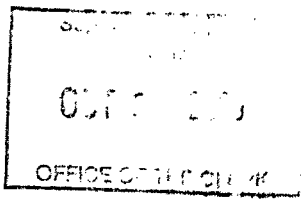
20-798

To The

The Supreme Court of the United States

October 15, 2020



In Re: Leonard Patti Petitioner - Pro Se:
80 Herman St.
E. Rutherford, N.J. 07073
551 574 0541

v.

Dr. George Peck Jr.
Allen J. Baratz Esq. Respondents
Donald A. Klein Esq.
Werner Law Group
629 Parsippany Rd.
P.O. Box 438
Parsippany, N.J. 07054
973 403 1100

To: The Supreme Court of The United States

Petition for an Extraordinary Writ of Certiorari—Mandamus *

Relief:

I am seeking $75,001 **

Leonard Patti
80 Herman St.
E. Rutherford, N.J. 07073
551 574 0541

Questions Presented:

1. Why was I denied my right to a trial by jury, or even a hearing on the case? The only thing that had any bearing on this case was the Affidavit of Merit: So, why wasn't the doctrine of Common knowledge considered?

2. Why is the Affidavit of Merit, an unholy, prejudice law, for a special interest group, considered a law? Is this racism?

3. Did not the affidavit of merit give Dr. Peck Jr. the license to assault me?

4. Why is the law, i.e. the Affidavit of Merit, put before the facts in my case? Is not the purpose of the law to judge the facts?

5. Why wasn't I told the implant could not be removed, even before the fourth operation? Obviously, that is a lie. So, if the implant could not be removed, why did Dr. Peck Jr. operate?

6. According to: The Doctrine of Informed Consent and Refusal, I have been assaulted four times: Isn't the Doctrine of Informed Consent and Refusal also a law? So why was assault not a cause of action, in The N.J. Superior Court?

7. Was not George Peck Jr. covering his tracks, for the statute of limitations when he did the subsequent operations? i.e. the three subsequent assaults?

8. What, am I a practice cadaver?

In re: Clerk, Mr. Redmond K. Barnes

Concerning our conversation on the phone Oct.13, 2020, as to Relief and the type of extraordinary writ.

** Relief:

I am seeking $75,001 For four operations in which Dr. Peck did nothing but try to cover his tracks, for the statute of limitations; as evidently he changed his mind about removing the implant, but went ahead with the fake operations anyway.

* Mandamus:

The judgements for The U.S. District Court for the District of N.J. and The U.S. Court of Appeals for the 3rd Circuit are in the Appendix as required by the rules.

Neither of these courts dealt with the Constitutionality of the Affidavit of Merit Law, which is the demon behind this whole case.

The Affidavit of Merit is a law passed for a special interest group: It is therefore prejudice; it is therefore not a law. In actuality, it is a court rule passed by the legislature in New Jersey.

First, it gave Dr. Peck the license to assault me; as I have clearly pointed out in the Doctrine of Informed Consent and Refusal.

Second, to cover his tracks for the statute of limitations, the three subsequent operations were also assaults.

It would be unconscionable to disregarded this, especially under the doctrine of Common Knowledge, (Hubbard ex rel. Hubbard v. Reed 168 N.J. 397). And that is why the seventh amendment guarantees a trial by jury.

*** Rule 20. 6.

States that if the court orders the case set for argument the Clerk will notify the parties whether additional briefs are required, when they shall be filed, and if the case involves a petition for a common law writ of certiorari, that the parties shall prepare a joint appendix in accordance with Rule 26.

The last time I was at Mr. Baratz's office he threatened me and told me never to come to his office again.

I believe my brief is simply stated, in plain English, which of course is the common law; but I suppose I could send Mr. Baratz a synopsis to which he can append his comments, if you so require.

My Telephone # is: 551 574 0541

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Concise Statement of the Case

I am suing for $75,001 the threshold amount for the U.S. Court of Appeals.

I underwent four operations from Dr. George C. Peck, before I realized he had no intention of removing the implant. That is, he removed about 2% of it in four operations.

According to the doctrine of Informed Consent and Refusal I have been assaulted four times.

Concerning Relief

Concerning the $75,001, I was extremely conservative when I opened this case in the Superior Court of Bergen County, N.J. for $47,400. And the fact is I wouldn't go through what Dr. Peck Jr. has put me through these last 11 years for more than twice that amount: i.e. eleven years out of my life. And the implant still has to be removed.

Facts in Aid of the Court's Jursdiction

The Seventh and Fourteenth Amendments to the U.S. Constitution.

"The district court has subject-matter jurisdiction to hear claims arising under the Constitution, laws or treaties of the United States pursuant to 28 U.S.C. § 1331, **or....**

Exceptional Circumstances

With regard to the circumstances the facts could be construed in no other way except as intentional assault: i.e. the cause of action.

The Affidavit of Merit is an unholy law, passed for a special interest group, doctors and insurance companies. This is what gave Dr. Peck Jr. the mordacity to do what he did. That is to take advantage of me, make a fool of me, and assault me. And to say he removed the implant, four times, according to the operative reports (Amendix). Which is a self evident, absurd lie.

