

U.S. District Court Rules South Dakota’s Specialty-Advertising Rule Unconstitutional

Federal court strikes down state restrictions, upholding First Amendment rights for implant dentists and protecting truthful advertising for consumers.

SIOUX FALLS, S.D. — August 6, 2026 — Carolina Hernandez, Executive Director of the American Academy of Implant Dentistry (AAID), announced today that after nearly three years of litigation, the U.S. District Court for the District of South Dakota has ruled in favor of the AAID and longtime AAID Fellow and ABOI/ID Diplomate Dr. Edward Kusek, striking down South Dakota’s specialty-advertising rule as unconstitutional.

Judge Karen E. Schreier’s order in *American Academy of Implant Dentistry and Dr. Edward R. Kusek v. Jackley, et al.* permanently bars the state from enforcing the rule against Dr. Kusek and every similarly situated ABOI/ID Diplomate in South Dakota.

South Dakota’s unconstitutional advertising rule previously allowed a dentist to advertise as a “specialist” only after completing a two-year, ADA-recognized postdoctoral residency—regardless of the number of implants a dentist had placed, how many years they had practiced, or whether they were board-certified by an independently accredited certifying board.

“We are grateful to Judge Schreier for her thoughtful analysis of the issues presented in this case. This decision ensures that patients in South Dakota will have full access to information concerning dentists’ experience and expertise in implant dentistry, including expertise obtained through the rigorous certification process of AAID and the American Board of Oral Implantology/Implant Dentistry (ABOI/ID),” said Executive Director Hernandez.

Justin Withrow of Flannery Georgalis LLC, trial counsel for AAID and Dr. Kusek, emphasized the significance of the ruling for consumers and dental professionals alike.

“There is simply no world in which it makes sense to preclude a dentist with 40 years of implant experience and extensive implantology training like Dr. Kusek from accurately telling consumers about his practice and credentials, while permitting a dentist fresh out of residency to advertise as a specialist on day one,” said Withrow. “The Court’s decision is a win for the First Amendment and for South Dakota’s consumers.”

“AAID’s successful litigation of this matter underscores its longstanding commitment to protecting its members’ free speech rights across the country,” added Colin Callahan, co-counsel from Flannery Georgalis. “Anytime that the government seeks to stifle AAID members’ First Amendment rights, we will take whatever action is necessary to ensure that every member is able to truthfully advertise as a specialist in their field.”

FOR IMMEDIATE RELEASE

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Legal Representation

AAID and Dr. Edward Kusek were represented in *American Academy of Implant Dentistry and Dr. Edward R. Kusek v. Jackley, et al.* (Case No. 4:23-CV-04113-KES, D.SD) by Justin Withrow, Colin Callahan, Ben Reese, and Antonia Gelorme of Flannery Georgalis LLC, along with Jami Bishop of Johnson, Janklow & Abdallah, LLP.

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Founded in 1951, the American Academy of Implant Dentistry (AAID) is the first professional organization in the world dedicated to implant dentistry. Its membership includes general dentists, dental implantologists, oral and maxillofacial surgeons, periodontists, prosthodontists, and others interested in the field of implant dentistry. As a membership organization, the AAID currently represents almost 4,000 dentists worldwide.

For more information about the AAID, visit aaid.com or call the AAID office at 312.335.1550 or 877.335.AAID (2243).