro AR, Przybylski GJ: Acute respiratory compromise associated with flexed cervical traction after C2 fractures. *Spine* 26:E50-E54, 2001.
- Harrop JS, Sharan AD, Vaccaro AR, Przybylski GJ: The cause of neurological deterioration after acute cervical spinal cord injury. *Spine* 26:340-346, 2001.
- Harrop JS, Sharan AD, Przybylski GJ: Epidemiology of spinal cord injury after acute odontoid fractures. *Neurosurgical Focus* 8: 1-4, 2000
- Harrop JS, Przybylski GJ, Vaccaro AR: Closed management of displaced Type II odontoid fractures: more frequent respiratory compromise with posteriorly-displaced fractures. *Neurosurgical Focus* 8: 1-3, 2000.
- Harrop JS, Przybylski GJ, Vaccaro AR, Yalamanchili K: Efficacy of anterior odontoid screw fixation in elderly patients with Type II odontoid fractures. *Neurosurgical Focus* 8:1-4, 2000.

- Harrop JS, Przybylski GJ: Use of an osteoconductive agent (Norian) in anterior surgical management of odontoid fractures. Technical note. *Neurosurgical Focus* 8: 1-4, 2000.
- Przybylski GJ, Maiman DJ, Hollowell JP, Larson S: Increased risk of intraoperative blood loss after use of hydroxyethyl starch (hespan) in patients undergoing elective lumbar fusion. *Spine*, revision requested, August 2001.
- Przybylski GJ, Clyde BL, Fitz C, Maiman DJ, Larson S, Lemke DM, Daniels DL: Atlanto-occipital dislocation. Diagnosis and management in 27 patients. Submitted 2003.
- Oyesiku NM, Grabb PA, Przybylski GJ, Resnick DK, Ryken TC, Hadley MN, Walters BC: Cervical spine immobilization before admission to the hospital. *Neurosurgery* 50:S7-S17, 2002.
- Oyesiku NM, Grabb PA, Przybylski GJ, Resnick DK, Ryken TC, Hadley MN, Walters BC: Transportation of patients with acute traumatic cervical spine injuries. *Neurosurgery* 50:S18-S20, 2002.
- Oyesiku NM, Grabb PA, Przybylski GJ, Resnick DK, Ryken TC, Hadley MN, Walters BC: Clinical assessment after acute cervical spinal cord injury. *Neurosurgery* 50:S21-S29, 2002.
- Resnick DK, Grabb PA, Oyesiku NM, Przybylski GJ, Ryken TC, Hadley MN, Walters BC: Radiographic assessment of the cervical spine in asymptomatic patients. *Neurosurgery* 50:S30-S35, 2002.
- Resnick DK, Grabb PA, Oyesiku NM, Przybylski GJ, Ryken TC, Hadley MN, Walters BC: Radiographic assessment of the cervical spine in symptomatic patients. *Neurosurgery* 50:S36-S43, 2002.
- Resnick DK, Grabb PA, Oyesiku NM, Przybylski GJ, Ryken TC, Hadley MN, Walters BC: Initial closed reduction of cervical spine fracture-dislocation injuries. *Neurosurgery* 50:S44-S50, 2002.
- Hadley MN, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Walters BC: Management of acute spinal cord injuries in an intensive care unit or other monitored setting. *Neurosurgery* 50:S51-S57, 2002.
- Hadley MN, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Walters BC: Blood pressure management after acute spinal cord injury. *Neurosurgery* 50:S58-S62, 2002.
- Hadley MN, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Walters BC: Pharmacological therapy after acute spinal cord injury. *Neurosurgery* 50:S63-S72, 2002.
- Hadley MN, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Walters BC: Deep vein thrombosis and thromboembolism in patients with cervical spinal cord injuries. *Neurosurgery* 50:S73-S80, 2002.
- Hadley MN, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Walters BC: Nutritional support after spinal cord injury. *Neurosurgery* 50:S81-S84, 2002.
- Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Hadley MN, Walters BC: Management of pediatric cervical spine and spinal cord injuries. *Neurosurgery* 50:S85-S99, 2002.
- Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Hadley MN, Walters BC: Spinal cord injury without radiographic abnormality. *Neurosurgery* 50:S100-S104, 2002.

- Przybylski GJ, Grabb PA, Oyesiku NM, Resnick DK, Ryken TC, Hadley MN, Walters BC: Diagnosis and management of traumatic atlanto-occipital dislocation. *Neurosurgery* 50:S105-S113, 2002.
- Przybylski GJ, Grabb PA, Oyesiku NM, Resnick DK, Ryken TC, Hadley MN, Walters BC: Occipital condyle fractures. *Neurosurgery* 50:S114-S119, 2002.
- Ryken TC, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Hadley MN, Walters BC: Isolated fractures of the atlas in adults. *Neurosurgery* 50:S120-S124, 2002.
- Ryken TC, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Hadley MN, Walters BC: Isolated fractures of the axis in adults. *Neurosurgery* 50:S125-S139, 2002.
- Ryken TC, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Hadley MN, Walters BC: Management of combination fractures of the atlas and axis in adults. *Neurosurgery* 50:S140-S147, 2002.
- Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Hadley MN, Walters BC: Os odontoides. *Neurosurgery* 50:S148-S155, 2002.
- Przybylski GJ, Grabb PA, Oyesiku NM, Resnick DK, Ryken TC, Hadley MN, Walters BC: Treatment of subaxial cervical injuries. *Neurosurgery* 50:S156-S165, 2002.
- Hadley MN, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Walters BC: Management of acute central cord injuries. *Neurosurgery* 50:S166-S172, 2002.
- Przybylski GJ, Grabb PA, Oyesiku NM, Resnick DK, Ryken TC, Hadley MN, Walters BC: Management of vertebral artery injuries after nonpenetrating cervical trauma. *Neurosurgery* 50:S173-S178, 2002.
- Przybylski GJ. Understanding and applying a resource-based relative value system to your neurosurgical practice. *Neurosurgical Focus* 12:1-5, 2002.
- Hadley MN, Walters BC, Grabb PA, Oyesiku NM, Przybylski GJ, Resnick DK, Ryken TC, Mielke D: Guidelines for the management of acute cervical spine and spinal cord injury. *Clin Neurosurg* 49:407-498, 2002.
- Harrop JS, Sharan AD, Scheid EH, Vaccaro AR, Przybylski GJ: Tracheostomy placement in patients with complete cervical spinal cord injuries: American Spinal Injury Association Grade A: *J Neurosurg* 100:20-23, 2004.



Book Chapters:

- Przybylski GJ, Nelson PB: Vertebral osteomyelitis and disc space infections, in Tindall GT, Cooper PR, Barrow DL (ed): Practice of Neurosurgery. Philadelphia: Williams and Wilkins, 1996, pp 3467-3479.
- Przybylski GJ, Marion DW: Injury to the vertebrae and spinal cord, in Feliciano DV, Moore EE, Mattox KL (ed): Trauma, ed. 3, Stamford: Appleton and Lange, 1996, pp 307-327.
- Przybylski GJ, Welch WC, Jacobs GB: Spinal instability, spinal mechanics, and operative intervention, in Welch WC, Jacobs GB, Jackson RP (ed): Operative Spinal Surgery. Stamford: Appleton and Lange, 1999, pp 104-112.
- Przybylski GJ, Mueller WM: The obese patient, in Benzel EC, Stillerman CB (ed) : The Thoracic Spine. St. Louis: Quality Medical Publishing, 1999, pp 447-456.
- Przybylski GJ, Maiman DJ: Management of spinal cord injury: planned delayed surgery, in Zdeblick TA, Anderson P, Stillerman C, Benzel EC (ed) : Controversies in Spine Surgery. St. Louis: Quality Medical Publishing, 1999, pp 44-50.
- Marion DW, Przybylski, GJ: Injury to the Vertebrae and Spinal Cord, in Feliciano DV, Moore EE, Mattox, KL (ed): Trauma, ed. 4 Stamford: Appleton and Large, 1999, pp 451-471.
- Harrop J, Przybylski GJ: Vascular malformations of the spinal cord, in Vaccaro AR, Albert TJ (ed) : Spine Surgery: Master Cases. New York: Thieme, 2000, pp 509-516.
- Harrop J, Sutton L, Przybylski GJ: Diastematomyelia, in Vaccaro AR, Albert TJ (ed) : Spine Surgery: Master Cases. New York: Thieme, 2000, pp 450-454.
- Mitchell W, Przybylski GJ: Chiari Malformations, in Vaccaro AR, Albert TJ (ed) : Spine Surgery: Master Cases. New York: Thieme, 2000, pp 443-449.
- Veznedaroglu E, Przybylski GJ: Spinal Cord Herniation, in Vaccaro AR, Albert TJ (ed) : Spine Surgery: Master Cases. New York: Thieme, 2000, pp 360-365.
- Przybylski GJ, Mitchell W: Theory and Practice of Standard Billing Indices, in Linskey ME, Rutigliano M (ed): Quality and Cost in Neurological Surgery. Baltimore: Williams and Wilkins, 2001, pp 361-368.
- Mitchell W, Przybylski GJ, Bennett GJ: The application of biomechanics to the spine and spinal cord, in Tator CH, Benzel EC (ed): Contemporary Management of Spinal Cord Injury, ed. 2, 2000, 51-60.
- Przybylski GJ: Foramen magnum decompression, in Vaccaro AR, Albert TJ (ed): Tricks of the Trade of Spine Surgery. New York: Thieme, 2002, 2-3.
- Przybylski GJ: Lateral extracavitary approach, in Vaccaro AR, Albert TJ (ed): Tricks of the Trade of Spine Surgery. New York: Thieme, 2002, 78-79.

