

RICHARD ARJUN KAUL, MD
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DISTRICT OF NEW JERSEY
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RICHARD ARJUN KAUL, MD

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

v.

KAUL v CHRISTIE: 18-CV-08086

CHRISTOPHER J. CHRISTIE, ESQ et als.,

NOTICE TO TAKE ORAL DEPOSITION

TO: All Counsel of Record/Parties:

PLEASE TAKE NOTICE THAT pursuant to F.R.C.P. 30(a)(1), the testimony of Third Party Witness, Arnold Erwin Feldman, MD, will be taken by deposition upon oral examination before Plaintiff Kaul, a person authorized pursuant to F.R.C.P 30(a)(1) to obtain such information:

DATE: October 18, 2018

TIME: 10:00 a.m.

PLACE: 1860 Beach Boulevard
Biloxi, Mississippi 39531

DEPONENT: Arnold Erwin Feldman, MD

By: Rk
Richard Arjun Kaul, MD

Dated: September 21, 2018

cc: All Parties via e-mail + ECF.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

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RICHARD ARJUN KAUL, MD

Plaintiff,

v.

CHRISTOPHER J. CHRISTIE, ESQ, et al.,

Defendants

CIVIL ACTION NO. 2:16-CV-02364-KM-SCM

CERTIFICATION OF ARNOLD E. FELDMAN

RICHARD ARJUN KAUL, MD
PROPRIA PERSONA
440c SOMERSET DRIVE
PEARL RIVER, NY 10965

Arnold Feldman, MD, hereby certifies to the Court as follows:

1. I am 63 years of age, a United States citizen and am a board-certified anesthesiologist with subspecialty training in interventional pain and minimally invasive spine surgery.
2. I graduated from the Medical College of Pennsylvania in June 1980, and underwent residency training at Thomas Jefferson University Hospital University Hospital (June 1980-June 1981) and Harvard Medical School, Department of Anesthesia (July 1982 July 1983).
3. From 1984 to 2016 I undertook over one hundred and twenty (120) CME hands-on cadaver training courses and eighteen (18) mini-fellowships in minimally invasive spine surgery.
4. From 1999 to 2016 I performed approximately on thousand (1000) minimally invasive spine surgeries.

5. I make this statement in support of the claims that Dr. Richard Arjun Kaul has filed against the Defendants in the above matter.

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6. In late October 2017 I commenced a series of discourses with Dr. Kaul during which we exchanged information relevant to the facts and circumstances of the events, surrounding the revocation of Dr. Kaul's New Jersey medical license. The following is a summary of the pertinent points of our conversations:

Incident in Arizona + Commencement of Conspiracy

In 2006 I attended a minimally invasive spine surgery conference in Phoenix, Arizona, which to the best of my recollection, was also attended by Dr. Kaul. There were approximately five hundred (500) attendees at the meeting, and one of the course directors was Dr. Anthony Yeung, a general orthopedic surgeon who began performing endoscopic discectomies in 2002. Dr. Yeung is the owner and medical director of the Desert Institute and Spine Center, an outpatient facility in Phoenix, at which he and his associates perform minimally invasive discectomies and fusions. It was at this meeting that I first met Dr. Kaul, and to the best of my recollection it was his presence that prompted Dr. Yeung to make the following statement to a group of approximately five (5) physicians:

"There is a doctor in New Jersey, Richard Kaul, who is performing fusions, but they are going to get him."

I clearly remember that I was standing slightly behind and to the left of Dr. Yeung, because just after he made this comment, he invited the five physicians to his house, and then turned around and saw me, at which point he said, "You can come too Arnold". My wife and I attended the event, at which we did not see Dr. Kaul, but we observed Dr. Yeung promoting his surgical skills to his guests, and inviting physicians, a number of whom were interventional pain practitioners, to attend endoscopic spine workshops at his outpatient facility. At that time, Dr. Yeung seemed very enthusiastic about training interventional pain physicians, and did indeed train many. However, in approximately 2008 he stopped training interventional pain physicians unless they were accompanied by a neurosurgeon or orthopedic surgeon. I believe he came under pressure from neurosurgical/orthopedic members of the North American Spine Society. I know that Dr. Gabriel Jasper, a New Jersey physician, was one of the individuals he trained. Dr. Jasper, himself, then became an instructor for Joimax, a German company that specializes in endoscopic spine surgery, and to the best of my knowledge has trained many physicians at his outpatient facility in Toms River, New Jersey.

I received my initial training in the technique from orthopedic surgeon, Dr. Joseph Rauchwerk, who also trained Dr. Kaul. In addition I attended approximately --- hands-on cadaver training courses in the US and Europe, at which I met many trainee neurosurgeons and orthopedic surgeons.

