

EXHIBIT 36

1 SUPERIOR COURT OF NEW JERSEY

2 HUDSON COUNTY, LAW DIVISION

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3 MICHAEL FERGUSON, BENJAMIN UNGER, SHELDON
4 BRUCK, CHAIM LEVIN, JO BRUCK, BELLA LEVIN,

5 Plaintiffs,

6 -against-

7 JONAH (Jews Offering New Alternatives for
8 Healing f/k/a Jews Offering New Alternatives to
Homosexuality), ARTHUR GOLDBERG, ALAN DOWNING,
ALAN DOWNING LIFE COACHING LLC,

9 Defendants.

10 Docket No. L-5473-12

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12 One Liberty Plaza
13 New York, New York

14 February 27, 2014
15 9:33 a.m.

16 DEPOSITION of DAVID JOSEPH DE JIACOMO,
17 taken pursuant to Notice, held at the offices
18 of Cleary Gottlieb Steen & Hamilton, LLP, taken
19 by Fran Insley, a Notary Public of the States
20 of New York and New Jersey.

21
22
23 ELLEN GRAUER COURT REPORTING CO. LLC
24 126 East 56th Street, Fifth Floor
25 New York, New York 10022
212-750-6434
Ref: 106354

1 DE JIACOMO

2 whatever their demands are, I see to it that it
3 is taken care of.

4 Q. Now at one point were you a client
5 of JONAH?

6 A. Yes.

7 Q. Do you know Arthur Goldberg?

8 A. Yes.

9 Q. And Elaine Berk?

10 A. Yes.

11 Q. How did you happen to come into
12 contact with JONAH?

13 A. I came into contact with JONAH
14 because it was suggested to me. I was going to
15 jail ministry and I wanted to be comfortable
16 with men of my own sex and I was not
17 comfortable with that. That was my goal.

18 Q. Approximately when was this, sir?

19 A. I think I first heard about it about
20 five years ago and --

21 Q. What do you mean about going into
22 jail ministry? What kind of work would that
23 be?

24 A. I, through Catholic Services, we
25 bring the Gospel to the men who are

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2 I think when I was younger, I never played any
3 sports or anything of that nature.

4 Q. Tell me about your home life growing
5 up.

6 A. Well, there was no father, just my
7 mom and my grandma. I had my grandfather, but
8 he wasn't around much of the time. One of
9 my -- my uncle, he apologized to me one time
10 and said, "I never paid you any attention." I
11 never had any attention from my own sex.

12 Q. You talk about reorientation. What
13 did you mean in that regard?

14 A. I thought, I -- it never even
15 occurred to me, until I met men who had gone
16 through reorientation, that you could change.

17 Q. Well, we haven't established yet,
18 did you consider yourself gay or straight at
19 that time?

20 A. I was totally gay at that time.

21 Q. How long had you considered yourself
22 gay?

23 A. Twenty-five years.

24 Q. When did you first -- what made you
25 aware that you were gay?

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2 A. The fact is that when I would date
3 women, be with women, nothing ever happened.
4 When I was with men, boom, right away I was
5 ready.

6 Q. What was your reasons for wanting to
7 explore reorientation?

8 A. I was totally unhappy. I had become
9 a complete sex addict. I didn't see any way
10 out. My life had become unmanageable.

11 Q. Can you give us an example of what
12 your life was like when you were living as a
13 gay man?

14 A. My life was, if you can call it
15 life, I was going from bars to bath houses on a
16 regular basis. Even my friends that were gay
17 were saying, "David, you're becoming addicted,"
18 and I said, "I can handle this." I couldn't
19 handle it.

20 Q. What would be your typical week
21 experience in that regard?

22 A. Monday nights you would go to a gay
23 bar, gay strip club. Then Tuesday or whatever
24 day it was, you would go -- I would go to a
25 bath house. Stay there all day. Then later on

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2 you, if you can.

3 A. Very loving soothing, comforting,
4 positive, ready, willing to go a mile.

5 Q. What were your personal goals when
6 you started working with your JONAH counselor?

7 A. The same thing I said before, just
8 to become comfortable with my own sex and to be
9 able to go through a daily life just feeling
10 comfortable.

