IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern District)

CHRISTY T. O'CONNELL	*	
Plaintiff	*	
v.	*	**Civil Action Nos.: JFM-14-1339** **JFM-15-2418**
STEVEN C. BRIGHAM, M.D., et al.	*	
Defendants	*	

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DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants, Steven C. Brigham, M.D., Vikram H. Kaji, M.D., and American Medical Associates, P.C. (hereinafter, collectively, "Defendants"), by and through their attorneys, Andrew E. Vernick, Christopher J. Greaney, and Vernick & Associates, LLC, and pursuant to Federal Rule of Civil Procedure 56 and Local Rule 105, hereby move for summary judgment on all counts pled against them. As set forth more fully in the accompanying Memorandum of Law, there remains no genuine dispute of material fact; Defendants have no actionable connection to, nor any legal liability for, the allegedly negligent conduct at issue in this case. Accordingly, Defendants are entitled to summary judgment as a matter of law on all counts presented.

Respectfully submitted,

VERNICK & ASSOCIATES, LLC

_____/s/_____
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MEMORANDUM OF LAW IN SUPPORT OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants, Steven C. Brigham, M.D., Vikram H. Kaji, M.D., and American Medical Associates, P.C. (hereinafter, collectively, "Defendants"), by and through their attorneys, Andrew E. Vernick, Christopher J. Greaney, and Vernick & Associates, LLC, and pursuant to Federal Rule of Civil Procedure 56 and Local Rule 105, hereby move for summary judgment on all counts brought against them. In support thereof, Defendants state as follows:

I. STATEMENT OF FACTS

A. Material Facts and Allegations as to Defendants Generally

This action for medical malpractice was initiated with the filing of a Complaint by Plaintiff Christy T. O'Connell on April 21, 2014, which Complaint named American Medical Associates, P.C. ("AMA") as one of multiple defendants to the action. (*See* ECF No. 1). Thereafter, in August 2015, Plaintiff filed a separate Complaint against Defendants Steven C. Brigham, M.D. and Vikram H. Kaji, M.D., arising out of the same nucleus of facts pled in the original Complaint and docketed with this Court as Case No. 1:15-cv-02418-JFM. The cases were subsequently consolidated by Court Order dated October 16, 2015. (ECF No. 49), and are collectively incorporated into the Amended Complaint Plaintiff filed on August 6, 2015. (ECF No. 45-2).

Plaintiff alleges that Defendants provided negligent and inadequate medical care in the consultation, preparation, and performance of abortion procedures and related services provided to Plaintiff during the summer of 2012. (*See* ECF No. 45-2, ¶ 20-31). The care at issue is alleged to have been provided primarily by co-defendant Iris Dominy, M.D. and unidentified "office managers" working at an abortion clinic in Frederick, Maryland operated by a medical practice "commonly called" "American Women's Services." *Id.* at ¶ 21. According to Plaintiff, as a result of Defendants' negligence, Plaintiff was under the mistaken belief that her abortion had been successful, and was not informed until October 2012 that she was in fact still pregnant with a viable fetus. *Id.* at ¶ 32-34. After developing preeclampsia, Plaintiff delivered a baby boy on December 21, 2012. Born 10 weeks premature, Plaintiff alleges that the child has required and will continue to require ongoing and extensive medical care for issues related to his prematurity. *Id.* at ¶ 36-38.

After filing suit, Plaintiff failed to effectuate proper service of the Complaint and Summons upon Defendants AMA, Brigham, and Kaji. Defendants' resultant failure to file timely Answers to Plaintiff's Complaint led this Court entered orders of default against AMA (ECF No. 30), Dr. Kaji (ECF No. 62), and Dr. Brigham (ECF No. 70), respectively. Thereafter, on August 3, 2016, Plaintiff filed a Motion for Default Judgment against six (6) different defendants named in the case: AMA; Dr. Brigham; Dr. Kaji; Associates in OB/GYN Care, LLC ("Associates"); Rose Health Services Company ("Rose Health"); and Mansour G. Panah, M.D. By Order dated August 5, 2016, the Court granted Plaintiff's Motion and entered default judgment against those six defendants, individually and jointly and severally, in the amount of $6,500,000.00. (ECF No. 77).

