

The Supreme Court of New Jersey

C-139 September Term 2016

077971

To the Appellate Division, Superior Court:

A petition for certification of the judgment in A-003837-15 having been submitted to this Court, and the Court having considered the same;

It is ORDERED that the petition for certification is denied, with costs.

Witness, the Honorable Stuart Rabner, Chief Justice, at Trenton, this 5th day of October, 2016.

See Appendix

U.S. District Court for the District of N.J. 2:17-cv-00312-ES-MAH.

And the U.S. Court of Appeals for the Third Circuit / No. 18-2624 are included in the Appendix.

Recap of Case

When I was about ten years old, approximately 1958, my nose was broken. So, I went to Dr. Kaplan (deceased), Hackensack Hospital, N.J. and he took a divot out of the top of my nose.



I believe this is a fairly accurate depiction of the profile of my nose after the operation, and it looked worse than this drawing, because the nose was also flattened. And the operation did nothing to help my breathing. But I believe the flatness would have healed somewhat in time, by articulating the breathing.

When I was about 25 years old, I proceeded to have the first of five operations to fill the dent in my nose.

By the year 2010 I realized the implants were no good: So, I went to Dr Peck Jr. to have the bothersome implants removed. He set up another consultation visit, in which he was supposed to set up a date for the operation.

Evidently, Dr. Peck Jr. had changed his mind about removing the implant, but he went through with the operation anyway. So, he trimmed it a little and left the implant setting squarely on the divot, that is the sore spot. So, why was the implant overlapping the divot in the first place? Obviously for support.

In 2011, thinking maybe he learned something from the experience, I went back to him for another operation: Saying, I really need to have this removed. So, he did another operation, with the same result.

In 2013, I still was not suspecting what was happening, and I was eligible for Medicare, so I went back to him again, with the same result.

So, from there I went to at least twenty plastic surgeons, evidently none of them wanted to do the operation, or mess with what Dr. Peck Jr. has already done three times, and for whatever reason Dr. Peck Jr. put on my electronic medical record, or because they called him directly. And since they would not operate, they obviously, would not give me an A.O.M.

So, finally I wound up at the V.A. Hospital, N.Y.C. and the plastic surgeon there told me to go back to Dr. Peck Jr. probably because I refused to see a psychiatrist; for whatever that had to do with it. The implant had to come out, and I didn't need any discussion to the contrary from a psychiatrist, so he could reinforce the Plastic Surgeon's argument.

So, after four years in the U.S. Navy, including Viet Nam, I received some frivolous advice from a civilian plastic surgeon at the V.A. to go back to Dr. Peck.

So, I went back to Dr. Peck Jr. as the V.A. doctor suggested, for a fourth operation, with the same result, that is, he did not remove the implant. Now I realize I have been duped all along. And I realized the subsequent three operations were to cover Dr. Peck's tracks for the two-year statute of limitations.

If you could see me, you would see that none of the implant was removed: As the operative reports so state to the contrary.

So, I went through four mock operations and each one is an assault: I should have been told by Dr. Peck if the implant could not be removed, according to the Doctrine of Informed Consent and Refusal.

Of course, the implant can be removed; It is a simple thing: That is why he agreed to remove it the first time he looked at it. And now I can't get the implant removed because Dr. Peck Jr. already did four operations. At least, that is their excuse. And now, no other plastic surgeon would want to get involved in what Dr. Peck has already done. And so, how would it look for Dr. Peck Jr. if the implant was removed by another plastic surgeon, after Dr. Peck Jr. did four operations, and did not remove it.

I have had three or four plastic surgeons tell me they won't operate because I have had too many operations already, among other excuses like the nose will collapse. The implant is merely sitting in the divot on top of the nose. Of course, the outer skin will collapse, as shown in the diagram above. They are all obvious lies to cover up for Dr. Peck Jr.

This implant is a perpetual headache that has been wearing on me now for over 40 years. It is evident that Dr. Peck Jr. had no intention of removing the implant: So, why did he operate four times?

The doctrine of informed Consent and Refusal also states that these are assaults.

There never was a hearing except on the Affidavit of Merit. And this is what gave Dr. Peck the license to assault me.

I am suing for \$75,001 which is the threshold amount in the U.S. Court of Appeals for the Third Circuit.

Appendix:

U.S. District Court for the District of N.J.