11 Q. Do you feel you accomplished that?

12 A. Beyond whatever I thought I could
13 do.

14 Q. How do you characterize your sexual
15 orientation now?

16 A. Right now I am dating and I'm dating
17 women. I'm finding them exciting, loving,
18 caring. I find that I can have a deeper
19 relationship with them than I ever did with any
20 of the men that I tried to have before.

21 Q. How is your relationships with men;
22 has that changed?

23 A. It's -- it is a lot better than it
24 ever was. I belong to more than one group of
25 men. They are -- they know about me. They

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2 Q. What do you remember him telling you
3 about or did he tell you what he thought the
4 causes of homosexuality are?

5 A. Wounds.

6 Q. What does that mean?

7 A. Wounds. We are wounded when we are
8 young and by rejection or whatever and you turn
9 towards or look towards in my -- well, from my
10 knowledge.

11 Q. Again, I'm asking you what you
12 remember Arthur Goldberg telling you during
13 that conversation about what causes
14 homosexuality.

15 We will discuss the other issues
16 about what you believe, but right now I'm
17 trying to explore what he said to you in that
18 conversation.

19 A. You're asking a pretty heavy
20 question.

21 Q. No, I'm just asking you in that
22 conversation what do you remember Mr. Goldberg
23 saying to you during that conversation about
24 what the causes of homosexuality are?

25 A. I don't remember anything specific

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2 now.

3 Q. Anything general?

4 A. What I said, we are wounded when we
5 are young.

6 Q. I think we need to stop and change
7 the tape, so we will take that opportunity now.

8 THE VIDEOGRAPHER: We are now off
9 the record. The time is 10:48 a.m.,
10 February 27, 2014.

11 (Brief recess taken.)

12 THE VIDEOGRAPHER: This is tape two
13 of the deposition of Mr. David DeJiacomo.
14 We are now back on the record. The time
15 is 11:05, February 27, 2014.

16 Q. Thank you. We are back on the
17 record.

18 We left off. We were just
19 discussing your conversations with Mr. Goldberg
20 and I think we might have exhausted your
21 conversation with him in that first instance
22 when you called him.

23 Is there any -- are there any other
24 subjects that you discussed during that first
25 15, 20 minute call with Mr. Goldberg that you

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2 started doing before or after JONAH?

3 A. I started doing them before, before
4 JONAH.

5 Q. Were they part of Courage?

6 A. No. They are not a part of Courage.
7 Only Courage is a part of Courage. We, on a
8 Friday, so I'm going to miss it -- no, they are
9 not a part of Courage. They have to do with
10 the parish that I attend downtown Denver, Holy
11 Ghost, the priests, Father Jeremy and Father
12 Tom.

13 Q. I understand. Was your
14 uncomfortableness around your same sex peers at
15 all related to your same sex attraction?

16 A. You always wonder if when you sit
17 next to someone that something was going to
18 turn you on, if you want to put it as simple as
19 you can get it. I had to overcome that.

20 Q. That was one of the things that made
21 you uncomfortable around your same sex peers?

22 A. Wondering, just wondering, yeah.
23 Things like am I looking too much when you are
24 in the locker room or something like that.
25 That's it: That kind of uncomfortable.

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2 Q. Yes, sure.

3 A. Can I clarify that?

4 Q. Yes, sure. Go ahead.

5 A. The other males in my gym class made
6 me conscious of my body. I never knew I was
7 different from any other male that existed. I
8 had never seen another adult male or near adult
9 male or teenage boy naked. I had no contact of
10 that whatsoever.

11 When they saw me in the shower, they
12 saw that I was a grown man and different. They
13 teased me about that regularly and it made me
14 more and more curious about what other boys
15 looked like. And I started looking.

16 Thinking in that direction at that
17 point in time, I could not play sports. I have
18 a learning disability, that I did not know --
19 they didn't know what to do with learning
20 disabilities back in those days. I can't
21 remember now what they called it.

22 When I discovered it later on in
23 college, I went to college late in life, they
24 made me aware that I'm different. I was
25 somewhat effeminate, so I started exploring --

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2 clarification, but in your -- was one of the
3 purposes for you starting therapy and engaging
4 in therapy with Baxter Peffer to address your
5 same sex attraction?

6 A. It wasn't the main concern.

7 Q. But was it a concern?

8 A. Yes, it was.

9 Q. And you expressed that to
10 Mr. Peffer?

11 A. I'm sure, yes.

12 Q. Did you express that to Arthur
13 Goldberg when you had your first conversation
14 when he referred you to Baxter Peffer?