After receiving notice that a Complaint had been filed against them, Defendants Brigham, Kaji, and AMA proceeded to file a Motion to Set Aside the Default Judgment, arguing that because service was never properly effectuated upon them, the Judgment was *void ab initio* and should be

vacated (ECF No. 86). By Order dated June 16, 2017, the Court granted Defendants' Motion, setting aside the Default Judgment and allowing Defendants to proceed to the merits of the case against them. (ECF No. 99). With discovery now closed, Defendants move for summary judgment on all counts brought against them.

B. Material Facts and Allegations as to Defendant AMA

Plaintiff alleges in her Complaint that, at all times relevant to the instant case, AMA was one of multiple medical facilities—along with co-defendants Associates and Rose Health—conducting business in the State of Maryland under the trade name "American Women's Services" and offering abortion procedures and other related medical services to the general public, and that in such capacity AMA held itself out to Plaintiff "as practicing within the ordinary standards of medical care, particularly those related to obstetrics and gynecology." (ECF No. 45-2, ¶ 12). Consequently, it is asserted in the Complaint that AMA, doing business as American Women's Services, "owed a duty" to Plaintiff to "exercise reasonable skill and care in selecting competent personnel, and to provide diagnostic and medical services and treatment in accordance with the ordinary standards of care." *Id.* AMA, according to the Complaint, breached this purported duty to Plaintiff through the allegedly negligent care provided to her by its "agents, servants, employees and/or apparent agents," Dr. Dominy and the unnamed "office manager(s)" at the Frederick abortion clinic. *Id.* at ¶ 42. The Complaint also claims that AMA (once again purportedly operating as American Women's Services) is vicariously liable for the allegedly negligent acts of Defendants Brigham and Kaji, as detailed further below.

C. Material Facts and Allegations as to Defendants Brigham and Kaji

The Complaint alleges that Drs. Brigham and Kaji,

> held themselves out to the Plaintiff…as experienced, competent, and able physician[s]…possessing or providing that degree of skill and

> knowledge that is ordinarily possessed by those who devote special study and attention to the practice of medicine, particularly obstetrics and gynecology, and as such, owed a duty to the Plaintiff to render that degree of care and treatment which is ordinarily rendered by those who devote special study and attention to the practice of medicine, particularly obstetrics and gynecology.

(ECF No. 45-2, ¶ 13). The Complaint further represents that at all times relevant to Plaintiff's case, Drs. Brigham and Kaji, along with Dr. Dominy, were "agents, servants, employees and/or apparent agents" of Associates, AMA, Rose Health, and/or American Women's Services "acting within the scope of their employment and/or agency." *Id.* at ¶ 14. More specifically, Plaintiff alleges that Dr. Brigham was the owner of these medical facilities, and that the facilities functioned as an "alter ego" for Brigham "inasmuch as he exercised complete domination over the finances, policy and business practices of those entities." *Id.* at ¶ 15-16. The Complaint avers that Dr. Brigham used the entities "to commit fraud or wrong and to avoid his duty of care to his patients, and to act in a dishonest and unjust way in contravention to the rights of his patients, and that such control and breach of said duty proximately caused harm to the patients and in particular, the Plaintiff." *Id.* at ¶ 16.

The Complaint alleges that Dr. Brigham also "exercised control over the operation of four abortion clinics in the State of Maryland (Frederick, Silver Spring, Baltimore, and Cheverly) that operated under the trade names Associates in Ob/gynCare, American Medical Associates, and American Women's Services." *Id.* at ¶ 17. Among other things, Dr. Brigham purportedly "hired and fired employees to staff the clinics…created and implemented medical policies and procedures, was responsible for the delivery of quality care, and performed other aspects of management and operation." *Id.* Dr. Brigham is alleged to have hired Dr. Kaji as Medical Director of the four abortion clinics, and Kaji's responsibilities in that role supposedly "included creating and implementing policies and procedures to be followed in the Maryland clinics, and ensuring

the delivery of quality of care under Dr. Brigham's direction. *Id.* at ¶ 18.

