

2011 WL 13063214 (Va.Cir.Ct.) (Trial Order)  
Circuit Court of Virginia.  
York County

Craig A. MARSHALL, Plaintiff,  
v.  
Dr. Mark P. MONIZ,  
and  
WILLIAMSBURG SURGERY, P.C., Defendants.

No. CLO8-2018.  
April 26, 2011.

**3/25/11 Hearing Order**

[Avery T. Waterman, Jr.](#), Esq., p.q., V.S.B. 27118, Patten, Wornom, Hatten & Diamonstein, L.C., 12350 Jefferson Avenue, Suite 300, Newport News, VA 23602, (757)223-4567 Telephone, (757)223-4499 Telefax.

[Jason R. Davis](#), Esq., p.d., V.S.B. 37917, [Mary Elizabeth Sherwin](#), Esq., p.d., V.S.B. 45144, Kaufman & Canoles, 150 West Main Street, Suite 2100, Norfolk, Virginia 23510, (757)624-3119 Telephone, (757)624-3169 Telefax.

[John C. Morrison, Jr.](#), Judge.

\*1 THIS CAUSE came on for hearing before the Court on March 25, 2011, on Defendants' Motion Regarding Blog of Plaintiff's Counsel, Plaintiff's Fourth Motion *in Limine* re *John Crane, Inc. v. Jones*, Plaintiff's Objections to Defendants' Reliable Authority, Plaintiff's Fourth Motion for Entry of Order, Plaintiff's Fifth Motion for Entry of Order, Plaintiff's Supplemental Objections to Defendants' Exhibit and Witness List (re Kaiser Deposition), Plaintiff's Objections and Designations re Nervo Deposition, Plaintiff's Objections to Defendants' Exhibit and Witness List, and Defendants' Objections to Plaintiff's Proposed Witness List and Exhibit List; was briefed and was argued by counsel; and it is therefore:

ORDERED that Defendants' Motion Regarding Blog of Plaintiff's Counsel is DENIED, and that no action is being taken against Plaintiff's Counsel posting on his internet blog; and it is:

FURTHER ORDERED that Plaintiff's Fourth Motion *in Limine* re *John Crane, Inc. v. Jones* is DENIED, and Defendants are permitted to call Plaintiff's treating physicians pursuant to *Va. Code Ann. § 8.01-399*; and it is:

FURTHER ORDERED that Plaintiff's Objection to Defendants' Reliable Authority is GRANTED, and that Dr. Rattner is precluded from testifying about any of Defendants' 26 designated articles because he did not rely on any such authority in forming his opinions prior to deposition; and it is:

FURTHER ORDERED that Plaintiff's Fourth Motion for Entry of Order and Plaintiff's Fifth Motion for Entry of Order are CONTINUED, and that Defendants shall provide Plaintiff with any proposed changes to his drafts by March 28, 2011, and it is:

FURTHER ORDERED that Defendants' objections to portions of Moniz depositions is DENIED, and that lines 97.18-25 of the 4/28/10 Moniz Deposition and pages 45-74 of the 2/14/11 Williamsburg Surgery, P.C. (Moniz) Deposition are not excluded from evidence; and it is:

FURTHER ORDERED that Plaintiff's Supplemental Objections to Defendants' Exhibit and Witness List are GRANTED, and that the deposition of Dr. Kaiser is excluded from use at trial; and it is:

FURTHER ORDERED that Plaintiff's Objections and Designations re Nervo Deposition are GRANTED IN PART and DENIED IN PART, and that the videotape deposition with its Exhibits 1-5 shall be admissible except for pages/lines 31.22-32.3, 40.13-19, 42.20-43.15, 48.21-53.15, 66.23-67.18, 72.9, 73.17-18, 75.12-13, 76.5, 80.11-12 and 87.20-88.10 and for the objections within pages/lines 92.15-94.25; and it is:

FURTHER ORDERED that Plaintiff's Objections to Defendants' Exhibit and Witness List are GRANTED IN PART and DENIED IN PART for the reasons stated on the record; and it is:

FURTHER ORDERED that Defendants' Objections to Plaintiff's Proposed Witness List and Exhibit List are GRANTED IN PART and DENIED IN PART for the reasons stated on the record; and it is:

FURTHER ORDERED that Defendants promptly shall provide Verifications to Plaintiff for any substantive discovery Answer or Response within the knowledge or information of the actual party versus counsel alone that is specified by Plaintiff as not verified previously; and it is:

\*2 FURTHER ORDERED that Defendants' shall provide to Plaintiff by April 1, 2011, the revised calculation of Plaintiff's earnings loss by Defendants' economic expert, Dr. Ruhm; and it is:

FURTHER ORDERED that the Clerk of Court shall forward a copy *teste* of this Order to undersigned counsel upon entry.

ENTERED at Yorktown, Virginia, on this 26<sup>th</sup> day of April, 2011.

<<signature>>

Honorable John C. Morrison, Jr.

Circuit Court Judge Designate

SEEN, AGREED IN PART, AND OBJECTED IN PART FOR THE REASONS STATED AT HEARING AND IN THE RECORD BY MOTIONS AND BRIEFS FILED:

<<signature>>

Avery T. Waterman, Jr., Esq., p.q., V.S.B. 27118

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A COPY TESTE:

Lynn S. Mendibur, Clerk

York Co. - Poquoson, VA Circuit Court

By: <<signature>>, D.C.

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