Because the doctors think this is some kind of sport.

The facts contained in my brief are comprehensive.

Why Adequate Relief Cannot be Obtained in Any Other Form from Any Other Court

The Affidavit of Merit is an unholy law, and the other courts consisently chose to enforce this unconsionable law, as opposed to judge the patently evil, dastardly acts, committed by Dr. Peck Jr. The other courts are not even concerned that the Affidavit of Merit is an unconscionable law. Their verdict is corrupt.

Because the other courts ignore the fact that this is a case of simple assault. Their equivocation on the word "frivolous" from the statute prejudices their entire judgement.

Reasons For, Not Making Application to the District Court of N.J.

The District Court of N.J., which dismissed my case without prejudice, gave me no reason to believe I would get a trial if I tried to reopen in the Bergen Co. Superior Court, or that Judge Wilson would reconsider the assault charge which is the Cause of Action. As he dismissed my case with prejudice.

Reasons for Allowance of the Writ

My reason being: I have not had a trial or even a hearing on the case, because of an unholy law. Law is by definition supposed to be holy. That is how law receives its authority.

My case is predicated on common knowledge: And therefore, should have been settled according to the rules of common law (7th Amendment to the U.S. Constitution).

Obviously, my constitutional rights have been desecrated by this unholy law. And the doctrine of Informed Consent and Refusal, was completely ignored, which is also a federal law and a right. That is, my whole case was completely ignored.

Mr. Baratz also stated case law: There is no case law that applies to my case: If there was Mr. Baratz made no mention of it in his brief, except to cite cases, which do not merit a response from me: Simply citing a case does not merit an answer, if he does not make his point.

And the fact that a case deals with the Affidavit of Merit does not make it analogous with mine.

And Except for his absurd point in Jamie v. MCI Corp. (Idem following): Mr. Baratz made no point.

Concerning Subject Matter Jurisdiction:

The unholy law, Affidavit of Merit, deprived me of my Constitutional rights, even of my fair right to a trial and to obtain a lawyer.

Now, the question is: Are you going to put an unholy law, created for a special interest group, in front of my Constitutional right? If so, where is, "the equal protection of the law?" (14th Amendment of the U.S. Constitution).

14th Amendment to the U.S. Constitution:

> "... nor shall any state deprive any person of life, liberty, or property without due process of law. Nor deny any person within its jurisdiction equal protection of the law"

Equal protection is a federal question

All this notwithstanding, it was the state of N.J. that violated my right of due process guaranteed in the 14 Amendment. That is, it was the law itself. N.J.S.A. 2A:53A-27. Any law that allows a doctor to assault a patient cannot be a law.

An unholy state law is also a federal question.

And how shall I make my case against an unholy law?

And so, if the law is patently evil: Whose responsibility or jurisdiction is it to obtain justice? The Devil's? (i.e. the state that passed the law?)

Federal Question: jurisdiction: Article VII of the U.S. Constitution, guarantying a trial by jury, by the rules of Common Law.

> "... no fact tried by a jury shall be otherwise reexamined except by the rules of Common Law." 7th amend. to the U.S. Constitution.

I have been denied a jury trial by an unholy law (A.O.M), which is not a law, and by case law, which is not the Common law.

> "The district court has subject-matter jurisdiction to hear claims arising under the Constitution, laws or treaties of the United States pursuant to 28 U.S.C. § 1331, **or** certain claims between citizens of different states pursuant to 28 U.S.C. § 1332"

I do not see how Federal Question 28 U.S.C. § 1331, could be any clearer, concerning Article VII of the U.S. Constitution, guarantying a trial by jury, according to the rules of Common Law: As the word **or** is used to distinguish between 28 U.S.C. § 1331, and 28 U.S.C. § 1332.

Doctrine of Informed Consent and Refusal

> **"Judge Cardozo succinctly captured the essence of this theory as follows: Every human being of adult years and sound mind has a right to determine what shall be done with his own body; and a surgeon who performs an operation without the patient's consent commits an assault for which he is liable in damages." Schloendorff v. Society of N.Y. Hosp. 211 N.Y. 125,129-30, 105 N.E. 92, 93 (1914).**

Obviously, an operation for no purpose whatsoever, would not have my consent: Therefore, it is fraud, and it violated my basic human dignity. Concerning the anesthesia, I not only consider it a risk to my life, but also harmful to my long-term health and continency.

The doctrine of informed Consent and Refusal states that I should have been informed if this implant could not be removed before the operation. But of course, it can be removed. The problem is Dr. Peck Jr, likes the way it will look better for him, if it is left in, and he doesn't want to bother taking it out. So, why did he do the operations in the first place, if it can't be removed? Because he committed to it on the first consultation visit.

Unrighteous Law

And Judge Wilson used the Affidavit of Merit to prevent me from having a trial, notwithstanding the doctrine of Common Knowledge.

And the facts all point to the fact that this was intentional assault: How could it be anything else?

A law needs to be concise (Holy), and definite: Otherwise it is prejudice, its bounds and objective are indeterminate, and it cannot be a law.