- Przybylski GJ: Placement of bone graft from posterior approach, in Vaccaro AR, Albert TJ (ed): *Tricks of the Trade of Spine Surgery*. New York: Thieme, 2002, 88-89.
- Harrop JS, Przybylski GJ: Spinal malformation, in Penar PL, Doagali M (ed): *eMedicine*, 2001, 1-10.
- Harrop JS, Przybylski GJ: Spinal tumors, in Dulebohn SC, Dogali M (ed): *eMedicine*, 2001, 1-11.
- Harrop JS, Przybylski GJ: Operative Techniques: Posterior Thoracolumbar Technique- Surgical Approach, in Vaccaro AR (ed): *Fractures of the Cervical, Thoracic and Lumbar Spine*. New York: Thieme, 2003, in press.
- Mitchell W, Przybylski GJ: Klippel-Feil Syndrome, in Vaccaro AR (ed): *Fractures of the Cervical, Thoracic and Lumbar Spine*. New York: Thieme, 2003, in press.
- Sharan AD, Przybylski GJ: The non-operative and operative management of spinal pathology in the setting of Paget's Disease, in Vaccaro AR, Betz RR, Zeidman SM (ed): *Principle and Practice of Spine Surgery*. Philadelphia: Mosby, 2002, 149-153.
- Przybylski GJ: Subaxial cervical fractures, in Batjer HH, Loftus CM (ed): *Textbook of Neurological Surgery*. Philadelphia: Lippincott, Williams and Wilkins, 2003, 1764-1770.
- Przybylski GJ: Thoracolumbar fracture classification and grading, in Batjer HH, Loftus CM (ed): *Textbook of Neurological Surgery*. Philadelphia: Lippincott, Williams and Wilkins, 2003, 1771-1775.
- Mitchell W, Przybylski GJ, Benzel E: Cervical spine biomechanics, in Batjer HH, Loftus CM (ed): *Textbook of Neurological Surgery*. Philadelphia: Lippincott, Williams and Wilkins, 2003, 1539-1543.
- Jorge A, Przybylski GJ: Herniated lumbar disc, in Batjer HH, Loftus CM (ed): *Textbook of Neurological Surgery*. Philadelphia: Lippincott, Williams and Wilkins, 2003, 1657-1660.
- Ganju A, Przybylski GJ: Lateral extracavitary approach, in Rengachary SS, Maciunas RJ, Wilkins RH (ed): *Neurosurgery*. New York: McGraw Hill, 2002, submitted.
- Nelson A, Przybylski GJ: Future directions in rehabilitation of the spinal cord injured patient, in Rengachary SS, Maciunas RJ, Wilkins RH (ed): *Neurosurgery*. New York: McGraw Hill, 2002, submitted.
- Przybylski GJ. The changing economics of spine surgery, in Haid RW, Subach BR, Rodts GE (ed): *Progress in Neurological Surgery: Advances in Spinal Stabilization*. Basel: Karger, 2003, 302-313.
- Faciszewski T, Przybylski GJ. The rationale for practice hygiene: coding, reimbursement and nomenclature, in Benzel EC (ed): *Spine Surgery: Techniques, Complication Avoidance, and Management*. Philadelphia: Harcourt, 2005, 2186-2193.
- Przybylski GJ, Hollowell JP. Correction of arthritic deformities of the spine, in Koopman WJ and Moreland LW (ed): *Arthritis and Allied Conditions*. Philadelphia: Harcourt, 2005, 1037-1048.

Przybylski GJ. The rationale for practice hygiene: coding, reimbursement and nomenclature, in Benzel EC (ed): *Spine Surgery: Techniques, Complication Avoidance, and Management*. Philadelphia: Harcourt, 2012.

Invited Papers:

Przybylski GJ: Book review of *The Lumbar Spine, Ed 2* in *Neurosurgery* 41: 319-320, 1997.

Przybylski GJ: Management of Odontoid Fractures. *Contemporary Neurosurgery* 20: 1-6, 1998.

Przybylski GJ: Techniques for the Management of Lumbar Dural Tears. *Seminars in Spine Surgery* 10:252-255, 1998.

Przybylski GJ: Coding Corner. *Spine Section Newsletter* (Winter): 7-8, 1998, (Summer): 6-7, 1999, (Winter):5-6, 2001, (Winter):9-10, 2002.

Przybylski GJ: Coding Corner. *AANS Bulletin* 7(4):17, 1998, 8(1):18, 1999, 8(2):17, 1999, 8(3):21, 1999, 8(4):17, 1999, 9(1):20, 2000, 9(2):18, 2000, 9(3):27, 2000, 9(4):24, 2000, 10(1):22, 2001, 10(2):19, 2001, 10(3):23, 2001, 10(4):23, 2001, 11(1):16, 2002, 11(2):7, 2002, 11(3):26, 2002, 12(1):30, 2003, 12(2):19, 2003, 12(3):24, 2003, 12(4):21, 2003, 13(1):27, 2004, 13(2):32, 2004, 13(3):17, 2004, 13(4):31, 2004, 14(1):22, 2005, 14(2):16, 2005, 14(3):29, 2005, 14(4):50, 2005, 15(1):37, 2006, 15(2):28, 2006, 15(3):22, 2006, 16(1):26, 2007, 16(2): 50, 2007, 16(4):24, 2007, 17(2), 26, 2008, 17(3):24, 2008, 18(1):21, 2009.

Przybylski GJ: Launching NERVES. *AANS Bulletin* 11(4) 22-23, 2002.

Przybylski GJ: Book review of *Spinal Cord Diseases: Diagnosis and Treatment* in *Neurosurgery*, in press.

Przybylski GJ: Biomechanics of Lumbar Fusion and Sagittal Plane Balance. *Clinical Neurosurgery* 47: 461-469, 2000.

Przybylski GJ: Management of odontoid fractures. *Neurosurgical Focus* 8: 1-3, 2000.

Przybylski GJ: Commentary. *The Spine Journal* 5: 514, 2005.

**Presentations:**

Peer-reviewed Abstracts:

- Przybylski GJ, Albright AL: Long-term results in treatment of spinal cord childhood. Annual Meeting American Association of Neurological Surgeons, April 1994.
- Przybylski GJ, Baker DR, Woo SLY, Quantitative anthropometry of the cervical longitudinal ligaments. 9<sup>th</sup> Annual Meeting North American Spine Society, October 1994.
- Clyde BL, Przybylski GJ, Konstantine K: Cervical radiographs in gunshot wounds to the neck. 9<sup>th</sup> Annual Meeting North American Spine Society, October 1994.
- Przybylski GJ, Yonas H, Webster MW, Sekhar LN, Steed DL. Identification and treatment of high-risk stroke patients with symptomatic carotid occlusion. Annual Meeting Congress of Neurological Surgeons, October 1994.
- Clyde BL, Przybylski GJ, Jho HD, Moossy J: Outcome using the transpedicular approach to anterior thoracic and lumbar pathology. 11<sup>th</sup> Annual Meeting Section of Disorders of the Spine and Peripheral Nerves, February 1995.
- Przybylski GJ, Clyde BL, Albright AL: Craniocervical junction subarachnoid hemorrhage in atlanto-occipital dislocation. 11<sup>th</sup> Annual Meeting Joint Spine Section, February 1995. 10<sup>th</sup> European Congress of Neurosurgery, May 1995.
- Przybylski GJ, McLaughlin M, Jho HD: Anterior microforaminotomy: an alternative to anterior cervical discectomy. Annual Meeting International Intradiscal Therapy Society, March 1995.
- Przybylski GJ, Bonaroti EA, Yonas H, Kaufmann AM: Use of Xe/CT CBF in the management of acute carotid injuries. 4<sup>th</sup> International Workshop on Cerebrovascular Surgery, June 1995.
- Kang JD, Saito R, Carlin GJ, Przybylski GJ, Patel PR, Woo SLY: Force-moment contributions of the cervical facet joint and capsule in rotation. 10<sup>th</sup> Annual Meeting Cervical Spine Research Society, October 1995.
- Kang JD, Saito R, Kotsiakis X, Carlin GJ, Przybylski GJ, Patel PR. Force-moment contributions of the C5-6 facet joint and capsule in rotation. Annual Meeting Cervical Spine Research Society, November 1995.
- Przybylski GJ, Carlin GJ, Patel PR, Woo SLY. Tensile properties of human cervical longitudinal ligaments. Annual Meeting Orthopaedic Research Society, February 1996.
- Przybylski GJ, Carlin GJ, Patel PR, Woo SLY: Three-dimensional anatomy of human cervical longitudinal ligaments in a sagittal plane flexion and extension. 12<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 1996.
- Kotsiakis X, Przybylski GJ, Carlin GJ, Jho HD: Comparison of force-moment consequences of anterior cervical discectomy and anterior foraminotomy in rotation. 12<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 1996.

- Przybylski GJ, Yonas H, Smith HA: Reduced stroke risk in patients with compromised CBF reactivity after STA-MCA Bypass Surgery. Annual Meeting Association of Neurological Surgeons, May 1996.
- Przybylski GJ, Maiman DJ, Hollowell JP, Larson S: Increased bleeding risk during lumbar fusion surgery with hespan use. 6<sup>th</sup> Annual Meeting Rachidan Society, March 1998. Annual Meeting American Association of Neurological Surgeons, April 1998.
- Przybylski GJ, Pinter F, Yoganandan N: Radiographic anthropometry of disc degeneration in human cadaver spine. 6<sup>th</sup> Annual Meeting Rachidan Society, March 1998. Annual Meeting Congress of Neurological Surgeons, October 1998.
- Harrop JS, Hockstein N, Przybylski GJ: Frequent respiratory failure with immobilization of posteriorly displaced Type II odontoid fractures. Annual Meeting American Association of Neurological Surgeons, April 1998.
- Sharan AD, Tartaglino L, Przybylski GJ: Approaching the upper thoracic vertebrae without sternotomy or thoracotomy. 15<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 1999.
- Przybylski GJ, Sharan AD: Autogenous bone grafting and internal fixation in the surgical management of pyogenic discitis and osteomyelitis. 15<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 1999. 7<sup>th</sup> Annual Meeting Rachidian Society, March 1999.
- Przybylski GJ, Clyde BL, Fitz C, Maiman DJ, Larson S, Lemke DM, Daniels DL: Atlanto-occipital dislocation. Diagnosis and management in 27 patients. 7<sup>th</sup> Annual Meeting Rachidian Society, March 1999, Annual Meeting American Association of Neurological Surgeons, April 1999.
- Mitchell W, Samuelson S, Przybylski GJ: Management of occipital condyle fractures. Annual Meeting American Association of Neurological Surgeons, April 1999.
- Harrop J, Przybylski GJ: Frequent acute respiratory failure with non-operative management of posteriorly displaced Type II odontoid fractures compared with other axis fractures. Annual Meeting American Association of Neurological Surgeons, April 1999.
- Harrop J, Przybylski GJ: Comparison of early anterior odontoid screw fixation of posteriorly displaced odontoid fractures with other methods. Annual Meeting American Association of Neurological Surgeons, April 1999.
- Schweitzer ME, Wagner SC, Morrison WB, Przybylski GJ, Parker L: Can imaging findings differentiate the neuropathic spine from disc space infection? 85<sup>th</sup> Annual Meeting Radiological Society of North America, 1999.
- Przybylski GJ, Mitchell W, Sharan AD: Comparison of anterolateral, lateral extracavitary, and bilateral transpedicular approaches to thoracolumbar spine reconstruction. 16<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 2000. 8<sup>th</sup> Annual Meeting, Rachidian Society, February 2000, 17<sup>th</sup> Annual Meeting, North American Spine Society, November 2002, 52<sup>nd</sup> Annual Meeting Congress of Neurological Surgeons, September 2002.