In their capacities as owner and Medical Director, respectively, of "American Women's Services," Plaintiff asserts that Dr. Brigham and Dr. Kaji each "owed a duty of care to the Plaintiff even though they did not directly treat her"—and that they breached said duty by knowingly using unqualified "office managers" to provide abortion services to patients in lieu of properly trained professionals. *Id.* at ¶ 23. Finally, Plaintiff alleges in her Complaint that both Defendants "drafted and/or approved" consent documents and other patient materials containing inaccurate and "false" information regarding the medical procedures and related services in question. *Id.* at ¶ 27-29. This, according to Plaintiff, constituted a negligent failure by Drs. Brigham and Kaji to obtain adequate informed consent from Plaintiff with respect to the medical care and services she received. *See id.* at Count III, ¶ 47-50.

As set out and explained *infra*, Section III, none of the aforementioned allegations presented in Plaintiff's Complaint bear any valid basis in the objective record before this Court. Rather, the undisputed material facts demonstrate that at all times relevant herein, AMA was **not** conducting business in the State of Maryland nor providing abortion services under the trade name "American Women's Services," that Dr. Brigham was **not** the owner or "alter ego" of either Associates, Rose Health, or American Women's Services nor exerting any sort of "domination" or "control" over those entities or the operations and procedures of any of the four Maryland abortion clinics in question, and that Dr. Kaji has **never** even practiced medicine in Maryland—let alone served as the Medical Director of four different clinics in a State where he is not licensed to do so—and was not otherwise involved in **any** aspect of the Plaintiff's case. Nor did any of these Defendants exercise any form of agency or control over the allegedly negligent care and conduct rendered, such that they owed any corresponding duty to Plaintiff or were otherwise

vicariously liable for the actions of the individuals providing said care.

Instead, the sole connection between Defendants and the claims presented was the staffing of Dr. Dominy, as an independent contractor, into Associates in Ob/Gyn Care's medical practice at the four Maryland abortion clinics operated by Associates—pursuant to an expressly defined independent contractor agreement entered into by AMA and Associates. Accordingly, Defendants bear no liability of any kind in relation to Plaintiff's allegations of negligence, and Defendants are entitled to summary judgment as a matter of law.

II. STANDARD OF REVIEW

On review of a motion for summary judgment, "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. Rule Civ. P. 56(a). A dispute is genuine if "a reasonable jury could return a verdict for the nonmoving party." *Dulaney v. Packaging Corp. of Am.*, 673 F.3d 323, 330 (4th Cir. 2012). A fact is material if it "might affect the outcome of the suit under the governing law." *Henry v. Purnell*, 652 F.3d 524, 548 (4th Cir. 2011) (*quoting Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). As the Fourth Circuit has explained,

> [T]he mere existence of some disputed facts does not require that a case go to trial. The disputed facts must be material to an issue necessary for the proper resolution of the case, and the quality and quantity of the evidence offered to create a question of fact must be adequate to support a jury verdict. Thus, if the evidence is "merely colorable" or "not significantly probative," it may not be adequate to oppose entry of summary judgment.

Thompson Everett, Inc. v. Nat'l Cable Advert., L.P., 57 F.3d 1317, 1323 (4th Cir. 1995) (*quoting Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249-50 (1986)). *See also JKC Holding Co. LLC v. Washington Sports Ventures, Inc.*, 264 F.3d 459, 465 (4th Cir. 2001); *Cox v. County of Prince William*, 249 F.3d 295, 299 (4th Cir. 2001) ("'Mere speculation' by the non-movant cannot create

a genuine issue of material fact.").