"Knowing this that the law is not made for the righteous man..."

1 Timothy 1:9,10 K.J.V.

Of course, I am referring to the A.O.M.

A.O.M.

The Affidavit of Merit requirement is the reason I could not get a trial or a lawyer.

This whole controversy turns on, N.J.S.A. 2A:53A-27, which is a law passed for the benefit of a special interest groups: Doctors and insurance companies: i.e. a

prejudicial law, which requires an Affidavit of Merit from another doctor before your case can go forward.

The Statute reads as follows:

N.J.S.A. 2A:53A-27

N.J.S.A. 2A:53A-27 ...the plaintiff shall within 60 days following the date of filing of the answer to the complaint by the defendant, provide each defendant with an affidavit of appropriate licensed person that there exists a reasonable probability that the care, skill, or knowledge exercised or exhibited in the treatment, practice, or work that is the subject of the complaint, fell outside acceptable, professional, occupational, standards, or treatment practices. The court may grant no more than one additional period, not exceeding 60 days, to file an affidavit pursuant to this action, upon finding of good cause.

Purpose

The purpose of the New Jersey affidavit of merit statute, requiring malpractice plaintiff to file an affidavit from another professional in the same field certifying that defendant's treatment or skill fell outside professional standards, is to weed out frivolous lawsuits early in the litigation while, at the same time ensuring that plaintiffs with meritorious claims will have their day in court. Newell v. Ruiz C.A.3 (N.J.) 2002. 286 F.3d 166.....

So, what we are talking about here is, trying to get a doctor to testify against another doctor, in this case for assault. Doctors do not deal with law: That is not what they do.

And so: How does the requirement of a physician belonging to the same club insure, that plaintiffs with meritorious claims will have their day in court?

Especially considering the cost of the A.O.M. doctor may cost you roughly near what you are suing for.

And neither was the doctrine of Common Knowledge being considered by Judge Wilson.

A.O.M./ Common Knowledge

> "Hubbard ex rel. Hubbard v. Reed, 168 N.J. 397. Poritz, C.J. A [7,8]. I.D. Cent. Code § 28-01-46 (1999) (stating the affidavit requirement does not apply to alleged lack of informed consent, unintentional failure to remove a foreign substance from the body of a patient, or performance of a medical procedure upon the wrong patient, organ, limb, or other part of the patient's body, or other obvious occurrence. *Cf.* N.Y.C.P.R. 312-a(c) (McKinney 1991) (stating that no affidavit is required where the attorney intends to rely solely on the doctrine of res ipsa loquitur). Had the legislature spoken on this issue directly, this case and its companion, Palanque v. Lambert-Woolley, would likely not have come before us. We do not know whether the drafters of this legislation even contemplated a common knowledge exemption, but we believe such an exemption to comport with their likely intent, and with a practical common-sense interpretation of the statute. Township of Pennsauken v. Schad, 160 N.J. 156, 170, 733A.2d 1159 (1999) (stating that where a statute or ordinance does not expressly address a specific situation, the court will interpret it consonant with the probable intent of the draftsman had he anticipated the matter at hand.) ... We find the doctrine of probable legislative intent more reliable than the so called, doctrine of legislative inaction... (1989). Having considered both the purpose of the statute and its silence on this issue, we have

determined that an affidavit of merit is not required in common knowledge cases. The statute contains one exception, where the defendant does not provide records.

Concerning the above; "unintentional failure to remove a foreign substance from the body of a patient," obviously that would include the intentional failure to remove a foreign substance from the body of a patient which would be an assault. And the four operative reports (Appendix) clearly state that he removed the implant four times, which of course are outright lies.

Common Knowledge

Hubbard ex rel. Hubbard v. Reed 168 N.J. 397

The Supreme Court, Poritz, C.J. held that: (1) affidavit of merit need not be provided in common knowledge malpractice cases, when the expert will not be called to testify that the care, skill or knowledge of the professional fell outside the professional or occupational standards or treatment practices, and (2) affidavit of merit was not required prior to trial to demonstrate that the patient's medical malpractice claim against dentist had merit.

Reversed and Remanded

Res: The subject matter or object of rights.

res ipsa loquitur: The thing speaks for itself.

Plaintiffs further assert that the cost of obtaining an affidavit in a common knowledge case involving minor injuries would make bringing an action for recovery, no matter how meritorious too expensive.

pg.392

.... We agree the primary purpose of the Affidavit of Merit statute is to require plaintiffs in malpractice cases to make a threshold showing that their claim is meritorious. pg.394. Hubbard v. Reed 168 N.J. 387 Supreme Court of N.J. 2001. C.J. Poritz

As it has been suggested to me by Atty. Steven Schuster, which I could not retain because of the circumstances explained above; that it would have been too expensive to get a doctor to supply an Affidavit of Merit: i.e. fly in a doctor from a remote part of the country to testify: Especially, for an assault case, as legal work is not what they do.

Also, I went to at least twenty plastic surgeons in the N.Y., N.J. area for consultation visits, who would not operate because they were covering for Dr. Peck.