Leonard Patti, Plaintiff
v.
George C. Peck Jr., Defendant

Civil Action No.
17-cv-0312-ES-MAH

ORDER

SALAS, DISTRICT JUDGE

This matter comes before the Court upon *pro se* Plaintiff Leonard Patti's Complaint against Defendant George C. Peck Jr. (see D.E. No. 1) For the reasons in the Court's accompanying Letter Memorandum.

It is on this 20th day of June 2018,

ORDERED that Plaintiff's Complaint is DISMISSED for lack of subject matter jurisdiction without prejudice to Plaintiff's right to proceed in state court; and it is further

ORDERED that the Clerk shall mark this matter CLOSED.

s/Esther Salas

Esther Salas, U.S.D.J.

U.S. Court of Appeals for the 3rd Circuit

No. 18-2674

Leonard Patti Appellant

v.

MEDICAL DOCTOR GEORGE C. PECK, JR.

On Appeal from the United States District Court

For the District of New Jersey

(D.C. Civil Action No 2:17-cv-00312)

District Judge: Honorable Esther Salas

Submitted Pursuant to Third Circuit LAR 34.1 (a)

December 7, 2018

Before: MCKEE, COWEN, and ROTH, Circuit Judges

JUDGEMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit LAR

34.1(a) on December 7, 2018. On consideration whereof, it is now hereby

ORDERED and **ADJUDGED** by this Court that the judgement of the District Court entered June 21, 2018, be and the same is hereby affirmed. Costs taxed against the appellant. All of the above in accordance with the opinion of this Court.

ATTEST:

s/ Patricia S. Dodszuweit

Clerk

Dated October 30, 2019

SEAL OF THE UNITED STATES
COURT OF APPEALS FOR
THE THIRD CIRCUIT

Certified is a true copy and issued in lieu
of a formal mandate on January 16, 2020

Teste: s/ Patricia S. Dodszuweit

CLERK OF THE COURT OF APPEALS FOR THE THIRD CIRCUIT

Answer to rehearing Jan. 8, 2020

"Present: Smith, Chief Judge, McKee, Ambro, Chagares, Jordan, Hardiman,
Greenaway Jr., Shwartz, Krause, Restrepo, Bibas, Porter, Mate, Phipps, Cowen and
Roth Circuit Judges.

The petition for rehearing filed by appellant in the above-entitled case having
been submitted to the judges who participated in the decision of this Court and to
all the other available circuit judges of the circuit in regular active service, and no
judge who concurred to the decision having asked for rehearing, and a majority of
the judges of the circuit in regular service not having voted for rehearing, the
petition for rehearing by panel and the Court En banc, is denied.

By the Court,
s/ Theodore A. McKee "

APPENDIX

2019-10-30 10:45:00

Proof of Merit RECEIVED DEC 31, 2015

Tal Dagan MD FACS

Visit Summary - December 23, 2015

SUPERIOR COURT BERGEN COUNTY

FILED

DEC 31 2015

S/ Laura A. Semaldoni

DEPUTY CLERK

RECEIVED

DEC 31 2015

SUPERIOR COURT OF NEW JERSEY
COUNTY OF BERGEN
FINANCE DIVISION

Date of Service 12/23/2015

Chief Complaint: patient complaining about the fact that he is bothered by having nasal dorsal implant in place.

History of Present Illness:

The patient feels pressure over the area of the nasal dorsum where a silicone implant was placed 45 years prior after several revision rhinoplasties and nasal reconstructive procedures.

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.

The patient also is bothered by breathing difficulties through the nose.

The patient underwent CT sinuses there is a foreign body that is consistent with a silicone implant between the nasal bone and the nasal tip just supratip.

On physical examination:

Patient General Condition: ...

[462 words]

.... Vitals: WT: 200.0 lbs.

HT: 71.0 in.

BMI 27.9

T: 97.7

Assessment:

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.