I do not believe that Dr. Yeung was involved in the scheme to sabotage Dr. Kaul's practice, but he seemed particularly informed about the situation in New Jersey.

Incident in Illinois + Spine Turf Wars

In 2017 I was contacted by the owner of an outpatient surgical center in Chicago, Illinois, who informed me that he had just purchased equipment to perform minimally invasive spine surgery, and requested that I teach the technique to an interventional pain physician on staff at his center. I agreed and spent two days at the facility, during which I educated the nurses, surgical technicians and the physician on how to prepare the equipment and perform the procedure. The physician successfully performed two (2) cases under my guidance. Approximately three (3) months later the owner requested my assistance with another case, and when I attended the center I met with an orthopedic surgeon who wanted to learn the technique. The owner instructed me not to inform the orthopedic surgeon that I had trained the interventional pain physician. I believe this owner was aware of the professional '**turf wars**' that existed in minimally invasive spine surgery, and was probably concerned that if the orthopedic surgeon knew about the interventional pain physician, he would stop operating at the facility. I also believe that because of the pressure applied by the neurosurgical/orthopedic members of the North American Spine Society, the issue of the '**turf wars**' had become well known within the non-physician health care community.

Incident in Louisiana + Neurosurgical Racketeers

In approximately 2002 I established an interventional pain and minimally invasive spine surgery practice in Louisiana, and in 2006 I opened an outpatient surgical center, which became one of the busiest facilities in the region. A number of my local competitors, one of whom was the president of the medical board, began attacking my practice in approximately 2012, through slanderous comments to patients and other physicians. The president of the medical board, John Burdine, MD, also happened to be the president of the Louisiana chapter of the American Society of Interventional Pain, and had several offices within a ten-mile radius of my surgical

center. We competed within the same patient community, and I believe that he spearheaded the scheme that resulted in the suspension of my license in 2016.

As a consequence of the suspension, I hired a local neurosurgeon to continue providing care to my patients, and it was through my interactions with this individual that I came to know that a number of neurosurgeons had conspired with Burdine, to destroy my career and livelihood. I specifically remember that this individual told me, ***"You think Burdine is your main enemy. I am telling you that the neurosurgeons are behind this"*** She also described how many of the deaths and complications caused by the neurosurgeons were covered up, and never made known to the public. All of the deaths had occurred at hospitals.

However, due to personal commitments the female neurosurgeon became unable to continue providing care, and I hired a male neurosurgeon from Mississippi. In late 2016 this individual performed a minimally invasive laminectomy. The case proceeded without event and the patient was discharged, but several days later she went to the ER because she was experiencing some pain. The ER doctor called the local neurosurgeons who operated on the patient in the absence of any clinical indication, and found nothing to explain the patient's symptoms. These individuals filed a complaint with the medical board against the Mississippi surgeon, who is originally from Maine, and the board initiated an investigation, which caused him to stop working with me.

Incident in Germany + Market Manipulation + Extortion by North American Spine Society (NASS) of Global Spine Market + German Medical Device Company.

On January 5, 2018 I contacted a surgical representative from Joimax, to enquire whether his company would be interested in purchasing my minimally invasive spine surgery equipment. During our conversation I asked him how his business was developing in the United States, and if the company was still training interventional pain physicians. He informed me that in early 2017 certain members of NASS had told Joimax that they wanted the company to stop training interventional pain physicians anywhere in the world. The company perceived this as a commercial threat, in that if they did not appear to comply, then NASS would instruct its neurosurgical/orthopedic members not to use the Joimax system. As a consequence the company divided its educational corporation into two departments, in which the interventional pain physicians were trained separately from the neurosurgeons/orthopedic surgeons. The company was also forced to restructure its website, to conceal the fact that it had reorganized its corporate educational configuration. The communications from these NASS members were unofficial ones, that were 'off the record', but were made at a time (2016 to 2017) that I understand coincided with their Defendant status in this matter.

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The American Society of Interventional Pain Physicians is currently training its members how to perform minimally invasive spine surgery, and one of the teachers is Dr. Frank Falco, a past-president of the society. It is my understanding that in 2012, Dr. Falco spent several days observing Dr. Kaul perform minimally invasive cervical and lumbar fusions at his surgical center in Pompton Lakes, New Jersey.

Conclusion

Dr. Kaul, like myself, was one of the first physicians to become involved in the development of minimally invasive spine surgery in the United States. I have read some of his legal submissions, in which he accurately describes the critical role of Fluoroscopic Guidance and Interpretation (FGI) in the evolution and practice of the minimally invasive technique. The skills required for FGI are the skills that interventional pain physicians acquire through their early training in the use of the fluoroscope for the delivery of intra-spinal medications, and it is this expertise that explains why they are more competent than neurosurgeons/orthopedic surgeons, in performing minimally invasive spine surgery.