Dr. Rausher	Dr. Tal Dagan
Kudlowitz	Barry Citron
Dr. Hurlick	Monica Tadros
Dr. Paul	Joseph Pober
Dr Wise	Dr. Horn
Dr. Winters	Dr. Ledereich
Dr. Pedy Ganchi	Dr. Eloy
Jason A. Spector	Dr. Todd Morrow
Abtin Tabaee	Dr. Samuel Rhee
Dr. Sclfani	Dr. Geoffrey Tobias
Dr. Deck	Dr. Ferraro

But, I do not consider four operations, for no reason, except to make a fool of me, minor injuries. That is, seeing they were four assaults according to the doctrine of Informed Consent and Refusal.

Or maybe I am less of a person in a racist society? Obviously, that is what Dr. Peck Jr. thought. Therefor he didn't care why I was going through with the operations. All he cared about was getting paid for the operations.

And as in Hubbard v. Reed, "an affidavit of merit was not required prior to trial to demonstrate that the patient's medical malpractice claim had merit." I believe I have clearly demonstrated the malicious acts of Dr. Peck Jr. And since this was obviously a question of intent; therefor I do not see how another doctor would be able to add anything to what I have said. Just as, neither the lawyers were able to answer anything of what I have been claiming for the past five years. Except that Dr. Peck was at all times licensed by the Medical Examiner.

7th Amendment to the U.S. Constitution:

> "In suites of common law where the value in controversy shall exceed twenty dollars, the right of a trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law."

$20 in 1787 AD would be approximately $556 today. Official data.org/us/inflation/1787.

And so, there is only one criterion here to be considered, that is the facts, which are also ruled by the common law. So, why should case law even be considered, when there is no case that remotely compares with the facts of my case? Or is that why Dr. Peck is permitted to get away with assault?

If there was a comparable case, Mr. Baratz did not find it. Of course, there are cases that resembles the A.O.M., as they are all the same, i.e. an all-inclusive law: That is why no lawyer will take an A.O.M. case, unless they can fly in a doctor from a remote part of the country, which just for that, with the cost of the lawyer, would have cost me about as much as I was suing for.

This whole scenario may seem so simple, that it is unbelievable. I never would have believed anything like this would have ever happened in the United States of America, until it happened to me.

It is now eleven years since the first of four operations by Dr. Peck Jr. I am now seventy-two years old. The implant still has to come out: Why? Because Dr. Peck Jr. did not want to spend 30 minutes or so to remove the implant. Or he changed his mind about removing it, because he decided it looks better, for him, if he left it in. As he is a plastic surgeon. And nobody could see what is inside my nose, i.e. without the cat-scans which Dr. Peck refused to look at, because he had no intention of removing the implant.

It was Dr. Peck Jr.'s choice whether or not to operate: But it was not his choice to operate and leave the implant in.

The whole court system up to this point rested merely on The Affidavit of Merit legislation. Which is an unholy N.J. law, passed for a special interest group.

And it is obvious that the N.J. state courts do not care a whit about the U.S. Constitution, or of the Supreme Court Justices.

All the facts are self-evident;

Also, Judge Wilson did not believe that these facts really took place, or more likely did not even care. And so, there was no trial, or cross-examination. But it would not have been his place to believe whether or not the facts took place, that would have been the job of a jury, according to the Seventh Amendment to the U.S. Constitution. And that is notwithstanding, whether or not I have a lawyer.

And so, Judge Wilson merely dismissed the assault charge, (see below).

I could not retain a lawyer because the Affidavit of Merit is an unholy, prejudice, racist law, passed for a special interest group, doctors, insurance companies, and also for lawyers and judges: It allows judges to dismiss cases. And for lawyers who do not want to take cases on a contingency basis. So, the person who suffered at the hand of the doctor, now has to pay a lawyer, that he is not going to retain, for procedural law: And the plaintiff cannot win because he is not a lawyer. The A.O.M is itself, in essence, a procedural law.

Motive

Evidently, Dr. Peck decided he wouldn't like the way the implant would look: For him. So, he decided not to remove the implant, and went ahead with the operations anyway and pretended to do something. I suppose he also needed the work.

The motive for the second, third, and fourth phony operations was to postpone the issue, and let the two-year statute of limitation run. And of course, the Affidavit of Merit reinforced his stubbornness, not to remove the implant; which he committed to do on the first consultation visit.

Now, no other plastic surgeon will touch it: They say, "you had too many operations already." Of course, that is a lie. How would it look now, for Dr. Peck Jr. if another plastic surgeon took out the implant after Dr. Peck did four operations and did nothing? So, collusion is also a motive. And as with the advent of electronic medical records, plastic surgeons can communicate real time. And that enables them to take advantage of patients in real time.

And because this is so despicable: I believe Judge Wilson, himself may have had a hard time believing that a doctor would do such a thing. Or Judge Wilson was only looking at the affidavit of merit law; which is the very thing that gave Dr. Peck the license to do what he did.

And this case cannot turn on law, especially an unholy law, like the affidavit of merit, because a law cannot prove a motive. But the only way facts can be made manifest is through cross-examination in an open court.