The function of the reviewing judge at the summary judgment stage is not to determine the truth of a matter or to weigh credibility but to determine whether there is any genuine issue of fact that can only properly be resolved by a finder of fact because it could reasonably be resolved in favor of either party. *Anderson*, 477 U.S. at 250. Where, as here, no genuine issue of material fact exists, the court has an "affirmative obligation" to grant summary judgment, "to prevent factually unsupported claims and defenses from proceeding to trial." *Drewitt v. Pratt*, 999 F.2d 774, 778 (4th Cir. 1993) (internal citations and quotations omitted). Indeed, "the very purpose of Rule 56 is to eliminate a trial in such cases where a trial is unnecessary and results in delay and expense. Courts should not look the other way to ignore the existence of the genuine issues of material facts, but neither should they strain to find the existence of such genuine issues where none exist."*Mintz v. Mathers Fund, Inc.*, 463 F2d 495, 498 (7th Cir. 1972) (emphasis added). *See also Mesnick v. General Elec. Co.*, 950 F.2d 816, 822 (1st Cir. 1991) (summary judgment serves as "a means of avoiding full-dress trials in unwinnable cases."). "While a day in court may be a constitutional necessity when there are disputed questions of fact, the function of a motion for summary judgment is to smoke out if there is any case, i.e., any genuine dispute as to any material fact, and, if there is no case, to conserve judicial time and energy by avoiding an unnecessary trial and by providing a speedy and efficient summary disposition." *Bland v. Norfolk & Southern R. Co.*, 406 F2d 863, 866 (4th Cir. 1969).

A motion for summary judgment under Rule 56 is thus "an extremely important device for conservation of judicial time and costs of litigation where it is clear that no claim or defense to claim exists as matter of law." *Champion Brick Co. v. Signode Corp.*, 263 F.Supp 387, 391 (D. Md. Jan. 5, 1967). It provides a critical procedure "for unmasking frivolous claims and putting

swift end to meritless litigation," *Quinn v. Syracuse Model Neighborhood Corp*., 613 F.2d 438, 445 (2d Cir. 1980), and ultimately "advances the salutary objective of avoiding useless, expensive and time-consuming trials where there is actually no genuine, factual issue remaining to be tried." *Anderson v. Viking Pump Div., Houdaille Industries, Inc.*, 545 F2d 1127, 1129 (8th Cir. 1976).

Such is the case now before this Honorable Court. Because Plaintiff lacks any kind of proof or viable evidence to support her claims against Defendants, Defendants must be "entitled to the protection of summary judgment against the heavy burden and expense of a protracted trial." *Mutual Marine Office, Inc. v. Atwell, Vogel & Sterling, Inc.*, 484 F.Supp 351, 355 (S.D.N.Y. Feb. 5, 1980). The fair and equitable administration of justice dictates that summary judgment be granted to Defendants on all counts presented.

III. ARGUMENT

A. Plaintiff's Claims Against Defendants Have No Basis in Fact or in Law and Summary Judgment Must Therefore be Entered in Favor of Defendants on All Counts Alleged

The instant Motion for Summary Judgment must be granted because Plaintiff has utterly failed to prove **any** of the bald allegations or baseless claims pled against Defendants Brigham, Kaji, and AMA, and there remains no genuine issue of material fact on the matter. Indeed, there has not been one scintilla of evidence put forth during the course of this litigation to sustain any portion of any count brought against these Defendants—despite ample opportunity for Plaintiffto procure, develop and present any such proof that might exist over several months of discovery that the parties have partaken since the initial filing of the Complaint.[1] Plaintiff's demonstrated

[1] Although the formal discovery period for Plaintiff's claims against Defendants AMA, Brigham, and Kaji specifically was more abbreviated, it is undisputed that the counts against these Defendants arise out of the same nucleus of facts and discoverable information underlying Plaintiff's original Complaint filed in April 2015. As acknowledged by the parties in their recent Joint Status Report to this Court, the underlying discovery necessary to properly consider and decide the instant Motion has been conducted and completed. (*See* ECF No. 106). The opportunity for "additional limited discovery"—as requested in the Joint Status Report and permitted by the Court's Marginal Order granting the same (ECF No. 108)—pertains only to

inability to substantiate her claims against Defendants and refute the factual evidence and sworn testimony that has been produced to the contrary underscores and confirms that no genuine dispute exists as to any material fact upon which "a reasonable jury could return a verdict for [Plaintiff]." *Dulaney*, 673 F.3d at 330 (4th Cir. 2012). Summary judgment is thus warranted and appropriate at this stage of the litigation, and it should be granted to Defendants on all counts brought against them.