15 A. I don't remember if it was in my
16 first conversation with him.

17 Q. Before you testified fairly
18 unequivocally that the only reason you went to
19 see Baxter Peffer was to become more
20 comfortable with your same sex peer
21 associations. Seeing the notes reminded you
22 that you were also going to see him for same
23 sex attraction?

24 A. It's in the first line that I went
25 in there that I went to see him because of my

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2 having a hard time with my relationship. I
3 think it's one of the first lines there.

4 Q. Right, and I guess on the first page
5 of the notes, is there anything that mentions
6 your same sex attractions?

7 A. I didn't even read all of the notes.
8 I did in the beginning. A lot of it I can't
9 read to be honest with you. The penmanship was
10 bad.

11 Q. Is it your understanding that the
12 first page of his notes are where he set forth
13 the reasons why you came to see him?

14 A. Yes.

15 Q. Would it surprise you to know that
16 there is no mention of same sex attraction on
17 the first page of these notes?

18 A. Like I said, I didn't read the
19 entire page.

20 Q. I didn't ask you if you read it. I
21 just asked you if you would be surprised that
22 he didn't write down that he is coming to see
23 me to resolve same sex attraction?

24 A. I'm not surprised.

25 Q. No?

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2 A. No.

3 Q. Were there any other reasons why you
4 went to see Baxter Peffer besides the
5 association with same sex peers and dealing
6 with your same sex attractions?

7 A. I had to deal with my feelings of my
8 father. I had to learn how to forgive the men
9 that had harassed me and beat me up.

10 Q. Are these things that you came up
11 having as goals or are these things that you
12 learned from Baxter Peffer?

13 A. Well, you never let me finish my
14 statement. Now I'll have to start all over
15 again.

16 Q. Okay, start all over again.

17 A. Ask the question again.

18 Q. Besides dealing with your same sex
19 peer interactions and dealing with your same
20 sex attraction, were there any other reasons
21 why you went to go and see Baxter Peffer for
22 counseling?

23 A. In the back of my mind I was
24 wondering if you really could, because I had
25 men that did or said that they did go from

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2 homosexual to heterosexual and I'm sure I
3 mentioned it, but that was not my goal.

4 Q. Okay. Again, you said that you went
5 to see Baxter Peffer because you wanted to deal
6 with your same sex peer association issues and
7 now you didn't specifically go to see him to
8 resolve your same sex attraction; is that
9 right?

10 A. And I believe that's what I told you
11 before.

12 Q. My question was, are there any other
13 reasons why you went to go see Baxter Peffer?

14 A. Initially, I'm trying to think
15 now -- nothing is coming to me, so I'm going to
16 have to say no, no.

17 Q. Would it be fair to say that your
18 change in same sex attraction was a happy
19 coincidental outcome of your therapy with
20 Baxter Peffer, rather than a purpose for going
21 to see him?

22 A. I just recently talked to somebody
23 about that, that it was just coincidence. I
24 didn't expect it to happen.

25 Q. Who did you talk to about that?

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2 A. I think it was Jonna.

3 Q. Who at JONAH?

4 A. Not JONAH. That's his name, Jonna.

5 Q. Paul Jonna?

6 A. Paul Jonna. I believe I said that
7 to him recently. It was a surprise offshoot.

8 Q. A surprise offshoot?

9 A. I mean it really is.

10 Q. And you didn't go to see Baxter
11 Peffer to deal with your sex addiction?

12 A. I don't know if I called it that
13 because a lot of -- because a lot of -- we are
14 a nation of addicts. The entire nation is
15 either sex, drugs or alcohol. Nobody will
16 admit it. We are all in denial, but everybody
17 is -- if some of us are making or breaking all
18 of it, done it all. The way you put it -- it's
19 just so hard to talk about these things
20 sometimes. The way put it, you know, just
21 things that has come into conversation. I mean
22 who knows.

23 Q. Well, Mr. DeJiacomo, you certainly,
24 of all people on the earth, know why you went
25 to see Baxter Peffer and what issues you hoped

1 DE JIACOMO

2 to work with him on, right?