And this is exactly the type of thing a jury should decide, according to the Seventh Amendment to the U.S. Constitution.

Brief, Mr. Baratz:

Page DA 38, Supplemental Appendix:

The U.S. Court of Appeals for the Third Circuit, Case Number: 18-02624, Appealed from The District Court of New Jersey Case Number 2-17-cv-00312 (ES/MAH). Filed 11/17/17 pg. Da38

Hon. Esther Salas U.S.D.J.

> "While given the clear absence of federal question and of diversity of citizenship, the court need not reach the amount in controversy issue, as concerns that issue the fact that plaintiff pleads a claim for punitive damages should not allow him to reach the $75,000 amount in controversy requirement in any event. In that regard it is noteworthy that the Third Circuit has held that when punitive damages are recoverable, they are properly considered in determining whether the jurisdictional amount in the federal court has been satisfied, but when a punitive damages claim is patently frivolous or such damages are unavailable as a matter of law, that claim cannot be considered as part of the amount in controversy. Jamie v. MCI Corp."

Concerning federal question:

> "The district court has subject-matter jurisdiction to hear claims arising under the Constitution, laws or treaties of the United States pursuant to 28 U.S.C. § 1331, **or ....**

I am referring to the Seventh and Fourteenth Amendments to the U.S. Constitution.

Mr. Baratz is quoting Judge Salas concerning the amount in controversy, with the above:

But there is no reasoning for the assertion that my claim is patently frivolous: Except that

the word frivolous comes from the spurious law legislated for a special interest group (N.J.S.A. 2A:53A-27). And I suppose that made it a patented word.

And so, it is implied that the Hell Dr. Peck Jr. put me through is frivolous.

Neither does Mr. Baratz explain what is "patently frivolous." He is merely stating an opinion. If the punitive damages were patently frivolous, it would have been Mr. Baratz's responsibility to say what he meant, and how that applies to me, so I could answer him. Otherwise they are mere words.

I didn't find Jamie v. MCI Corp. (2008). But I did find a Jayme v. MCI Corp. (2008) Where Jayme was suing MCI for $180,000 for a two-month loss of caller I.D. on his telephone service. Because Andrea Busch, an employee of MCI, during a telephone conversation, banged the phone. *(Hung the phone up on him).*

I believe Mr. Baratz's point is, by using an absurd case, he is implying that my case is absurd.

But I do not share his humor.

Jayme v. MCI Corp. (2008)

> "Jayme's complaint fails to allege a federal cause of action in either contract or tort and therefore is not one arising under the laws of the United States, 28 U.S.C. § 1331, He does not allege that any federal law was violated when his caller ID was interrupted."

Although caller ID may be controlled through Interstate Commerce: Jayme, is obviously the height of a frivolous lawsuits. Frivolous is the word the defense has

taken from the A.O.M. statute, N.J.S.A. 2A:53A-27, an unholy law, which has been used against me all along, and has no specific relevance to my case.

Frivolous

Their whole case has turned on one word from N.J.S.A. 2A:53A-27, since the beginning of this charade, i.e. on the Affidavit of Merit (A.O.M.), which uses the word, frivolous in the statute.

Therefore, what is happening here is: Mr. Baratz is attempting to defend a guilty defendant, with one word that is irrelevant to the facts of my case.

Equivocation

My pain and suffering may be frivolous to a bigoted doctor or lawyer; but they do not know what they have put me through these past ten years, because they do not care. And Doctor Peck Jr. has caused the suffering, and his action was intentional.

N.J.S.A. 2A:53A-27 is an unholy statute, passed for a special interest group. That is where they got the inspiration for the use of the word frivolous. But this is an equivocation, and that is what they are basing their whole defense on: i.e. Because the word is used in the statute, that does not mean it applies to my case.

Care

The fact that Dr. Peck is a physician should imply a greater fiduciary responsibility. Dr. Peck did four mock operations which amounted to four assaults. And the worst part is, it was all intentional, with malice, and contempt. And that

should be taken into consideration with the punitive damages for my pain and suffering.

The defense has no answer for the four operations, except that Dr. Peck was licensed by the Medical Examiner. Whatever that is supposed to mean?

As a matter of fact, N.J.S.A. 2A:53A-27, has also been captioned as an Affidavit of Lack of Care.

Care is the point at issue with a doctor. Do you think a doctor who would do something like this should be a doctor? Would his medical license be worth $75,000 to him? I have no other recourse but money damages, as I was not permitted to bring a criminal action. As since I am not a lawyer that would be beyond my purview. I suppose that is the reason I was not permitted assault as a cause of action.

And as I have mentioned this was intentional, which could be seen from the facts, and the fact that there is no answer for any of the facts.

And from the fact that Dr. Peck's attorneys merely disregard the facts, and relied solely on the Affidavit of Merit: Except for his statement that, "Dr. Peck was at all times licensed by the Medical Examiner." So, what does the Medical Examiner have to do with this case? Thus far, nothing. Obviously, all doctors are licensed by the Medical Examiner. And does the Medical Examiner approve of doing operations for no reason at all, except for covering one's tracks for the Statute of Limitations?