1. Neither AMA Nor Dr. Brigham Owned, Operated, or Practiced Medicine Within the Abortion Clinics in Question, Nor Did They Control, Oversee, or Direct any Aspect of the Contested Medical Care and Services Provided Therein to Plaintiff

Dr. Brigham's sworn, unrefuted testimony is that he has never held ownership interests in either Associates, Rose Health, or American Women's Services, nor has he ever operated AMA under the trade name "American Women's Services"—contra Plaintiff's conflation of all these entities into a single "alter ego" of Dr. Brigham's, as avered in the Complaint. (Exhibit 1, *Transcript of Stephen C. Brigham, M.D.*, at Tr. 70-71; 81-82; 86-87; 204). Dr. Brigham further affirmed under oath that AMA's relationship with Associates during the time period relevant to Plaintiff's case was strictly one based on an express independent contractor-based agreement wherein AMA staffed Associates' abortion clinics in Maryland with qualified physicians. (Ex. 1 at Tr. 109-110). And, he reiterated at multiple points in his testimony that Dr. Kaji was never the Medical Director of AMA (as asserted in Plaintiff's counts against Dr. Kaji) nor otherwise involved in any capacity or connection to the care and treatment of Plaintiff.

Aside from her bald and entirely uncorroborated assertions in the Complaint that "[u]pon information and belief," Dr. Brigham was the owner of Associates, Rose Health, and AMS, served

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the updating of Plaintiff's existing claim for damages, and the parties readily acknowledged in their Status Report that the need for such further discovery could be entirely "obviated should the case be disposed of via summary judgment." (ECF No. 106).

as a supposed "alter ego" for the entities by exercising "complete domination" over their business practices and policies, and exerted near-total control over the day-to-day operations of all four Maryland abortion clinics (ECF 45-2, ¶ 16-17), Plaintiff has failed to adduce actual, supporting evidence to substantiate these sweeping claims against Dr. Brigham and in turn dispute his sworn testimony to the contrary. In fact, the available evidence in the record only further substantiates the factual assertions and representations of Dr. Brigham. In support of their prior Motion for Relief from Default Judgment, Defendants filed an affidavit executed by Nancy Luke, the former CFO and CEO of Associates, which set out and affirmed several uncontroverted material facts consistent with Dr. Brigham's testimony. (*See* ECF 97-3). Ms. Luke confirmed that none of the Maryland abortion facilities were owned, leased, or licensed to AMA, that Dr. Panah, not Dr. Kaji, was the Medical Director for Associates, and that Dr. Brigham has "never been a managing member, nor any member," of Associates, as is directly asserted in the Complaint. *Id.*

These very same material facts were further corroborated by the deposition testimony of Melissa Shachnovitz, the office administrator for the four abortion clinics operated by Associates at the time of the events in this case. With respect to the relationship between Associates and AMA, Ms. Shachnovitz explained that "Associates was the entitythat I was the administrator for. AMA was who we contracted our doctors from for Associates." (Exhibit 2, *Deposition of Melissa Shachnovitz*, at Tr. 13:3-5). She also confirmed that it was Associates, not AMA or Dr. Brigham, that paid her salary (*Id.* at 16:6-7). Ms. Shachnovitz asserted that, to her knowledge, Dr. Walker was the owner of Associates (*Id.* at 15:2-5) and also served as the supervisor for staff members employed in the clinics (*Id.* at 31:8-11). At the same time, she described Dr. Brigham and AMA's relationship with Associates as precisely the kind of independent contractor/staffing arrangement Dr. Brigham and Ms. Luke avowed to: "[H]e provided the physicians through American Medical

Associates. That there was, I imagine, some kind of contract in place that he would provide the physicians that would perform services throughout the four Maryland offices." (*Id.* at 15:6-13)—and in turn noting that she did not believe Dr. Brigham had any association with the Maryland facilities or their non-physician employees. Perhaps just as telling to the determination of Dr. Brigham's real involvement with the Maryland clinics and the medical services being provided therein, Ms. Shachnovitz testified that during the two years in which she worked at Associates' Maryland clinics, she **never once** saw Dr. Brigham at any of the practice's four locations (*Id.* at 29:21 – 30:4). Such a total lack of on-site presence over an extended period of time is simply inconceivable for someone allegedly "exercising complete domination over the finances, policy, business practices" and daily operation of a business.