- Sharan AD, Silva M, Harrop JS, Przybylski GJ: Comparison of instrumented anterior and posterior lumbar interbody fusions with posterolateral lumbar fusion using pedicle fixation for management of mechanical back pain. 16<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 2000, 9<sup>th</sup> Annual Rachidian Society, February 2001.
- Harrop JS, Sharan AD, Przybylski GJ: Etiologies of neurological deterioration in ascending cervical spinal cord injured patients. 16<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 2000.
- Sharan AD, Vaccaro AR, Sharan AD, Przybylski GJ: Spinal resources on the internet: an extensive review. 16<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 2000.
- Przybylski GJ, Harrop JS, Scheid B, Benitez R: Epidemiology of tracheostomy in complete cervical spinal cord injuries. 8<sup>th</sup> Annual Meeting Rachidian Society, February 2000, Annual Meeting Congress of Neurological Surgeons, September 2000.
- Przybylski GJ, Maiman DJ, Hollowell JP, Larson S: Increased perioperative risk in obese patient undergoing elective posterolateral lumbar fusions with pedicle fixation. Annual Meeting Congress of Neurological Surgeons, September 2000, 9<sup>th</sup> Annual Meeting Rachidian Society, February 2001.
- Harrop JS, Sharan AD, Przybylski GJ: Epidemiology of spinal cord injury in patients with odontoid fractures. Annual Meeting Congress of Neurological Surgeons, September 2000.
- Harrop JS, Sharan AD, Vaccaro AR, Przybylski GJ: Etiologies of neurologic deterioration in cervical spinal cord injuries. 15<sup>th</sup> Annual Meeting North American Spine Society, October 2000.
- Harrop JS, Vaccaro AR, Przybylski GJ: Acute respiratory compromise with flexion skeletal traction in axis cervical spinal injuries. 28<sup>th</sup> Annual Meeting Cervical Spine Research Society, November 2000.
- Przybylski GJ, Clyde BL, Mitchell W, Fitz C, Maiman DJ, Larson S, Lemke DM, Daniels DL: Atlanto-occipital dislocation. Diagnosis and management in 30 patients. Annual Meeting North American Spine Society, November 2001.
- Przybylski GJ, Tawk R: Management of pharyngeal perforation related to cervical surgery. 10<sup>th</sup> Annual Meeting Rachidian Society, February 2002, 18<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 2002, 17<sup>th</sup> Annual Meeting North American Spine Society October 2002.
- Przybylski GJ, Tawk R, Gravely L, Jorge A: Surgical management of neuropathic intervertebral joints. 10<sup>th</sup> Annual Meeting Rachidian Society, February 2002, 18<sup>th</sup> Annual Meeting Section on Disorders of the Spine and Peripheral Nerves, February 2002, 52<sup>nd</sup> Annual Meeting Congress of Neurological Surgeons, September 2002.
- Przybylski GJ, Mitchell W: Spinal cord herniation: approach algorithm based on two cases and literature review. 10<sup>th</sup> Annual Meeting Rachidian Society, February 2002, 52<sup>nd</sup> Annual Meeting Congress of Neurological Surgeons, September 2002.
- Mitchell W, Przybylski GJ: Application of thoracoscopy to the management of thoracic spinal disorders. 11<sup>th</sup> Annual Meeting Rachidian Society, February 2003.

- Mitchell W, Przybylski GJ: New concepts in the management of occipital condyle fractures. 11<sup>th</sup> Annual Meeting Rachidian Society, February 2003.
- Przybylski GJ, Mitchell W, Rawal R: Prospective comparison of outpatient open and percutaneous posterior decompression. 12<sup>th</sup> Annual Meeting Rachidian Society, February 2004.
- Przybylski GJ, Mitchell W: Comparison of minimally-invasive and open approaches to lumbar interbody fusion. 12<sup>th</sup> Annual Meeting Rachidian Society, February 2004.
- Przybylski GJ, Mitchell W: Update on thoracoscopy for management of thoracic spinal disorders. 12<sup>th</sup> Annual Meeting Rachidian Society, February 2004.
- Mitchell W, Przybylski GJ, Ellman B, Depinto N: Thoracoscopic spinal surgery in a community hospital. 55<sup>th</sup> Annual Meeting Congress of Neurological Surgeons, October 2005.
- Przybylski GJ, Mitchell W: Outpatient lumbar fusion: Extraforaminal MIS approach to lumbar fusion. 14<sup>th</sup> Annual Meeting Rachidian Society, February 2006, 22<sup>nd</sup> Annual Meeting Joint Section on Disorders of the Spine and Peripheral Nerves, March 2006, Annual Meeting American Association of Neurological Surgeons, April 2006.
- Przybylski GJ, Mitchell W: Safety of outpatient cervical spine surgery. 14<sup>th</sup> Annual Meeting Rachidian Society, February 2006, 22<sup>nd</sup> Annual Meeting Joint Section on Disorders of the Spine and Peripheral Nerves, Annual Meeting American Association of Neurological Surgeons, April 2006.
- Przybylski GJ, Mitchell W: Outpatient minimally-invasive lumbar decompression in patients with spondylolisthesis. 14<sup>th</sup> Annual Meeting Rachidian Society, February 2006.
- Przybylski GJ, Mitchell W: Applying MIS Techniques to Conventionally Open Procedures: A Report of Two Cases. 15<sup>th</sup> Annual Meeting Rachidian Society, February 2007, Zapulla Research Day, June 2007.
- Przybylski GJ, Mitchell W: Treatment of intradural spinal tumors using MIS techniques: A report of four cases. 16<sup>th</sup> Annual Meeting Rachidian Society, February 2008.
- Przybylski GJ: Comparison of frequency growth of cervical and lumbar decompression, arthrodesis, and instrumentation over eleven years in the Medicare population. Zapulla Research Day, June 2008. 23<sup>rd</sup> Annual Meeting North American Spine Society, October 2008.
- Przybylski GJ: Outpatient minimally-invasive resection of intraspinal tumors: A report of ten cases. 60<sup>th</sup> Annual Meeting Congress of Neurological Surgeons, October 2010.

Invited Lectures:

- Przybylski GJ. Careers in neurosurgery. Jefferson Medical College Career Day, Philadelphia, PA, December 1996-1999.
- Przybylski GJ. Neurological emergencies: Spinal cord compression. Thomas Jefferson University Neurology Grand Rounds, Philadelphia, PA, August 1997.

- Przybylski GJ. Spinal metastasis. Thomas Jefferson University Oncology Conference, Philadelphia, PA, September 1997.
- Przybylski GJ. Occipital condyle and atlantoaxial fractures. Frankford Hospital Trauma Conference, Philadelphia, PA, November 1997.
- Przybylski GJ. Complication avoidance in the surgical management of spine trauma. 9<sup>th</sup> Pan-Philadelphia Conference, Philadelphia, PA, November 1997.
- Przybylski GJ. Thoracic Spine Biomechanics. Annual Meeting of Joint Spine Section, February 1998. Annual Meeting American Association of Neurological Surgeons, April 1998. Annual Meeting Congress of Neurological Surgeons, October 1998. University of Cincinnati Grand Rounds, February 1999, Indiana University Grand Rounds, May 1999. Neurosurgery Resident Lecture Series, January 2001.
- Przybylski GJ. Injury to the Spine and Spinal Cord. New Horizons in Orthopaedic and Neuroscience Nursing, Philadelphia, PA, April 1998.
- Przybylski GJ. Evaluation and Management Guideline Update. Annual Meeting American Association of Neurological Surgeons, April 1998, April 1999. Thomas Jefferson University Neurosurgery Grand Rounds, June 1999.
- Przybylski GJ. Management of spinal cord injury. Thomas Jefferson University Neurology Grand Rounds, Philadelphia, PA, June 1998.
- Przybylski GJ. Cervical stabilization. Thomas Jefferson University Physical Medicine and Rehabilitation Grand Rounds, Philadelphia, PA, August 1998.
- Przybylski GJ. Segmental instability. 10<sup>th</sup> Pan-Philadelphia Neurosurgical Conference, Philadelphia, PA, December 1998.
- Przybylski GJ, Samuelson S, Benitez R. Advanced neurologic assessment. 31<sup>st</sup> Annual Meeting and Exposition of the American Association of Neuroscience Nurses, Philadelphia, PA, March 1999.
- Przybylski GJ. Bone physiology, blood loss, and clinical decision making. Spine Surgery – Hands-On American Association of Neurological Surgeons Professional Development Course, Albuquerque, NM, May 1999.
- Przybylski GJ. Stability determination. Spine Surgery – Hands On American Association of Neurological Surgeons Professional Development Course, Albuquerque, NM, May 1999.
- Przybylski GJ. Biomechanics of component – component interfaces. Spine Surgery – Hands on American Association of Neurological Surgeons Professional Development Course, Albuquerque, NM, May 1999.
- Przybylski GJ. Coding Update. Florida Neurosurgical Society, Gainesville, FL, October, 1999.
- Przybylski GJ. Biomechanics of Lumbar Fusion and Sagittal Plane Balance, Annual Meeting, American Association of Neurological Surgeons, Boston, MA, November, 1999.