Discussion above:

Operative Reports

Operation # 1:

776 Northfield Ave. W. Orange, New Jersey, 07052

Tel: (973) 324-3200, Fax: (973) 324-1421

Patient: Leonard Patti

Procedure: Removal plastic nasal dorsum

In-fracture bilateral nasal bones

And removal bump dorsum

Please enter Essex Surgical _____

(you will be notified as to the time you must arrive)

THE FOLLOWING: FEES ARE YOUR CHARGES FOR THIS SURGERY. ANY PROFESSIONAL FEES, FACILITY FEES AND OR ANESTHESIA FEES WOULD BE SUBJECT TO CHANGE DEPENDING ON THE ACTUAL TIME SPENT IN THE OPERATING ROOM. ANY CHANGES TO SURGICAL PROCEDURES MAY RESULT IN ADDITIONAL FEES. IF THE FACULTY SURGEON HAS TO BE CHANGED, THE FEES WOULD ALSO BE SUBJECT TO CHANGE. THE AMOUNT QUOTED WILL BE HELD FOR SIXTY DAYS. A SERVICE FEE OF \$500 WILL BE CHARGED FOR PATIENT INITIATED CANCELLATION OF SURGERY WITHIN 2 WEEKS OF SURGERY DATE. PAYMENTS MUST BE RECEIVED TWO WEEKS PRIOR TO SURGERY.

2/22/10

PLEASE MAKE INDIVIDUAL PAYMENTS AS SHOWN BELOW:

George C. Peck Jr., M.D.

Medical Fee	Cosmetic Fee	6%	Total
\$_____	\$3400	\$204	\$3604

Photos - NC \$3400

Essex Surgical, LLC

\$_____	\$1,000	\$60	\$1060
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Additional Fees: \$1000

Insurance Payments must be forwarded to the facility

NNJAA (N.J. ANESTHESIOLOGY, ASSOC. PA.)

\$_____	\$600	\$36	\$636
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\$600

Insurance Payments must be forwarded to the Anesthesiologist
Cosmetic procedures are subject to 6% N.J. sales tax

PAYMENTS MUST BE RECEIVED TWO WEEKS PRIOR TO SURGERY. CREDIT CARD PAYMENTS WILL NOT BE TAKEN OVER THE PHONE. THE PATIENT/GUARDIAN WILL BE RESPONSIBLE FOR ANY DEDUCTABLE THAT HAS NOT BEEN MET. PATIENTS ARE RESPONSIBLE FOR FEES INCURRED FROM LABATORY AND /OR PATHOLOGY TESTS. INSURANCE MAY BE SUBMITTED ON THE PATIENTS BEHALF. HOWEVER, THE PATIENT/GUARDIAN IS RESPONSIBLE FOR ALL MONEYS OWED.

SIGNATURE _____ Date _____

PATIENT GUARDIAN

WE ACCEPT CASH, CHECKS, MONEY ORDERS, VISA, AND MASTER CARD ONLY.
(THE ANESTHESIOLOGIST DOES NOT ACCEPT CREDIT CARD PAYMENTS)

ESSEX SURGICAL LLC

776 Northfield Ave.

W. Orange, N.J. 07052

Patient Name: Leonard Patti

Date of Surgery: March 11, 2010

Surgeon: George C. Peck Jr. M.D.

Pre Op Dx: Nasal Deformity

Post Op Dx. Same

Procedure: Nasal Revision

Anesthesia: General

EBL Minimal

Complications: None

The patient was taken into the operating room and placed on the operating room table in the supine position. After appropriate anesthesia was given the patients head and neck area was prepped and draped in the routine sterile manner.

A transfixion incision was made and the silicone dorsal graft was identified and removed. The silicone graft was then moved and designed to supratip area. A 4 mm osteoma was used to in-fracture bilateral nasal bones. Merocele packing applied to bilateral nares and standard nasal dressing applied.

The patient tolerated the procedure well and left the operating room to the recovery room in stable condition.

S/ George C. Peck Jr., M.D.

Operation # 2, Same as above Total \$3900

Chart # 2074

Date of Surgery: June 9, 2011

Operation # 3, Same as above Total \$1000

Chart # 2074.

I was eligible for Medicare at this time. Also, Dr. Peck also did the following on June 6, 2013:

A #15 scalpel blade was used to make a wide elliptical incision around a 4 cm skin lesion on the right neck. Hemostasis was obtained with electrocautery. The incision was closed in two layers using 4-0 Biosyn suture for deep layer and a running subcuticular 4-0 nylon suture for the skin. A specimen was sent to St. Barnabas for examination.

Date of Surgery: June 6, 2013

Operation # 4, Same as above concerning implant.

Chart # 2074

Date of Surgery: Dec. 16, 2014

Billed \$1550

Medicare Approved \$239.83

Maximum I may be billed —Paid \$47.97

Obviously, I would have paid him more if he asked me; but again, he did not remove the implant. So again, I went through an operation for nothing! This is the fourth assault.