The evidence before this Court relatedly supports Defendants' position that Dr. Brigham and AMA also maintained a clear principal-independent contractor relationship with Dr. Dominy. Not only was the relationship expressly spelled out and defined as such by the explicit terms of the Physician-Independent Contractor Agreement entered into by the parties, but in practice, too, the association remained clearly delineated with respect to the scope and control of Dr. Dominy's work at the Maryland abortion clinics. Indeed, Dr. Dominy recounted in her own deposition testimony in this case the evident lack of control Dr. Brigham could exert over the care and medical services she provided at the clinics:

> Q Did Dr. Brigham have any issue with your
> 3 personal decision not to perform D&Es?
> 4 A He really wanted me to perform D&Es, but I
> 5 wasn't having it. He really would have made me the
> 6 complete doctor, but I explained to him that that's
> 7 not something I could do.
> 8 Q What do you mean he would have made you
> 9 the complete doctor?
> 10 A That he really wanted somebody who did
> 11 first and seconds and he would have been thrilled to

> death. And he knew I had had experience with them
> and wanted me to, but I wasn't going to. It just
> wasn't going to work.

(Exhibit 3, *Transcript of Iris Dominy, M.D.*, at Tr. 66:3-14).

The determination of whether the terms and function of a particular work arrangement constitute a principal-independent contractor or traditional employer-employee relationship is a case-specific and fact-intensive inquiry. *See, e.g.*, *Schultz v. Capital Int'l Sec., Inc.*, 466 F.3d 298, 305 (4th Cir. 2006); *Wells v. Gen. Elec. Co.*, 807 F. Supp. 1202, 1204 (D. Md. 1992); *Bradford c. Jai Medical Systems Managed Care Organizations, Inc.*, 439 Md. 2 (2014). Among the most commonly analyzed factors used in making the determination are: (1) the degree of control that the putative employer has over the manner in which the work is performed; (2) the worker's opportunities for profit or loss dependent on his managerial skill; (3) the worker's investment in equipment or material, or his employment of other workers; (4) the degree of skill required for the work; (5) the permanence of the working relationship; and (6) the degree to which the services rendered are an integral part of the putative employer's business. *Schultz*, 466 F.3d 304-305 (4th Cir. 2006) (*citing U.S. v. Silk*, 331 U.S. 704 (1947)). Courts will also place significant weight on whether the agents were, as a matter of economic reality, dependent on the business they served, or, conversely, whether they were in business for themselves. *Schultz*, 466 F.3d 304-305 (4th Cir. 2006). Here, all applicable factors and considerations support the underlying reality that Defendant's only connection to the alleged negligence at issue was via a prototypical principal-independent contractor relationship, for which any liability under Plaintiff's claims does not extend. *See Schultz; Bradford, supra.*

The uncontroverted testimonial evidence in the record is that AMA and Associates were independent and distinct business entities—separately owned and operated. Dr. Walker, **not** Dr.

Brigham, was the apparent owner of Associates at all times relevant hereto. Dr. Panah, **not** Dr. Kaji, was the Medical Director for the clinics. Dr. Walker and Dr. Panah oversaw and controlled the scope of employment of Associates' workforce and the operation of its facilities. Dr. Brigham had little to no interaction with non-physician employees at the clinics—and certainly is not described by anyone with firsthand knowledge of the circumstances as having exercised any sort of supervisory authority or control over such staff members' employment. And, even with respect to the physician-independent contractors that he did hire and place at the clinics for Associates, it is clear that he did not control or dictate any of the medical care and/or abortion services they provided through Associates—including as to Dr. Dominy and the work she performed at the Maryland clinics for patients like Plaintiff. In virtually every way measurable, Dr. Brigham and AMA's involvement and association with the abortion clinics run by Associates, as well as the physicians who staffed them, aligns with the established and accepted definitions of a principle-independent contractor relationship under the law.