3 A. Yes.

4 Q. So you actually are the one person
5 who is equipped to answer this question.

6 Did you go and see Baxter Peffer to
7 work on or have him help you resolve your sex
8 addiction?

9 MR. LI MANDRI: Objection. Vague
10 and ambiguous as to time.

11 Q. When you went to go see Baxter
12 Peffer --

13 MR. LI MANDRI: Initially?

14 MR. MC COY: Yes.

15 A. I think it was such a time of
16 confusion for me being just so totally confused
17 with the issues of same sex attraction,
18 pornography, that -- and not really knowing if
19 I would go back to that lifestyle has probably
20 kept me going to Baxter and hoping that he will
21 be able to keep me in the direction that I
22 wanted to go in, which was completely out of
23 that lifestyle.

24 Q. Earlier today you had testified that
25 you had resolved your sex addiction before you

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2 other best friends, John Winchesky, has no
3 family here and I was helping him get over
4 kidney disease. And, you know, you got all
5 these things going on and I still rose above
6 that.

7 I rose above all this and now this.
8 With all this on top of it, I'm still there.
9 I'm still number one and I'm still going
10 forward.

11 Q. Have you ever seen any other
12 therapists at any time in your life?

13 A. When I was younger in my 20s, before
14 I went to school.

15 Q. What did you see them for?

16 A. I went to see them for negative body
17 image and I can only remember one name. Her
18 name was Ursula and it was with the city again
19 because the city was cheap. I qualified for
20 whatever it was. And you never got anywhere
21 because of the fact that it kept changing. I
22 had a new therapist every few weeks and so I
23 stopped going once I started going to school,
24 to the college.

25 Q. What did you mean by body image

1 DE JIACOMO

2 issues?

3 A. By body image I had a problem with
4 weight my whole life. Either it was fat, heavy
5 like I am now, or I was extremely thin.

6 Q. Careful. You're not that much over
7 me.

8 A. I don't want to talk about it to be
9 honest with you. Besides, I make up for it
10 with my incredible good looks, but I was either
11 heavy -- I was really fat and it got to the
12 point where, because of teasing and everything
13 like that, that I was starving myself to lose
14 weight. There is such a thing as male
15 anorexia. It does exist.

16 Q. I know that.

17 A. The only thing was and if I don't
18 tell you this you'll find out from some other
19 way, I might as well just tell it to you -- can
20 we open up the beers now? It was also in the
21 fact that I was teased --

22 Q. Actually just real quick, the
23 subject matters that we are about it sounds
24 like to discuss seem very personal.

25 A. They are, if I get it out, it will

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2 gave me a compliment, I was to write it down
3 and put it on my mirror and look at it every
4 day. That was hard to do because I wasn't
5 getting that many compliments or I didn't see
6 them as compliments.

7 He wanted to look at the forgiveness
8 thing, the guys in school and everything like
9 that, that bullied me and everything. Look at
10 that, try to get that taken care of, but I
11 think more of what you want to do is how did
12 the session start, how did it end, it always
13 ended on a positive note, let's talk about
14 this, let's talk about that. The daddy wound
15 is probably the biggest one that I have.

16 Q. What is the daddy wound?

17 A. My not having a father, not knowing
18 my father is probably the largest wound I ever
19 had and we worked on that, talked about that a
20 lot. Writing a letter to my father, forgiving
21 him was one of the things that I did.

22 Q. How did that exercise help you be
23 able to more easily associate with your same
24 sex peers?

25 A. It was just the work on my dad, to

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2 work on my dad and my relationship with him.

3 If you can heal your relationship with your
4 father, this is me, this is how I see it, if
5 you can relate, if you can fix your

6 relationship with your dad, it makes it easier
7 for you to have relationships with their --

8 with other men in my opinion if you can just
9 push past that and, you know, men that you see
10 as your mentors now. Just plain friends.

11 Q. How did you come to believe that?

12 A. From myself mostly I think.

13 Q. Did Baxter Peffer tell you that?

14 A. Not what I'm saying now, no.

15 Q. He didn't explain to you that
16 healing your wound with your father is a way
17 that you can become more well adjusted with
18 your same sex peers?

19 A. That came over a period of time
20 talking with a lot of people, not just Baxter.

21 Q. Who else?

22 A. There was -- one of the men at
23 Courage talked about that. I have had a lot of
24 talk about that from a lot of people. In order
25 to get over your -- that's my feeling --