- Przybylski, GJ. Coding Update: Deep Brain Stimulation. American Medical Association, CPT 2000 Coding Symposium, Chicago, IL, November, 1999.
- Przybylski GJ. Principles of Coding and Reimbursement. Thomas Jefferson University Neurosurgery Resident Practice Management Conference, Philadelphia, PA, November, 1999.
- Przybylski, GJ. Guidelines for Treatment of Low Back Pain. 11th Pan-Philadelphia Neurosurgical Conference, Philadelphia, PA, December, 1999.
- Przybylski GJ. Choosing the Right Test for Patients with Back Pain. Diagnostic Dilemmas: Choosing the Best Test, Philadelphia, PA, December 1999.
- Przybylski GJ. Application to Neurosurgical Residency Programs. Jefferson Neurosurgical Society, Philadelphia, PA, January 2000.
- Przybylski GJ. Evaluation and management guidelines. Brown University Grand Rounds, Providence, RI, June 2000.
- Przybylski GJ. Evaluating the patient with back pain. Eastern Shore Medical Symposium, Rehoboth, DE, June 2000.
- Przybylski GJ. Interaction of spinal injury and head injury. Annual Meeting American College of Surgeons, Chicago, IL, October 2000.
- Przybylski GJ. CPT and Reimbursement Update 2001. Illinois Neurosurgical Society, Chicago, IL, March 2001.
- Przybylski GJ. Cervical Spine Biomechanics. Neurosurgery Resident Lecture Series, Chicago, IL, March 2001.
- Przybylski GJ. Coding of endoscopic spine procedures. Minimally-invasive spinal surgery practical course, American Association of Neurological Surgeons Annual Meeting, Toronto, ON, April 2001.
- Przybylski GJ. Current concepts in management of spinal infections. Central Illinois Neuroscience Foundation, Bloomington, IL, May 2001.
- Przybylski GJ. Thoracic Spine Biomechanics. Neurosurgery Resident Lecture Series, Chicago, IL, May 2001.
- Przybylski, GJ. Overview of RBRVS and how it affects your bottom-line. National Leadership Development Conference, Washington, D.C., July 2001.
- Hassenbusch, S and Przybylski, GJ. CPT Coding tips and information. National Leadership Development Conference, Washington, D.C., July 2001.
- Przybylski, GJ. Current E&M documentation requirements. National Leadership Development Conference, Washington, D.C., July 2001.
- Przybylski GJ. Management of Spine Trauma. General Surgery Resident Lecture Series, Chicago, IL, August 2001.

- Przybylski GJ. Current concepts in management of spinal infections. Neurosurgery Resident Lecture Series, Chicago, IL, September 2001.
- Przybylski GJ. Clearing the cervical spine: An evidence-based medicine approach. General Surgery Grand Rounds, Chicago, IL, September 2001.
- Przybylski GJ. Understanding E&M documentation guidelines. Neurosurgery Grand Rounds, Chicago, IL, September 2001.
- Przybylski GJ. Thoracolumbar spine fractures: Surgical treatment with dorsal approaches, Congress of Neurological Surgeons Luncheon Seminar, San Diego, CA, October 2001.
- Przybylski GJ. CPT coding for neurosurgery, Congress of Neurological Surgeons Luncheon Seminar, San Diego, CA, October 2001.
- Przybylski GJ. CPT coding for spine surgery, Congress of Neurological Surgeons Luncheon Seminar, San Diego, CA, October 2001.
- Przybylski GJ. Clearing the cervical spine: An evidence-based medicine approach. Neurosurgery Resident Lecture Series, Chicago, IL, November 2001.
- Przybylski GJ. Overview of RBRVS. Neurosurgery Resident Lecture Series, Chicago, IL, February 2002.
- Przybylski GJ. Management of Acute Spinal Cord Compression. Neurology Grand Rounds, Chicago, IL, April 2002.
- Przybylski GJ. Coding of endoscopic spine procedures. Minimally-invasive Spinal Surgery, American Association of Neurological Surgeons Annual Meeting, Chicago, IL, April 2002.
- Przybylski GJ. Current issues and complexity in spine coding, Practical Clinic, American Association of Neurological Surgeons Annual Meeting, Chicago, IL, April 2002.
- Przybylski GJ. Spinal Surgery Coding. 2<sup>nd</sup> Annual Conquering Orthopaedic Coding, Las Vegas, NV, July 2002.
- Przybylski GJ. Upper Extremity Coding. 2<sup>nd</sup> Annual Conquering Orthopaedic Coding, Las Vegas, NV, July 2002.
- Przybylski, GJ. Practical Application of RBRVS. National Leadership Development Conference, Washington, D.C., July 2002.
- Przybylski, GJ. Spinal Surgery Coding. National Leadership Development Conference, Washington, D.C., July 2002.
- Przybylski GJ. Overview of Spine Trauma. General Surgery Medical Student Lecture Series, Chicago, IL, July 2002.
- Przybylski GJ. Diagnosis and management of spinal infections. Neurosurgery Resident Lecture Series, Chicago, IL, July 2002.

- Przybylski GJ. CPT update and applying RBRVS to your practice. Organizational Meeting of Neurosurgical Practice Managers and Administrators, Philadelphia, PA, September 2002.
- Przybylski GJ. CPT update and applying RBRVS to your practice. Beyond Residency Conference, Chicago, IL, October 2002.
- Przybylski GJ. Spinal Surgery Coding. Monthly Orthopaedic Resident Spine Conference, New Brunswick, NJ, February 2003.
- Przybylski GJ. The payor environment and its implications for neurosurgery. American Association of Neurological Surgeons Practical Course: How To Evaluate A Job, San Diego, CA, April 2003.
- Przybylski GJ. Understanding the influence of Washington DC on neurosurgical practice reimbursement. Brainstorm IV, San Diego, CA, April 2003.
- Przybylski GJ. Complex spinal surgery coding. Annual Meeting American Academy of Professional Coders, Honolulu, HI, April 2003.
- Przybylski GJ. Diagnosis and medical management of traumatic head and spinal cord injury. Neurology Resident Lecture Series, Edison, NJ, July 2003.
- Przybylski GJ. The role of CMS in RBRVS. Leibrock Leadership Development Conference, Washington, DC, July 2004.
- Przybylski GJ. CPT update and the role of RBRVS in neurosurgical practice. Tennessee Neurosurgical Society Annual Meeting, Nashville, TN, August 2004.
- Przybylski GJ, Mitchell W. Extraforaminal Lumbar Interbody Fusion. DePuy Minimally-invasive spinal surgery course. June 2005 (Chicago, IL), July 2005 (Dallas, TX), May 2006 (Baltimore, MD).
- Przybylski GJ. Minimally-invasive spine surgery. Muhlenberg Regional Medical Center Grand Rounds. November 2005.
- Przybylski GJ. E&M Coding Guidelines. JFK Medical Center Neuroscience Grand Rounds. November 2005.
- Przybylski GJ. Spine surgery coding: Principles in op notes. Orthopaedic Coding and Reimbursement Conference, Naples, FL, January 2006.
- Przybylski GJ. Coding update. Annual Meeting Joint Section on Disorder of the Spine and Peripheral Nerves, Orlando, FL, March 2006.
- Przybylski GJ. Coding and reimbursement in spine surgery. DePuy Resident and Fellow Conference, Boston, MA, March 2006, Las Vegas, NV, March 2008.
- Przybylski GJ. Straight-up Spinal Coding. Annual Meeting American Academy of Professional Coders. St, Louis, MO, April 2006.
- Przybylski GJ. Optimizing Billing and Collections for Pain Procedures. 2006 Pain Section Satellite Pain

Symposium. San Francisco, CA, April 2006.

Przybylski GJ. Coding and reimbursement strategies. Neurosurgery in the Real World Practical Course. Annual Meeting American Association of Neurological Surgeons, San Francisco, CA, April 2006.

Przybylski GJ. Spine surgery coding. Spine Coding Practical Course. American Association of Neurological Surgeons Annual Meeting. San Francisco, CA, April 2006.

Przybylski GJ. Cranial surgery coding. Cranial Coding Practical Course. American Association of Neurological Surgeons Annual Meeting, San Francisco, CA, April 2006.

Przybylski GJ. Understanding Medicare Hospital and Physician Payment Systems. Washington State Neurosurgical Society Annual Meeting, Seattle, WA, May 2006.

Przybylski GJ. Pediatric neurosurgery coding. Joint Section on Pediatric Neurosurgery Annual Meeting, Denver, CO, November 2006.

Przybylski GJ. Neurosurgery Coding Update. The Coding Institute Audioteleconference, December 2006, December 2007, December 2008.

Przybylski GJ. Spinal Surgery Coding. Orthopedic and Neurosurgery Coding Conference, Orlando, FL, March 2007, Orlando, FL, December 2007, Las Vegas, March 2008, Orlando, FL, December 2008.

Przybylski GJ. Spinal Surgery Coding. The Coding Institute Audioteleconference, May 2007.

Przybylski GJ. Cranial Surgery Coding. The Coding Institute Audioteleconference, August 2007.

Przybylski GJ. Advanced Spinal Surgery Coding. The Coding Institute Audioteleconference, Sept 2007.

Przybylski GJ. RBRVS in Spine Surgery. Depuy Leadership Conference, Miami, FL, January 2008.

Przybylski GJ. Medicare Crisis. 23<sup>rd</sup> Annual North American Spine Society, Toronto, ON, October 2008.

Przybylski GJ. RVU and DRG. 23<sup>rd</sup> Annual North American Spine Society, Toronto, ON, October 2008.

Przybylski GJ. Coding and Reimbursement: A view from the inside. NERVES 2009 Annual Meeting, San Diego, CA, May 2009.

Przybylski GJ. Minimally-invasive surgery for intraspinal tumors. JFK Tumor Symposium, Edison, NJ, May 2009.

Przybylski GJ. Minimally-invasive surgery for decompression. Minimally-invasive surgery symposium. 25<sup>th</sup> Annual Meeting North American Spine Society, Orlando, FL, October 2010.

Przybylski GJ. Outpatient minimally-invasive surgical resection of intraspinal tumors: Pitfalls and complication avoidance. Brazilian Spine Society Annual Meeting, Brazil, April 2011.

Przybylski GJ. Evaluating limb weakness. JFK Neuroscience Symposium for the Primary Care Physician, Edison, NJ, October 2011.

Przybylski GJ. New Medicare Payment Regulations: The Untold Dangers of Healthcare Reform. Cedars-Sinai 11<sup>th</sup> Annual Symposium on Current Concepts in Spinal Disorders, Las Vegas, NV, February 2012.

Visiting Professor Lectures:

Evaluation and Management Guidelines; CPT Coding Update. John F. Kennedy Medical Center, Edison, NJ, July 2000.

Evaluation and management of patient with low back pain. Harlingen Medical Center, Harlingen, TX, September 2000.

Current concepts in management of spinal infections. Medical College of Wisconsin, Milwaukee, WI, August 2001.

Outpatient lumbar fusion: Extraforminal MIS approach to lumbar fusion. Medical College of Wisconsin, Milwaukee, WI, December 2005.