Consequently, and notwithstanding Plaintiff's sweeping and unfounded representations littered throughout the Complaint, there is simply no legal basis on the facts provided to conclude that Dr. Brigham or AMA exerted agency or control over the scope of Dr. Dominy's employment or the operational procedures in place at Associates' clinics such that vicarious liability would arise for the care and conduct at issue. Even viewed in the most favorable and forgiving of light, Plaintiff's bald claims and insinuations to the contrary are without evidentiary merit or legal authority, and Defendants Brigham and AMA are accordingly entitled to summary judgment as a matter of law.

2. Dr. Kaji has Absolutely No Factual Connection or Legal Relationship to the Care or Conduct at Issue

With respect to Dr. Kaji's "role" in this matter, the undisputed factual record confirms that

there are no actionable or pertinent connections of any kind between Dr. Kaji and the allegations giving rise to Plaintiff's cause of action and claims for relief. Dr. Kaji never worked or practiced medicine in the State of Maryland at any point during the time period at issue—and was in fact never even licensed to practice within the State. He has never met, communicated with, provided medical care to, or otherwise interacted with Plaintiff Christy O'Connell in any way. He never owned or operated the medical clinics at issue in this case. And, perhaps most relevant to the determination of summary judgment, Dr. Kaji was in no way involved with any aspect of the hiring, terms of employment, or day-to-day oversight and direction of the medical providers and/or staff members working at the Frederick clinic of Associates. As Defendants have maintained and asserted since first entering into this litigation, Dr. Kaji was **never** the Medical Director of the Maryland abortion clinics in question.

Once again, notwithstanding the unsubstantiated and entirely speculative allegations to the contrary featured in Plaintiff's Complaint against Dr. Kaji, absolutely no evidence or alleged proof of any kind has been introduced **or even alluded to** in this case to rebut, dispute, or otherwise call into question these established, corroborated facts regarding Dr. Kaji's total and complete non-involvement in the events and conduct in question. Indeed, Plaintiff's incorrect and unfounded representation in her initial pleadings identifying Dr. Kaji as the Medical Director of Associates appears to be the sole reason that Dr. Kaji was brought into this case to begin with, and the only reason he has continued to remain a party to the lawsuit to date.

Simply put, Plaintiff cannot demonstrate any connection or legal nexus whatsoever between Dr. Kaji and the care and conduct at issue—because no such connection exists. The claims directed against Dr. Kaji are not just unsupported by the facts and applicable law; they were wrong and plainly unverified from their inception, and have been frivolously maintained by Plaintiff ever

since. The Court should acknowledge this evident lack of any viable case against Dr. Kaji accordingly, and put an end to such baseless and unjustified misuse of judicial resources by entering summary judgment in Dr. Kaji's favor on all counts pled.

IV. CONCLUSION

For all of the foregoing reasons, Defendants respectfully request that this Honorable Court grant their Motion and enter Summary Judgement in favor of Defendants on all counts alleged, with prejudice. Such relief is necessary and appropriate under the applicable facts and law, and comports with the fair and equitable administration of justice in this case.

Respectfully submitted,

VERNICK & ASSOCIATES, LLC

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IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND (Northern District)

CHRISTY T. O'CONNELL	*	
Plaintiff	*	
v.	*	**Civil Action Nos.: JFM-14-1339 JFM-15-2418**
STEVEN C. BRIGHAM, M.D., et al.	*	
Defendants	*	

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ORDER

Upon consideration of Defendants Steven C. Brigham, M.D., Vikram H. Kaji, M.D., and American Medical Associates, P.C.'s Motion for Summary Judgment, and any response thereto, it is hereby ORDERED that the Motion is GRANTED.

Dated:

UNITED STATES