And since Dr. Peck Jr. had a lawyer and there was no trial, he wasn't compelled to lie in court: How sweet is this?

Pro-se

The Affidavit of Merit law also prevented me from bringing my case: As Judge Wilson said, in no uncertain terms, I have to have a lawyer. That was on the initial hearing before the tape recording for the transcript was turned on.

Judge Wilson also said he was a lawyer. Obviously, he was trying to impress, or intimidate me: Evidently, he believed that fact should have some bearing on the case.

Of course, he would rather defend his decision to dismiss my case, with the defense lawyer using case law, so he can avoid all of the facts—comprehensively. Which he would not be able to do under cross-examination in an open court. The point is he cannot argue Common Law while looking at other cases. The Common Law is the common language used by God, in the King James Bible, and it is the reason The U.S. Constitution was written in English.

The question is: Are you going to decide this case on a point of law from another case? When the facts are not the same. And there are many points to my case: And I do not believe Mr. Baratz or Mr. Klein have one valid point. The Affidavit of Merit is not a valid law.

Or Judge Wilson is prejudice because he thinks my case is too small for a doctor or a lawyer, that is why the bigots keep using the term frivolous.

Brief Donald A. Klein

Page DA 59, Supplemental Appendix:
The U.S. Court of Appeals for the Third Circuit, Case Number: 18-02624, Appealed from The District Court of New Jersey Case Number 2-17-cv-00312 (ES/MAH). Document 17 Filed 11/17/17 pg. Da59

Hon. Esther Salas U.S.D.J.

"The Plaintiff subsequently moved for an Order of this Court allowing him to serve an Affidavit of Merit of an otolaryngologist, as opposed to a plastic and reconstructive surgeon. The Plaintiff filed his motion on Jan. 8, 2016, after the Jan. 1, 2016 deadline of his service of an appropriate affidavit of Merit passed. The Court denied the plaintiff's motion."

Proof of Merit

As is plain to see Mr. Klein is arguing that the Proof of Merit was late as opposed to it being valid: Which of course is a lie.

See Appendix for entry on my Electronic Medical Record by Dr. Tal Dagan, Filed with the Court Dec. 31, 2015 one day before date due, Jan. 1, 2016.

Dr. Tal Dagan made his entry on my electronic medical record, right in front of me; I asked him for a copy of what he was writing:

I used his entry for my "Poof of Merit." It is required that the affidavit of merit doctor be of the same specialty as Dr. Peck Jr. Judge Wilson knocked it down because he said Dr. Tal Dagan was not a plastic surgeon because he is an otolaryngologist. Actually, Dr. Tal Dagan is more than an otolaryngologist, he is also a facial plastic surgeon. Judge Wilson could have found that out in one minute on the internet. Anyway, Judge Wilson was bent on dismissing my case one way or the other.

The point was that the implant could be removed, which is really all that mattered. And so, this whole case should be clear as glass by now.

Proof of Merit,

"**Assessment**: (see Appendix)

Bilateral nasal valve obstruction

Plan:

1. I had a discussion with the patient in which I made clear that removal of the implant without any reconstructive effort and/or attempt to relieve the nasal obstruction will result in both a cosmetic deformity to the nose and face as well as a potential and likely worsening in the nasal breathing which is irreversible.
2. The patient refuses reconstructive efforts and is insistent on the sole removal of the implant which I am not comfortable performing. The patient will be referred elsewhere."

What Dr. Tal Dagan failed to say was the fact that the implant was the nasal obstruction.

Note the words "potential and likely" worsening in the nasal breathing: A subtle excuse for a lie. Note the word "likely." He is not sure!

I have had the breathing in my nose completely stopped often since it was broken, especially after the operations in 1958, and 1975, when the nose was packed with gauze for a month or so; when I had to breathe solely through my mouth. As a matter of fact, breathing through my mouth, is still not a problem, when I get congested, I still breathe through my mouth most of the time: I have been through this for 45 years, I know the problem is the implant. And so, the uncertainty in Dr.

Tal Dagan's terms, makes it obvious that he is covering for Dr. Peck Jr. And again, the issue is the operations themselves.

> Dr. Tal Dagan also says: "He is not comfortable with the sole removal of the implant."
>
> "It is not clear if the patient is just not comfortable with the fact that he has an implant in the nose or whether it truly causes any discomfort." (Appendix)

Obviously, the reason I went to Dr. Tal Dagan was because I was not comfortable with the implant. His contorted way of saying the implant is not causing me discomfort, is insidious. Obviously, he is also familiar with the craft of psychology.

The fact that it is causing discomfort attests to the fact that the implant is affecting the natural function of my nose:

I don't know if the implant is causing discomfort? That is why I spent $9,000 to have it removed.

Or do you suppose he knows better than me whether or not this implant is no good, after I suffered with it for forty years.

But, again, the main issue is why did Dr. Peck operate?

I hope you do not need a doctor's testimony or an A.O.M. to realize that a nose operates in a subconscious mode: Even if it has to be primed with coffee.