Understanding Medicare Hospital and Physician Payment Systems. State University of New York, Albany, NY, July 2006.

Understanding Medicare Hospital and Physician Payment Systems. Columbia University, New York, NY, August 2006.

Understanding Medicare Hospital and Physician Payment Systems. University of Medicine and Dentistry New Jersey, Newark, NJ, September 2009.

[www.drrichardkaul.com](http://www.drrichardkaul.com)

September 12 2013

Reply To:  
Dr. Richard Arjun Kaul, MD  
973 338 0980 EXT 214  
[drrichardkaul@gmail.com](mailto:drrichardkaul@gmail.com)

J. H. Buehrer and Associates  
Certified Court Reporters  
1613 Beaver Dam Road  
Point Pleasant, New Jersey 08742

Re: In the Matter of the Suspension or the Revocation of the License of Richard A. Kaul, M.D.  
License No : 25 MA 063281  
Docket No : BDS 08959- 2012 N

Dear Sir/Madam

I am writing this letter as a matter of urgency to demand that the outstanding 7 transcripts in the above matter be provided to this office within the next 24 hours.  
I have left 3 messages on your voicemail requesting the provision of the ALL the transcripts and so far only 16 have been forwarded.

The deadline for post trial submission briefs is September 23<sup>rd</sup> 2013 and despite multiple calls made to your office over the last 4 weeks by Claudia Condruz, Esq. and myself asking for the transcripts you have been non cooperative.

The hearing in the above matter commenced April 9<sup>th</sup> 2013 and concluded June 28<sup>th</sup> 2013 and there is therefore no reasonable explanation as to why these documents have not been provided despite numerous requests.

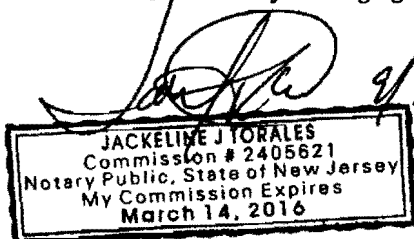
I look forward to your response and receipt of the outstanding seven transcripts by 5pm EST September 13 2013.

Yours sincerely



Richard Arjun Kaul, MD

Cc: Charles Shaw, Esq  
Doreen Hafner, Esq  
The Honorable Howard Solomon  
Daniel T. McMurray- Managing Director, FOCUS



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September 12 2013

Reply To:  
Dr. Richard Arjun Kaul, MD  
973 338 0980 EXT 214  
[dr-richard-kaul@gmail.com](mailto:dr-richard-kaul@gmail.com)

The Honorable Judge, Howard Solomon  
The New Jersey Office of Administrative Law  
7<sup>th</sup> floor  
33 Washington Street  
Newark, New Jersey 07102

Re: In the Matter of the Suspension or the Revocation of the License of Richard A.Kaul, M.D.  
License No : 25 MA 063281  
Docket No : BDS 08959- 2012 N

Dear Judge Solomon

I am writing this letter as a matter of last resort to bring your immediate attention to an issue that I believe has significant relevance for the above matter and which deeply troubles me as I am sure, having witnessed your impartial jurisprudence, it would you.

There are two issues of concern:

1. The inconsistency of a critical part of the May 6<sup>th</sup> transcript provided by J.H. Buhren compared to the transcript from Veritext, the service that I retained for certain days and I understand the comments you made in court regarding your insistence that you would only be referring to the court scheduled transcripts. However in court on that same day was a senior journalist from the largest orthopedic trade publication, Walter Eisner, and in the widely read article 'Spine On Trial' he specifically described the admission of Dr. Gregory Przybylski that NO STANDARDS exist for education and training in Minimally Invasive Spine Surgery. This very important detail has been omitted from the court scheduled transcript and as I am sure you will agree presents a very difficult situation.
2. There were 23 days of testimony and there are 23 transcripts with a deadline for submission of September 22 2013. I and my attorney, Charles Shaw, Esq., are in possession of only 16 with only 10 days left. I have placed multiple calls to J.H. Buhren requesting the provision of these outstanding documents and have received no response. Charles Shaw to his great credit has asked the New Jersey deputy attorney general, Doreen Hafner, to provide the transcripts of which she is in complete possession and has been consistently denied despite the fact that it would actually help mitigate the over \$1,000,000 of taxpayers money already spent by the state of New Jersey in bringing this case. The quality of the brief submitted on September 23<sup>rd</sup> will be dependent on the accuracy and possession in a timely manner of ALL 23 of the transcripts. Of great significance is the fact the transcript of Professor Solomon Kamson who was my main expert is one of the seven missing transcripts.

The outcome of this case has enormous consequences for many parties and the immediate concern is ensuring that there is a fair and legal approach to the provision of ALL of the transcripts in an accurate manner.

I would therefore respectfully request that the court order J.H.Buhren to provide the missing 7 transcripts by September 16<sup>th</sup> 2013 which would still only provide 3 days for analysis with the balance for brief drafting.

I have grave concerns that there will not be enough time to properly prepare the submissions unless the court intervenes immediately.

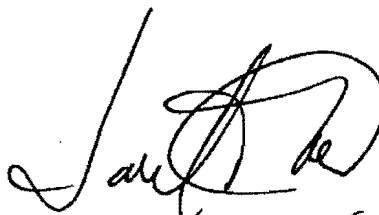
I look forward to your response

Yours sincerely

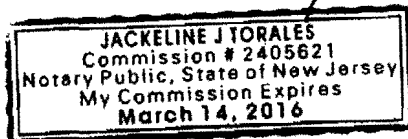


Richard Arjun Kaul, MD

Cc; Charles Shaw, Esq  
Doreen Hafner, Esq  
Daniel T. McMurray- Managing Director, FOCUS  
Ilissa Hook, Esq



9/12/2013





[www.drrichardkaul.com](http://www.drrichardkaul.com)

September 13 2013

Reply To:

Dr. Richard Arjun Kaul, MD  
973 338 0980 EXT 214  
[drrichardkaul@gmail.com](mailto:drrichardkaul@gmail.com)

Mr. Chris Christie  
Office of the Governor of New Jersey  
P.O. Box 001  
Trenton, New Jersey 08625

Dear Mr.Christie

I am writing this letter to bring your immediate attention to a problem that if not addressed now in a fair and legal manner will escalate rapidly and which specifically involves the following two issues:

1. The inconsistency between a critical part of the states transcript of Gregory Przybylski, MD, their main expert witness, and the transcript of the independent court reporter that I retained due to my concerns about the accuracy of the reporting process in the New Jersey Office of Administrative Law. In addition Walter Eisner, a senior reporter with Orthopedics This Week, flew in from Minneapolis for the May 6th cross examination of GP and wrote an article entitled "Spine on Trial" which is consistent with the independent transcription but inconsistent with the states transcript at the critical point where GP under cross examination admits there are NO STANDARDS for education and training in minimally invasive spine surgery. This admission was a significant blow for their case and is missing from their transcription.
2. There were 23 days of testimony and there were 23 transcripts generated. The final date for the post trial submission briefs is September 22<sup>nd</sup> 2013 and so far only 16 have been provided by the court contracted transcription service, J. H. Buehrer to my attorney which as you can imagine is a significant hurdle and one which if not immediately addressed will in my opinion have a negative impact on the licensing matter. I have left multiple voice messages with J. H. Bhuren and received no response. Charles Shaw has on multiple occasions asked Doreen Hafner, Esq, the deputy attorney general acting for the medical board and who is in possession of all of the transcripts to provide copies but she consistently denied all of the requests.

As I am sure you are aware the suspension of my medical license by the New Jersey Medical Board in June 2012 in a highly publicized and some would say politicized manner prompted the following responses from patient groups:

1. A petition with a 1000 patient signatures and 100 letters was delivered to you personally and in you capacity as the elected official currently occupying the office of New Jersey Governor to which there was absolutely no response and I

understand that in your official capacity you cannot be ostensibly involved but the communication was also hand delivered to you personally and I cannot currently ascertain any explanation for the lack of response.

2. Key Darrow, who was a patient of mine who testified on my behalf at the hearing in the matter above in June 2013 contacted the office of the Pompton Lakes Republican Assemblyman, Scott Rumana and subsequently handed him a file containing a petition and letters of patient support. Mr. Rumana did nothing to help despite the fact that New Jersey Spine and Rehabilitation Surgical Center had brought significant business with job creation to his struggling town.
3. Frank Cecala and his family had been patients of mine since 2003. Frank is the head groundsman for Delbarton School in Morristown, which is the school that you children attend and it was this capacity, and through this connection that he attempted to bring my case to your attention in 2012 but was as with all of these communications ignored.
4. Michael Tfrank and his family have been patients of mine since 2003. Michael has been a friend of the father of Scott Rumana for many years and spoke to both of them about my case with an appeal to help. Again, as with every other patient, he was ignored.
5. Kathleen Calabrese and her now deceased husband, 'Jimmy' had been patients of mine since 2003. Kathy is very familiar with the New Jersey Republican Party and specifically the sector of the party that operates out of Morristown, your home base. Kathy talked with a senior member of your party in Morristown and expressed her profound respect for my professionalism. In this instance however the individual communicated that the suspension of my medical license was 'unfair' and should never have occurred'.

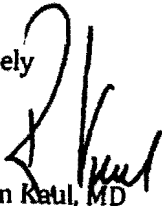
The suspension of the medical license was the cause of the filing in Federal Court for Chapter 11 Protection and this would NOT have happened had the license not been suspended which occurred in my opinion as a consequence of a professional turf war that became political.

The transcription irregularities and deficiencies combined with the deadline for post-trial submission briefs, which is September 23<sup>rd</sup> 2013, cause me great consternation. The quality of the brief will determine the outcome of the licensing matter, which will determine the outcome of the Chapter 11. The fact that only 16 of the 23 briefs have been provided, despite multiple efforts made by multiple parties, and with only 10 days remaining from the basis for this letter and specifically for a request directly to you, Mr. Christie, to engage and ensure that due process is afforded to the above matter in a fair, legal and transparent manner. This is very different request to the types described above as this talks to the issue of fundamental fairness of a system whose decisions and consequences are far reaching and for which you as the elected official are responsible.

I would therefore respectfully request that you contact the transcription service, J.H. Buehrer, and advise them of their obligation and duty to the legal system and more importantly justice.