Dr. Kaul, like myself, was a victim of professional jealousy, that manifested itself through a corrupt medical board, that like many in the United States, flagrantly violate the due process rights of physicians.

I believe that this case will cause a fundamental, and long over-due reconfiguration of the mechanism of physician regulation, which will actually benefit the public and the profession of medicine. No evidence exists that the current system has ever protected or indeed protects the public. The medical board system in America has unfortunately operated for too long (1960 to 2018) without supervision, and has become a collection of 'rogue' and decidedly despotic agencies that do not protect the public, but covet and abuse their regulatory power, for personal, economic and political reasons. These agencies must either be dismantled or placed under a federal supervision program, that is transparent to the public, and reports annually to the federal government, the medical profession and most importantly the PUBLIC.

I hope this certification, and my opinion regarding physician regulation, provide the Court with information that it deems helpful in its evaluation of the above case.

I thank you for your consideration.

Dated: September 22, 2018


Arnold E. Feldman, MD

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Baton Rouge, LA 70806
Phone (225) 201-0950

114 Jefferson Davis Blvd. 5: 23
Natchez, MS 39120
Phone (601) 442-5382

Arnold E. Feldman, M.D.

Education

Department of Anesthesia of the Harvard Medical School Boston, MA
25 Shattuck Street
Boston, Ma 02115
617-495-1000

Residency
July 1981-July 1983

Thomas Jefferson University Hospital Philadelphia, PA
111 So 11th Street
Philadelphia, Pa 19107
215-955-6000
Internship-Internal Medicine
June 1980-June 1981

Medical College of Pennsylvania Philadelphia, PA
3300 Henry Ave
Philadelphia, Pa 19129
215-842-6000
Medical Degree
September 1976-June 1980

Colgate University Hamilton, NY
13 Oak Drive
Hamilton, NY
315-228-1000
Bachelor of Arts (Cum Laude)
September 1972-June 1976

Board/Academy Certifications

American Board of Anesthesiology, 1987

American Academy of Pain Management, Diplomate, 1990

Professional Experience

Southwest Mississippi Anesthesia, PA, INC

DBA/ The Feldman Institute

Baton Rouge, LA

Director of Interventional Pain Medicine

Interventional Pain Management Specialist

2001-Present

First Choice Surgery Center of Baton Rouge, LLC

Baton Rouge, LA

Director of Ambulatory Surgery Center

Interventional Pain Management Specialist

2001-Present

Southwest Mississippi Anesthesia, PA, INC

Natchez, MS

Director of Interventional Pain Medicine

Interventional Pain Management Specialist

1986-Present

First Choice Health, Inc

Natchez, MS

Director of Ambulatory Surgery Center

Interventional Pain Management Specialist

1996-Present

Natchez Regional Medical Center

Natchez, MS

Chief of Staff

1993-1994

Natchez Regional Medical Center

Natchez, MS

Board of Trustees

1993-1994

Adams County Correctional Facility

Natchez, MS

Physician

1986-2005

Adams County Mississippi

Natchez, MS

Deputy Coroner

1986-Present

Mobile Infirmary Medical Center

Mobile, AL

Staff Anesthesiologist

1983-1986

**Special
Training/Preceptorship**

First Choice Surgery Center of Baton Rouge, LLC

Lumbar Discoscopic Endoscopic Discectomy

2/15/2004 to 11/14/2005

Preceptor: Joseph Rauchwerk, MD

Kyphon Balloon Kyphoplasty Certification

Orlando, FL

August 2006

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AASMISMS 19th Fellowship – John Chiu, MD

New Innovations and Advances in Endoscopic Minimally Invasive Spine Surgery
Thousand Oaks, Ca
February 2007

Holmium:YAG Lasers for Medicine

Clinical Applications and Safety Related to Minimally Invasive Spine Surgery
March 2007

MaxMore Surgical Technique Introduction Workshop

In cooperation with Alpha Klinik
Munich, Germany
November 9-10, 2007

Carl Zeiss Surgical – Spinal Microsurgery 9

Posterior Approaches to the Lumbar Spine
Munich, Germany
February 2008

TESSYS – Joimax Medical Solutions

Transforaminal Endoscopic Spine System
Oceanside, NY
May 17, 2008

1ST World Conference of Minimally Invasive Spine Surgery & Techniques

Honolulu, HI
June 4-7, 2008

MinSurg Biomechanical Innovations

TruFUSE Surgical Training
New Orleans, La
June 28, 2008

Society for Minimally Invasive Surgery of the Spine Annual Meeting 2008

Las Vegas, NV

November 13-15, 2008

MILD Training Lab – Vertos Medical

Minimally Invasive Lumbar Decompression devices for the treatment of

Lumbar Spinal Stenosis

Baton Rouge, La

December 20, 2008

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North American Spine Society – Skin to Skin Series