Also note, the word comfortable: I had five operations installing implants in my lifetime, I do not want another implant, at least not until this one is removed. So, why can't I make my choice after this one is removed? The answer to that is also

obvious; the doctors are all covering for Dr. Peck Jr. And they don't want anyone to see the divot made by Dr. Kaplan in 1958. And what would it look like now for Dr. Peck if another doctor removed the implant after Dr. Peck did four operations and did not remove it?

Dr. Tal Dagan's use of the word comfortable is obviously an excuse. And my reasoning is obvious. Doctors have been operating without my informed consent from day one: i.e. beside the fact that I was not told Dr. Kaplan he was going to amputate: i.e. if the implant could not be removed, I should have been informed before it was installed. Just as it is obvious now, if it can't be removed; Dr. Peck Jr. should have informed me before the first operation.

The point is, if I decided after Dr. Tal Dagan removed the implant, to let him put another one in; he would first have to promise me he could take it out if I didn't like it.

You see I also want to be as comfortable as possible for my remaining years, as I believe it will help me to live longer. As I was more comfortable, even with the way my nose looked before the implants were put in.

And again, there is the fact that the implant is causing a subtle myriad of other problems: For one. my vision is also affected: Sight requires the circulation of blood and oxygen, which obviously, the implant impeades. Also, there are the headaches and heartburn. Mouth-breathing also causes heartburn, especially in the cold weather.

Do you suppose a doctor is going to argue about heartburn for an Affidavit of Merit?

And, Dr. Tal Dagan is offering to remove the implant only if I let him put another one in.

What is clear is the fact that Dr. Tal Dagan is trying to cover for Dr. Peck Jr.

Dr. Tal Dagan is refusing to remove the implant because he is by vocation a part of the consortium of Plastic Surgeons in collusion with Dr. Peck Jr.

Superior Court of N.J.

Bergen County, Law Division
Docket No. L-5145-15
Filed, June 2, 2015
Judge Robert C. Wilson
Dismissed, with Prejudice, Feb. 19, 2016
For Failure to State a Cause of Action (i.e. No affidavit of merit, and he also rejected the fact that this is an assault).

Judge Wilson:

Judge Wilson has dismissed my case with Prejudice. It was on the unholy, evil (A.O.M.) law that he used to prejudice my case; That is, on this one law, notwithstanding my Constitutional rights or the facts.

I have made my argument against Judge Wilson's prejudice verdict:

Judge Robert C. Wilson

"To the extent that Plaintiff is alleging that the professional care performed by the Defendant failed to live up to a certain standard, it is indisputably an issue of professional negligence. That is whether captioned as failure to obtain informed consent, intentional assault or otherwise, it is indisputable that a professional's failure to perform adequately as a licensed professional, whether compelled by contract or otherwise, is a tort of negligence and malpractice, and therefore must be sustained by an affidavit of merit. Plaintiff contends that this matter has nothing to do with medical malpractice and as such, an affidavit of merit is not required. However, the Plaintiff does not dispute that the claims against the defendant relates to deficiencies in the surgical care performed and the medical treatment provided. There to the extent that the Plaintiff's claim arises from those deficiencies, there is no dispute that the Plaintiff is required to provide an affidavit establishing that the defendant deviated from the required standard of care in providing these medical services."

FILED
Feb. 19, 2016
Robert C. Wilson JSC
Superior Court of N.J.
Bergen County Law Division
Docket No. Ber-L-5145-15
CIVIL ACTION
ORDER DISMISSING
COMPLAINT WITH PREJUDICE
FOR FAILURE TO STATE
A CAUSE OF ACTION

I have since separated my critique of Judge Wilson's decision into sentences:

1-First sentence:

> "To the extent that Plaintiff is alleging that the professional care performed by the Defendant failed to live up to a certain standard, it is indisputably an issue of professional negligence."

Negligence? So, when a doctor contracts to remove a foreign substance from your body, he can merely knock you out, and neglect to remove it; because he is in union with other plastic surgeons, one of which is required for the A.O.M. And since this is assault what plastic surgeon is going to get involved?

The professional care performed by the Defendant failed to live up to a certain standard, This, is the law: Dr. Peck purposely does an unacceptable job which will force him to do additional operations, because the law allows him to perform at lower standards. First, he did not contract to do more than one operation. Second, the degree of his standard is unconscionable. Dr. Peck had no intention of removing the implant, especially on the second, third, and fourth operations, when by the fourth operation he removed about two percent of the implant. And by the fourth operation I realized it was all intentional, because he had changed his mind about removing the implant since the first consultation visit when he agreed to remove it.

So why did he operate? The second, third, and fourth operations were to cover his tracks for the two-year statute of limitations.

Again, so why did he operate? The assaults were the cause of action. i.e. the fraudulent operations.

2- Second sentence:

"That is whether captioned as failure to obtain informed consent, intentional assault or otherwise, it is indisputable that a professional's failure to perform adequately as a licensed professional, whether compelled by contract or otherwise, is a tort of negligence and malpractice, and therefore must be sustained by an affidavit of merit."

"Failure to obtain informed consent:" Dr. Peck is the doctor, he should know the risks involved in an operation, and he should have informed me of any risks. It is not my business to know all the possible effects of an operation, including the fact that he might not be able to remove the implant. Which is obviously a lie.