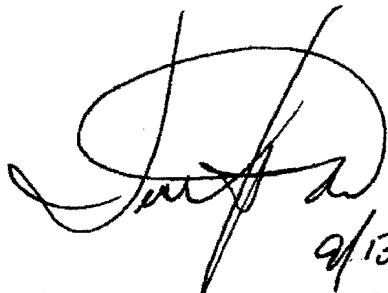
I look forward to your prompt response.

Yours sincerely

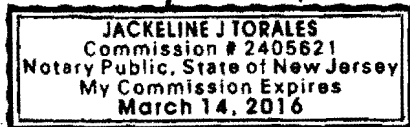


Richard Arjun Katul, MD

Cc: Jeffrey Chiesa, Esq  
Doreen Hafner, Esq  
Judge Howard Solomon, Esq  
Charles Shaw, Esq  
Daniel T. McMurray  
Ilissa Hook, Esq  
Milica Fatovich, Esq  
J.H. Buehrer And Associates- Certified Court Transcribers



9/13/2013



[www.drRichardKaul.com](http://www.drRichardKaul.com)

September 16<sup>th</sup> 2013

Reply To:  
Dr. Richard Arjun Kaul, MD  
973 338 0980 EXT 214  
[drRichardKaul@gmail.com](mailto:drRichardKaul@gmail.com)

District XIV  
Office of Attorney Ethics  
Mountain View Office Parks  
840 Bear Tavern Road  
PO Box 963  
Trenton, New Jersey 08625  
609 530 4008

[http://www.judiciary.state.nj.us/oae/atty\\_disc/atty\\_disc.htm#filing](http://www.judiciary.state.nj.us/oae/atty_disc/atty_disc.htm#filing)

Re: Doreen Hafner Ethical Violation  
Date of Ethical Violation- May 16<sup>th</sup> 2012

Matter: Kaul v The State of New Jersey et al

Dear Ethics Committee

I am writing to file a formal ethics complaint against Doreen Hafner for grossly unethical conduct in the above matter with a specific violation of the ethics code that was rooted in political pressure from the Christie Administration.

#### CHRONOLOGY

I am a physician and graduated in 1988 from the Royal Free Hospital School of Medicine, London University. I undertook 8 years of post-graduate training in the United Kingdom and the United States in the fields of:

1. General Surgery
2. Anesthesiology
3. Interventional Pain

I entered private practice in 1996 and up until June 2012 have provided care to the the following number of patients:

1. 8000- Anesthesiology
2. 10,000- Interventional Pain
3. 800- Minimally Invasive Spine Surgery

I performed the:

- 1<sup>st</sup> outpatient minimally invasive lumbar fusion in 2005
- 1<sup>st</sup> outpatient multi-level lumbar fusion in 2011
- 1<sup>st</sup> outpatient adolescent spondylolisthesis corrective fusion in 2011

From 2002- 2012 I was both the educator and participant in over 80 hands on cadaver and live training courses administered internationally.

New Jersey Spine and Rehabilitation Surgical Center opened in March 2011 and was a Medicare Certified and AAAHC Accredited Ambulatory Surgical Center in Pompton Lakes that had a 0% infection rate in 2011 as reported in North Jersey. Com. The state of New Jersey was involved in the process for the credentialing of this facility and had complete knowledge of the cases that would be performed.

The New Jersey Medical Board filed a verified complaint on April 2 2012 making allegations about my perceived 'lack' of education and training in Minimally Invasive Spine Surgery based upon the opinions of:

1. Dr. Andrew Kaufman- Interventional Pain- UMDNJ
2. Dr. Gregory Przybylski- Neurosurgeon- JFK Medical Center

It should be noted neither of these individuals are board certified in the specialty of Minimally Invasive Spine Surgery but I am and have been since 2004.

Doreen Hafner, Esq was retained by the New Jersey Medical Board and is therefore responsible for her legal conduct in this matter.

Robert Conroy, Esq represented my interests in the above legal matter from April 16<sup>th</sup> 2012 to July 8<sup>th</sup> 2012.

I entered into an agreement with the NJBME on May 9<sup>th</sup> 2012 in which I consented to temporarily refrain from performing lumbar discectomies and fusions and would make an application for privileges at a New Jersey Hospital although it must be stated that hospitals have a much higher infection rate than ambulatory surgical centers and are 3.5 times as expensive. A 13: 1 majority voted the agreement with the only dissenter being Dr. Steven Lomazow who is a neurologist on staff at Overlook Hospital and specifically at the Atlantic Neuroscience Institute, which coincidentally happens to be the same facility to which Drs Andrew Kaufman and Robert Heary bring their business.

Eric Kanefsky, Esq, the acting Director of the Division of Consumer Affairs, filed a complaint on May 15<sup>th</sup> 2012 suspending my CDS prescribing privileges knowing that it would prevent me from obtaining hospital privileges, a process I had already commenced and what can only be described as a complete abuse of political office. I responded by filing a lawsuit against Mr. Eric Kanefsky, Ms. Doreen Hafner, Mr. Jeffrey Chiesa and the State of New Jersey in Mercer County Superior Court in which I asked the court significantly to:

1. Appoint a special prosecutor
2. Appoint an ad hoc medical board.

As I had no hope of a fair trial in the New Jersey Court System due to the completely political nature of the case and the intimate involvement of the Christie Administration.

On May 16<sup>th</sup> 2012 at approximately 4.30pm EST I received a phone call on my cell phone from Robert Conroy during which he communicated a conversation he had just had with Doreen Hafner and in which she described the events surrounding and leading to the order given by the Christie Administration to void the agreement and suspend my medical license. It was during this conversation that Doreen Hafner stated 'Bob I just want to let you know the decision to suspend his license had nothing to do with me. I am just following orders'.

I remember exactly where I was sitting when I heard this specific part of their conversation and realized that the order was handed down by Christie via Chiesa with Kanefsky acting as the delivery boy.

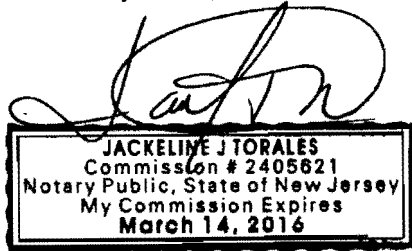
Doreen Hafner graduated from law school and swore an oath to her profession. She subsequently applied for and was given the right to practice law in the state of New Jersey and all of this occurred before Mr. Christie occupied the Office of Governor in Trenton. Her duty as a lawyer is therefore to her ethical obligations and NOT Mr. Christie who I am sure has no concern for the professional welfare or reputation of Ms. Hafner and it was incumbent on her to follow these obligations and not the political order of Mr. Christie. An ethical course of action would have at the least led her to a refusal to engage in the aforementioned action and should have prompted her legal conscience to report and expose the wrongdoing. The FACT that she did not is the basis for the ethical violation, which in my humble opinion necessitates further investigation, and although I understand the very politically charged nature of this complaint I hope experienced, fair and politically impartial jurisprudence prevails.

I look forward to your response.

Yours sincerely



Richard Arjun Kaul, MD



9/16/2013

[www.drrichardkaul.com](http://www.drrichardkaul.com)

September 26<sup>th</sup> 2013

Reply To:  
Dr. Richard Arjun Kaul, MD  
973 338 0980 EXT 214  
[drrichardkaul@gmail.com](mailto:drrichardkaul@gmail.com)

Mr. Chris Christie  
Office of the Governor of New Jersey  
P.O. Box 001  
Trenton, New Jersey 08625

Dear Mr. Christie

In response to a letter I sent to your office dated September 13<sup>th</sup> 2013 (please see attached) in which I brought to your attention the illegal alteration of legal transcripts in the matter of The State of New Jersey v Dr. Richard A Kaul requesting an investigation of the matter, did receive a phone call to the office of New Jersey Spine and Rehabilitation- tel 973 338 0980- at approximately 11am from a woman who identified herself in the following manner:

'this is Jaime from Governor Christie's office'

She then proceeded to tell me that unfortunately you could not get involved as this is a legal proceeding in the office of administrative law.

I responded by informing her that the committing of 'EVIDENCE TAMPERING' is an entirely separate issue and one that raises suspicions and questions on all other matters that have been handled in the Office of Administrative Law during your tenure as governor. She responded by telling me she would have to talk with her supervisor and then proceeded to give me her phone number- 609 777 2500.

#### **LEGAL CHRONOLOGY**

I will detail the legal events surrounding my case and the active participation of your Attorney General, Jeffrey Chiesa in manipulating both the media and interfering with the legal procedures of the New Jersey Medical Board in April 2012 under your explicit direction causing the suspension of my medical license. It is therefore evident you have already involved yourself and your administration in the legal process despite the words of protestation spoken by 'Jaime' from your office.

Jeffrey Chiesa, who is temporarily occupying the seat of the late Senator Lautenberg in Washington DC was your attorney general in April 2012 and prejudiced the entire legal process by making false statements to the press. This was again a clear instruction from you. This action amongst many others prompted an application to Superior Court by my attorney Robert Conroy asking the court to appoint:

1. A Special Prosecutor
2. An ad hoc board

Due to the grave concerns about the lack of due process that would be afforded to my case. Not since Watergate has a special prosecutor been appointed to oversee a state sponsored action and Mr. Conroy also communicated in an email to Doreen Hafner that he is the only attorney to ever have the

US Marshalls seize bank assets belonging to the state of New Jersey consequent to a Federal judgement and order.

The problem that now faces you goes to the heart of your integrity, credibility and administration of New Jersey and how you respond will determine the way history remembers you

The consequences of the illegal suspension of my medical license and my ability to make a living have been far reaching and I assure you that I intend on prosecuting this matter to its fullest extent. I filed a widely publicized lawsuit in Bergen County Superior Court, New Jersey on March 22<sup>nd</sup> 2013 and the 1<sup>st</sup> hearing on this matter is

September 27<sup>th</sup> 2013.

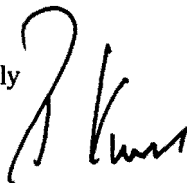
The action as I am sure you are aware makes allegations of defamation and anti-trust conduct against a group of 5 politically connected neurosurgeons who donated significantly to your campaign funds in return for you and Mr. Chiesa to suspend my medical license. The financial damages that I am seeking are in excess of \$30 million and I will not rest till I secure justice and compensation in these proceedings. The monies from this settlement will be mostly donated to the Spine Africa Project, [www.spineafricaproject.org](http://www.spineafricaproject.org), a 501 c 3 US Registered Charity that has since 2008 provided free healthcare and education to the disadvantaged people of the Democratic Republic of Congo and a charity that you and your administration tried to destroy with countless legal subpoenas and investigations that proved the charity was legally organized. This part of your conduct has sickened me as it hurt the most vulnerable citizens of both New Jersey and Africa and due to the resources and time I have had to devote to fighting the almost criminal acts committed against me and my family I have been unable to continue to provide support for the Spine Africa Project.