Minimally Invasive Surgery

April 2-4, 2009

International Intradiscal Therapy Society

22nd Annual Conference

Phoenix, Az

May 2009

International Society for Minimal Intervention in Spinal Surgery

International 28th Course for Percutaneous Endoscopic Spinal Surgery and
Complementary Minimal Invasive Techniques

Zurich, Switzerland

January 28-29, 2010

The Ultrasound Guided Regional Anesthesia Workshop 2010

Brent House Conference Center Ochsner Medical Center
New Orleans, La

April 10, 2010

Urine Drug Screen Testing Compliance

American Society of Interventional Pain Physicians
July 15, 2010

Disc-FX Workshop Clinical Faculty

First Choice Surgery Center of Baton Rouge, LLC

October 20, 2007

Disc-FX Workshop Clinical Faculty

First Choice Surgery Center of Baton Rouge, LLC

March 15, 2008

Disc-Fx Workshop Clinical Faculty

Live Surgery Transmission

First Choice Surgery Center of Baton Rouge, LLC

April 12, 2008

Jolmax Endoscopic Spine System Workshop Faculty

Anatomy/Cadaver Workshop

Long Island, NY

May 17, 2008

Joimax Endoscopic Spine System Workshop Faculty

Anatomy/Cadaver Workshop

Long Island, NY

September 5-6, 2008

Spine Surgery from Tradition to the Future

Dresden, Germany

October 2-4, 2008

Disc-FX Endoscopic Spine System Workshop Faculty

Elliquence Innovative Medical Solutions, Anatomy/Cadaver Workshop

Long Island, NY

November 8, 2008

Disc-FX Endoscopic Spine System Workshop Faculty - Webcast

Elliquence Innovative Medical Solutions, Anatomy/Cadaver Workshop

Long Island, NY

March 7, 2009

maxMorespine Transforminal Endoscopic Spine Workshop

July 25, 2009

SpineNow, LLC/maxMorespine Transforminal Endoscopic Spine Workshop

First Choice Surgery Center of Baton Rouge

Baton Rouge, La

March 26, 2010

**2ND World Congress of Minimally Invasive Spine Surgery & Techniques
and**

23rd International Intradiscal Therapy Society Annual Conference

Las Vegas, NV

June 1 – 4, 2010

SpineNow, LLC/maxMorespine Transforminal Endoscopic Spine Workshop

Specialty Surgery Center

Sparta, NJ

June 18, 2010

**Special
Appointment**

State of Mississippi, Tort Claims Board Advisory Council, Member

**Professional
Associations**

North American Spine Society

American Medical Association

Louisiana State Medical Association

East Baton Rouge Parish Medical Society

Mississippi State Medical Association

American Society of Anesthesiologists

Louisiana Society of Anesthesiology

Mississippi Society of Anesthesiology
American Academy of Pain Management

American Academy of Pain Medicine
American Pain Society
American Society of Interventional Pain Physicians
Society for Pain Practice Management
Mississippi Pain Society
American Society of Regional Anesthesia
International Spinal Injection Society
International Intradiscal Therapy Society
American Society of Addiction Medicine

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Scientific Presentations

“Facilitating Medial Cannula Placement for Central Disc Herniations and Spinal Stenosis”. International Intradiscal Society 19th Annual Meeting. Phoenix, Az April 5-7, 2006

“Disc-FX – nonendoscopic radiofrequency disc ablation/decompression/nucleotomy”, International Society for Minimal Interventional in Spinal Surgery Zurich, Switzerland January 25-26, 2007

“Early Clinical Experience with THESSYS™ in the US”, Workshop, International Intradiscal Therapy Society, 20th Annual Meeting Albi, Toulouse, France June 19-23, 2007

“Disc-FX – Nonendoscopic Radiofrequency Disc Ablation, Decompression and Nucleotomy – First Experiences”, International Intradiscal Therapy Society, 20th Annual Meeting Albi, Toulouse, France June 19-23, 2007

Special Interest

- Medical Consultant – Ellman Innovations – Surgical Instrumentation
- Medical Consultant – Richard Wolf Medical Instruments Corporation

Endoscopic Spine Division

- Clinical Investigator – Medtronic Corporation implant project for extensive experience in catheter and pump implant for pain control. Over 1000 cases.
- COLA's LabUniversity – Completion Lab Director Course 11-19-2010