And as it is plain to see; Judge Wilson groups intentional assault with informed consent. So, he is obviously dismissing intentional assault with informed consent, because he has dismissed it all along as a cause of action. And as anyone can plainly see the words "intentional assault" are clearly at issue with Judge Wilson, which he claims is "negligence." Intentional assault is not negligence. And so now Judge Wilson wants me to get a doctor to testify in an assault against Dr. Peck Jr. i.e. Judge Wilson wants a doctor to get involved in the law aspect of the case. Judge Wilson had previously dismissed assault, out of hand, as a cause of action.

"Failure to obtain informed consent?" Dr. Peck did not tell me whether or not he could remove the implant, because he had no intention of doing so. If he could not

remove the implant, he should not have operated: For this reason, also, it is an assault.

Judge Wilson here is implying that it is malpractice: But obviously he is ignoring the Doctrine of Common Knowledge, as he ignores everything that does not comport with the strict A.O.M. Law, which clearly should not apply.

Or again, does this mean that because I didn't ask Dr. Peck if he could remove the implant, i.e. when I asked him to remove it, that that relieves him of his responsibility of informing me, according to the Doctrine of Informed Consent and Refusal. The implant is merely a piece of bone or silicone saddled on top of the nose. It is inconceivable that he would not be able to remove it.

The fact that Dr. Peck didn't perform "adequately," is also the very issue behind the Doctrine of Common Knowledge.

And it is so obvious that in four operations, Dr. Peck made no attempt to remove the implant, that his action was intentional; and therefore assault.

Judge Wilson wants to simply caption this "negligence," because that is his generic answer to A.O.M. cases: But assault is not negligence.

3- Third sentence:

"Plaintiff contends that this matter has nothing to do with medical malpractice and as such, an affidavit of merit is not required."

I never said: "this matter has nothing to do with medical malpractice." This is either a lie or an error on judge Wilson's part. If it is an error it is representative of

his frivolous handling of my case. Obviously, assault is malpractice. Judge Wilson is confused because he is defending a guilty doctor, with an unholy, evil law.

4- Fourth sentence:

"However, the Plaintiff does not dispute that the claims against the defendant relates to deficiencies in the surgical care performed and the medical treatment provided."

5- Fifth sentence:

"There to the extent that the Plaintiff's claim arises from those deficiencies, there is no dispute that the Plaintiff is required to provide an affidavit establishing that the defendant deviated from the required standard of care in providing these medical services."

The words professional negligence, perform adequately, or deficiencies are used in every sentence of Judge Wilson's decision; and all three terms amount to basically the same thing. i.e. his own generic response to the A.O.M.

I do not dispute that an assault is a deficiency in the surgical care provided.

If it is not clear by now that the issue is not deficiencies, but an absolute refusal to remove the implant, which should be clear because he only removed about 2% of the implant in four operations,

Judge Wilson is making one mistake here; I read the Bible every day for forty-five years now: And by calling these deficiencies, he is lying, or he is attempting to be an advocate for Dr. Peck: because that is something Dr. Peck himself or his lawyers never claimed. But that is how this law works; the doctor does not need a defense

because the judge throws everything out that has to do with an A.O.M. without a trial, or even a hearing on the facts.

And I have four operative reports stating that he removed a simple implant four times. If that is not absurd in itself, what is?

And as I have said, the word deficiencies don't necessarily mean I need an A.O.M. as these are common knowledge "deficiencies." And I am suing for the operations themselves, not for the so called deficiencies. So, if Dr. Peck told me he might not have been able to remove the implant, I would never have let him operate. I already had six operations before him and I am not about to take a chance on having another one.

So, the worst part is I went through four mock operations with Dr. Peck Jr, for no reason, except to humiliate me.

> "deficiencies in the surgical care performed and the medical treatment provided."

My question is, what medical services? Dr. Peck Jr. did more harm than good, not that he did any good, at all. Dr. Peck Jr. only trimmed the edge of the implant that was resting on the dorsum for support, and left the implant sitting solely on the sore spot, aggravating the wound more than ten times. Didn't he think? Why did the other doctors overlap the implant onto the dorsum? He could have called his father and asked him why the implant was resting on the dorsum. Of course, he

might have found out that it was resting on the dorsum, so it can be trimmed off later so the plastic surgeon can do more operations.

Concerning deficiencies: He removed about 2% of the implant in four operations. He adamantly refused to remove the implant but he did not refuse to operate, as his intent was to run the statute of limitations.

Therefore, his intent was not only deficient; but reckless, careless, and patently evil:

Appellate Court of New Jersey

Leonard Patti v. George Peck
Docket No. A-003837-15T2
Motion No. M-007108-15
Susan L. Reisner P.J.A.D.

My motion to extend the time to appeal was denied. It took me three weeks to contact the Medical Examiner, I had only thirty days to file the motion for an extension of time to file the appeal. I believe, the motion to extend the time, was U.S. Post Marked on the day it was due. I also read on the internet that I am supposed to have 3 extra days from the time my motion was mailed.