Mr.Christie you have destroyed the lives of many innocent people for nothing more than greed and your quest for power without a care for the devastated lives left in your trail.

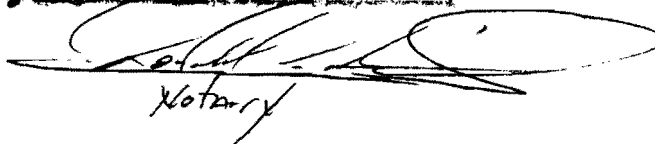
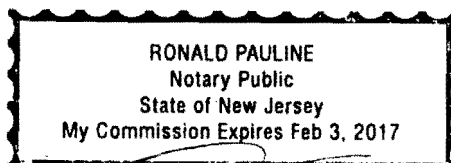
The 'EVIDENCE TAMPERING' and the alteration of the transcripts must be addressed and parties must be held accountable for these crimes and you as the elected governor of the state of New Jersey have a responsibility to its citizens to at the very least have it properly investigated. If however, after reading this letter, you still choose to ignore this issue, I will have no option but to bring it to the attention of the US Federal Government and the government of India of which, as you are aware, I am a citizen.

I would also request that all communications from your office be made in writing.

Yours sincerely



Richard Arjun Kaúl, MD



Notary



## **CURRICULUM VITAE**

**RICHARD KAUL, M.D.**

111 Wanaque Avenue  
Pompton Lakes, NJ 07442

Office: 973-248-8818  
Cell: 347-838-0943  
RKaul@njsrlaserspine.com

Date of Birth: 5 November 1964

### **EDUCATION:**

- 1983-1988:** The Royal Free Hospital School of Medicine, London University, London, England. (Rowland Hill Street, Hampstead, London, NW3. Tel- 011442077940500).
- 1988-1989:** Surgical House Officer, Lister Hospital, Stevenage, Hertfordshire, England. (Preceptor: Keith Giles, M.D.) (Contact Clare Randall, Medical Staffing, Corey's Mill Lane, Stevenage, Hertfordshire, SG1 4AB. Tel- 011441438314333).
- 1989-1989:** Medical House Officer, Academic Unit of Medicine, Royal Free Hospital, London, England. (Preceptor: Professor Neil Macintyre M.D.) (Contact Kerry Dolan, Center for Hepatology, Upper 3<sup>rd</sup> floor, Rowland Hill Street, NW3 2PF. Tel- 011442077940500).
- 1989-1990:** Surgical Intern, Catholic Medical Center, Queens, New York. (Preceptor: Walter Pizzi, M.D.) (Contact Rita Raio, Department of Surgery, 88-25 153<sup>rd</sup> Street, Suite 1L, Jamaica, Queens, NY, 11432. Tel-718-558 7216).
- 1990-1991:** Surgical Intern, Nassau County Medical Center, East Meadow, New York. (Preceptor: James Evans, M.D.) (Contact Ann Marksteiner, 8<sup>th</sup> floor, Resident Resource Officer, 2201 Hempstead Turnpike, East Meadow, NY, 11554. Tel-516-572 6273).
- 1991-1992:** PGY-2 Surgery Resident, Booth Memorial Medical Center, Queens, New York. (Preceptor: Jameson Chassin, M.D.) (Contact Donna DeChirico, The New York Hospital of Queens, 5645 Main Street, Flushing, NY, 11355. Tel-718 670 1120).
- 1992-1995:** Anesthesiology Residency, Albert Einstein- Montefiore Medical Center, Bronx, New York. (Preceptor: Albert Saubermann, M.D.) (Contact Department of Anesthesiology, 4<sup>th</sup> floor. Tel 718-920 4316).
- 1995-1996:** Pain Fellowship, Department of Anesthetics, Bristol Royal Infirmary, Bristol, England. (Preceptor: Robert Johnson M.D.) (Contact Tel-011441179230000).

## **PROFESSIONAL APPOINTMENTS:**

**March 2007 – Current:** Private Practitioner, New Jersey Spine & Rehabilitation, Pompton Lakes, New Jersey.

**April 2010 – February 2011:** Attending in Interventional Pain and Minimally Invasive Spine, North Jersey Surgery Center, Englewood Cliffs, New Jersey.

**April 2007 – October 2010:** Director of Outpatient Spine Surgery, The Bergen Passaic Ambulatory Surgery Center, Clifton, New Jersey.

**May 2007 – December 2007:** Attending in Interventional Pain and Minimally Invasive Spine, Pain & Surgery Ambulatory Center, Wyckoff, New Jersey.

**November 2006 – March 2007:** Medical Director of The North Jersey Center for Surgery, Newton, New Jersey.

**September 2004 – March 2007:** Medical Director of Market Street Surgical Center, Saddle Brook, New Jersey.

**June 2004 – May 2007:** Attending in Interventional Pain and Minimally Invasive Spine, The North Jersey Center for Surgery, Newton, New Jersey.

**June 2004 – March 2007:** Private Practitioner in Interventional Pain and Minimally Invasive Spine, Saddle Brook, New Jersey.

**October 2002 – December 2003:** Attending, Pain Management Center, St. Clare's Hospital, Denville and Dover, New Jersey.

**February 2002 – August 2002:** Attending Anesthesiologist and Director of Pain Services, Columbus Hospital, Newark, New Jersey.

**October 2001 – December 2001:** Attending Anesthesiologist, Hackensack University Medical Center, Hackensack, New Jersey. (Contact Dr. Mark Schlesinger, Chairman Dept. of Anesthesiology. Tel 201 996 2419).

**January 1997 – January 2001:** Attending, The Regency Clinic, London, England. (Contact 27 Welbeck Street, London W1M 7PG, England. Tel-011448454583589)

**September 1996 – December 1996:** Attending in charge of pain clinic, Macclesfield General Hospital, Macclesfield, Cheshire, England. (Contact Tel-011441625421000).

## **CERTIFICATION/LICENSURE:**

**2006** Member of The American Society of Interventional Pain Physicians.

**2004** Completion of visiting fellowship in Minimally Invasive Spine Surgery, Wooidul Spine Hospital, Seoul, Korea.

**2004** Member of The American Academy of Minimally Invasive Spinal Medicine and Surgery.

**2004** Diplomate of the American Board of Interventional Pain Management.

**1996** Diplomate of American Board of Anesthesiology.

**1996** Medical License, State of New Jersey: MA 63281.

**1992** F.L.E.X

**1989** E.C.F.M.G.

**1988** MB.BS (London University).

### **CREDENTIALS AND CERTIFICATES:**

North American Spine Society – Evaluation & Treatment of Adult Spinal Deformity: Hands-On Course. March 16 – 17, 2012. Burr Ridge, IL. Certificate of Participation.

Beckers ASC 18<sup>th</sup> Annual Ambulatory Surgery Centers Conference. Improving Profitability and Business and Legal Issues. Featured Speaker: Orthopedics and Spine in ASC's – Key Trends and Ideas. October 28, 2011. Chicago, IL.

The Philipino-American Medical Conference – The Future of Outpatient Spine Surgery. Featured Speaker. September 24, 2011. Atlantic City, NJ.

AOSpine Live Tissue Training – The Prevention and Management of Complications in Spine Access Surgery. September 17, 2011. Strasbourg, France. Certificate of Participation and Completion.

SI-Bone – iFuse Implant System Surgeon Training Program. May 21, 2011. Jamesburg, NJ. Certificate of Completion.

LDR – Anterior Stand-alone Clinical Solutions utilizing VerteBRIDGE Technology. A hands-on cadaver skills lab. May 13, 2011. Las Vegas, NV.

The 3<sup>rd</sup> Annual ASC Review Seminar. April 27, 2011. Somerset, NJ.

Utilizing Urine Drug Screens Appropriately sponsored by Avee Laboratories. March 15, 2011. East Hanover, NJ. Certificate of Attendance.

Spine Arthroplasty Society. The Second Annual Meeting of the International Society for the Advancement of Spine Surgery – Middle East Chapter (SASME). February 3 – 5, 2011. Movenpick Dead Sea, Jordan.

20<sup>th</sup> Annual Dr. Tom Lowe Spine Symposium: The Surgical Management of Spinal Disorders. January 14 – 17, 2011. Beaver Creek, CO. Certificate of Participation.

Weill Cornell Medical College. Indications and Controversies: Minimally Invasive Spinal Surgery and Navigation. Hands-on Symposium. December 2 – 4, 2010. New York, NY. Certificate of Participation.

2010 Annual Meeting of the Society for Minimally Invasive Spine Surgery. November 5 – 7, 2010. Miami, FL. Certificate of Participation.

Informed - Cultural Competency Update for the Physician. October 12, 2010. Certificate of Completion.

X-Spine - Advances in Interspinous and Transfacet Fixation: A Hands-On Cadaver Course. August 27, 2010. Henderson, NV.

American Society of Interventional Pain Physicians Webinar – Urine Drug Screen Testing Compliance conducted on July 15, 2010.

Columbia University College of Physicians & Surgeons – 19<sup>th</sup> Annual Course & Symposium, Basic & Advanced Techniques in Electrodiagnostic Medicine. June 16 – 17, 2010. New York, NY. Certificate of Participation.

Dubai Spine Masters: Interventional and Pain Management Techniques. May 26 – 27, 2010. Dubai, UAE. Certificate of Participation.

Dubai Spine Masters: Minimally Invasive Surgical Strategies. May 23 – 25, 2010. Dubai, UAE. Certificate of Participation.

10<sup>th</sup> Annual Global Symposium on Motion Preservation Technology. April 27 – 30, 2010. New Orleans, LA. Certificate of Participation.

American Society of Interventional Pain Physicians Webinar – Evidence-Based Interventional Techniques: An Algorithmic Approach To Keeping It Simple, Safe and Successful conducted on March 30, 2010. Certificate of Participation.

Spine Arthroplasty Society. February 18, 2010. Certificate of Membership.

North American Spine Society – 24<sup>th</sup> Annual Meeting. November 11 – 14, 2009. San Francisco, CA. Certificate of Completion.

North American Spine Society – 24<sup>th</sup> Annual Meeting Technique Workshop: Interbody Fusion Technologies. November 10, 2009. San Francisco, CA. Certificate of Completion.

2009 Annual Meeting of the Society for Minimally Invasive Spine Surgery. Oct. 9 – 12, 2009. Las Vegas, NV. Certificate of Participation.

North American Spine Society - Spine Across The Sea 2009. July 26 – 30, 2009. Maui, Hawaii. Certificate of Completion.

21<sup>st</sup> Annual International Bethesda Spine Workshop: Thoraco-Lumbar Course. April 19-20, 2009. Certificate of Participation.

13<sup>th</sup> Annual International Argospine Symposium. January 29-30, 2009. Paris, France. Certificate of Attendance.

SRH Klinikum Karlsbad-Langensteinbach gGmbH. Akademisches Lehrkrankenhaus der Universität Heidelberg. Guttmannstrasse 1, 76307 Karlsbad, Germany. January 26-28, 2009. Visiting doctor, rounds with Dr. Robert Melcher.

University of California, San Diego School of Medicine. 2008 Annual Meeting of the Society for Minimally Invasive Spine Surgery. November 13-15, 2008. Henderson, NV. Physician Certificate of Credit.

North American Spine Society – 23<sup>rd</sup> Annual Meeting. October 14-18, 2008. Toronto, Canada. Certificate of Completion.

North American Spine Society – 23<sup>rd</sup> Annual Meeting Technique Workshop: Interbody Fusion Technologies. October 14, 2008. Toronto, Canada. Certificate of Completion.

Cleveland Clinic Foundation Center for Continuing Education – Spine Review – July 16-22, 2008. Cleveland, OH. Certification of Participation.

Columbia University College of Physicians & Surgeons – Basic & Advanced Techniques in Electrodiagnostic Medicine. June 11-12, 2008. New York, NY. Certificate of Participation.

North American Spine Society – Minimally Invasive Spine Surgery: A Hands-on Course. June 6-7, 2008. Spine Masters Institute. Burr Ridge, IL. Certificate of Participation.

Interventional Spine. PERPOS Surgical Training Program. February 15, 2008. Clifton, NJ. Certificate of Recognition.

Spineology Physician Instructor at Bergen Passaic Ambulatory Surgery Center. Didactic and Hands-on Cadaver Implantation of OptiMesh Surgical Mesh System. February 15, 2008. Clifton, NJ.

Cedar-Sinai Institute for Spinal Disorders - 7<sup>th</sup> Annual Symposium on Current Concepts in Spinal Disorders. February 1-2, 2008. Las Vegas, NV. Certificate of Participation.

Saint Louis University School of Medicine – The 1<sup>st</sup> CSRS Hands-On Cadaver Course. Cervical Spine Decompression & Stabilization Techniques. January 18-19, 2008. Certificate of Participation.

Saint Louis University School of Medicine - The 1<sup>st</sup> CSRS Cervical Spine Decompression & Stabilization. January 18-19, 2008. Certificate of Attendance.

Medtronic Midas Rex Institute – Instruction in advanced high speed instrumentation for surgeons. St. Louis, MO. January 17, 2008. Certificate of Attendance.

Spine Conference Case Presenter – Lenox Hill Hospital, NY. December 13, 2007.

Weill Cornell Medical College, NY – Minimally Invasive Spinal Surgery and Navigation. November 30 – December 1, 2007. Certificate of Attendance.

University of California, San Diego School of Medicine – Minimally Invasive Surgery of the Spine 2007. November 16-17, 2007. Physician Certificate of Credit.

North American Spine Society – 22<sup>nd</sup> Annual Meeting. Austin, TX. October 23-27, 2007. Certificate of Completion.

North American Spine Society – Interbody Fusion Technologies. Austin, TX. October 23, 2007. Certificate of Completion.

North American Spine Society - Motion Stabilization: A Hands-On Course. May 18-19, 2007. Spine Masters Institute. Burr Ridge, IL. Certificate of Participation.

19th Annual International Bethesda Spine Workshop: Thoraco-Lumbar Course. May 6-7, 2007. Certificate of Participation.

19th Annual International Bethesda Spine Workshop: Cervical Course. May 4-5, 2007. Certificate of Participation.

AOSpine North America Challenges and Complications in Complex Spine Surgery Symposium. San Francisco, CA. April 28-29, 2007. Certificate of Participation.

North American Spine Society – NASS Spring Break 2007: Back to the Future: Straight Spines, Straight Talk. March 14-17, 2007. Certificate of Attendance.

MinSurg Biomechanical Innovations – TruFUSE Surgical Training. February 17, 2007.  
Certificate of Completion.

Surgeon Training Program for Atavi Minimally Invasive Posterior Cervical & Upper Thoracic Surgery conducted by Endius, Inc. September 9, 2006. Certificate of Attendance.

Zimmer Spine – Dynesys Dynamic-Stabilization Workshop at St. John's Health Center – Santa Monica, CA. July 21-22, 2006. Certificate of Attendance.

Zimmer Spine – Center of Excellence Program at St. Mary's Hospital – West Palm Beach, FL. June 1-2, 2006. Certificate of Attendance.

University of South Florida – Preservation of Motion in the Spine. April 5-8, 2006. Certificate of Completion.

North American Spine Society – NASS Spring Break: Back to the Evidence. March 8-11, 2006. Certificate of Completion.

The Royal College of Physicians & Surgeons of the United States of America. 5th Global Congress of Minimally Invasive Spinal Specialists. Laser Assisted Spinal Endoscopy, Nucleoplasty & Coblation, Percutaneous Cervical Discectomy, Vertebral Augmentation, Foraminal Decompression, Laser Facet Rhizotomy, Laser Sympathectomy, Epiduroscopy. December 15-18, 2005. Certificate of Attendance.

18th Annual Meeting of the International Intradiscal Therapy Society (IITS). May 25-28, 2005. Certificate of Participation.

Spineology Physician Instructor at Market Street Surgical Center. Didactic and Hands-on Cadaver Implantation of OptiMesh Surgical Mesh System. Saddle Brook, NJ. May 7, 2005.

National University of Health Sciences – Lincoln College of Postprofessional, Graduate & Continuing Education. Manipulation Under Anesthesia. April 4, 2005. Certificate of Proficiency.

University of South Florida – Preservation of Motion in the Lumbar Spine. March 17-20, 2005. Certificate of Completion.

University of South Florida – Preservation of Motion in the Lumbar Spine Labs. March 18, 2005. Certificate of Completion.

North American Spine Society – Advanced Lumbar Spine Surgery: Minimally Invasive Surgery and Motion Preservation: A Hands-On Course. March 4-5, 2005. Certificate of Completion.

North American Spine Society – Cervical Fixation: A Hands-On Course. January 21-22, 2005. Certificate of Completion.

North American Spine Society – 19th Annual Meeting. October 27-30, 2004. Certificate of Attendance.

North American Spine Society – NASS 19th Annual Meeting Techniques Workshop: Minimally Invasive Spine Surgery: Decompression & Fusion/Implants. October 26, 2004. Certificate of Completion.

North American Spine Society – NASS 19th Annual Meeting Techniques Workshop: Percutaneous Vertebral Augmentation. October 26, 2004. Certificate of Completion.

The 11th Congress of the International Musculoskeletal Laser Society. May 12-15, 2004 in Seoul Korea. Certificate of Attendance.

Continuing Education, Inc. – Minimally Invasive Spine Update 2004. March 26-28, 2004. Certificate of Participation.

Continuing Education, Inc. – Fourth Global Congress: Minimally Invasive Spinal Surgery and Medicine. November 19-22, 2003. Certificate of Participation.

American Association of Medical Foot Specialists. Attended course: Problems in Wound Management. November 2, 2003.

American Society of Interventional Pain Physicians – Active Member since March 2002.

### **ABSTRACTS:**

Kaul R. Percutaneous Lumbar Fusions in the Outpatient Surgical Practice. 2<sup>nd</sup> Annual Meeting of the International Society for the Advancement of Spine Surgery Middle East Chapter (SASME). Feb. 4, 2011. Movenpick, Dead Sea, Jordan.

Datta S., Kaul R., Manchikanti L. Letter to Editor: Is there really a cause-effect relationship between steroid dose, pain management practices, joint injected (sacroiliac joint), and infection? Reg Anesth Pain Med. 2011 Jul-Aug; 36(4):410.

Datta S., Kaul R. Outpatient Thoracic Endoscopic Discectomy (PETD) for Herniated Thoracic Disc with Thecal Sac Adhesions: Case Report and Review of Literature.

### **PROCTORSHIPS:**

Amendia Education/Certification Proctorship. December 3, 2011. Pompton Lakes, NJ.

Amendia Education/Certification Proctorship. October 8, 2011. Pompton Lakes, NJ.

Disc-FX Education/Certification Proctorship. September 10, 2011. Baldwin, NY.

Disc-FX Education/Certification Proctorship. July 23, 2011. Newport Beach, CA.

Disc-FX Education/Certification Proctorship. June 11, 2011. Dallas, TX.

Disc-FX Education/Certification Proctorship. April 30, 2011. Pompton Lakes, NJ.

### **WEBINAR HOST/CASE PRESENTATIONS:**

Motion Sparing Devices as an Alternative to Fusion. Webinar Host. September 27, 2011.

Grade 1/2 Spondylolisthesis. Case Presentation. September 27, 2011.

Lumbar Herniated Disc and Junctional Syndrome. Case Presentation. September 27, 2011

Advanced Medical Techniques Designed to Compliment Chiropractic Care. Webinar Host. September 20, 2011.

Discography and the Silent MRI. Webinar Host. August 2, 2011.

**PHILANTHROPY:**

The Spine Africa Project – founded in August 2008.

The mission of The Spine Africa Project focuses on three objectives: the treatment of those afflicted with spinal conditions, the education of local medical personnel, and social change.

- Jason Sendwe Hospital. Lubumbashi, Democratic Republic of Congo. December 1 – 5, 2008.
- MyungSung Christian Medical Center. Addis Ababa, Ethiopia. December 11 – 15, 2010.
- Panzi Hospital. Bukavu, Democratic Republic of Congo. August 20 – 25, 2011.
- Panzi Hospital. Bukavu, Democratic Republic of Congo. February 5 – 10, 2012



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