

Fulton County Daily Report May 12, 1999, Wednesday
\$1.3M Verdict Coaxes a Deal for Doctor's Coerced Rehab

Stephen Ursery, Staff Reporter

For the several medical defendants it must have been a weekend of acute discomfort. A jury Friday had already hit them with a \$1.3 million verdict for falsely imprisoning a Jacksonville, Fla., physician in an alcoholism recovery program he maintained he didn't need. On Monday, the same disapproving DeKalb Superior Court jury would get to lay into them for punitive damages.

Come midnight Sunday, after 10 hours of negotiations by plaintiffs' lawyer Eric S. Block's count, the defendants settled with Dr. Leonard Masters and his wife, Linda Masters, for an undisclosed but likely sizable sum. The resolution of the three-week trial was presented to DeKalb Superior Court Judge Clarence F. Seeliger the next morning.

Defense lawyer Milton B. Satcher III of Long, Weinberg, Ansley & Wheeler says the defendants, including five doctors, eight other health professionals and three Atlanta area rehabilitation organizations, were covered by the settlement, but won't say who paid what.

The jury's verdict had already exceeded pre-trial offers on the case, according to plaintiffs' co-counsel Harold P. Corlew of Atlanta. He says he demanded \$950,000 before trial. One set of defendants covered by St. Paul Fire & Marine offered \$50,000; the others, covered by MAG Mutual Insurance Co., offered nothing.

That latter group included Drs. G. Douglas Talbott and Martha A. Morrison, the two physicians the jury found liable to Masters for fraud. The jury also found that at least one of three doctors affiliated with Georgia Alcohol & Drug Associates-Talbott, Dr. James W. Blevins and Dr. John P. Keppler-misdiagnosed Masters as an alcoholic.

The doctor-vs.-doctor case had another unusual element to it: a claim of false imprisonment. Family physician Masters claimed the defendants coerced him into rehab treatment at the Talbott-Marsh Recovery Campus in College Park under threat of losing his medical license. He alleged that the ordeal cost him his career. Masters v. Talbott, No. 94-14004-3 (DeKalb Super. filed Dec. 21, 1994).

The defense countered with Masters' own words, citing hospital interviews in which he admitted concern that he might have a drinking problem since he drank a fifth of scotch each week, plus four or five glasses of wine.

The jury, after seven hours of deliberation, took Masters' side.

Jury foreman Christopher Brown, 29, an accountant at The Carter Center, says jurors struggled over the meaning of "intentional" when considering the fraud claim.

Ultimately, Brown says, "We felt there was such an accumulation of mistakes, such as a lack of documentation of diagnosis meetings, that it pushed it to an intentional level."

The jury didn't buy linking all the defendants in a conspiracy, however, Brown says, adding that "Anchor Hospital and the treatment center are good places that have helped many people."

Diagnosis Considered Malpractice

The panel ultimately found that Masters' diagnosis amounted to malpractice. They also found Talbott and Morrison, who is also affiliated with Georgia Alcohol & Drug Associates, liable for fraud in the form of breach of fiduciary duty, and Talbott and Keppler liable for false imprisonment.

The \$1.3 million broke down as follows: \$538,375 in attorneys' fees, \$500,000 for pain and suffering, \$227,669 for lost income, \$24,435 for medical and/or out-of-pocket expenses and \$16,767 to Masters' wife for loss of consortium.

The jury's finding that Talbott and Morrison were agents of Anchor Hospital and Talbott Recovery Systems left those two defendants on the hook for potential punitive damages as well.

The lawyer for Talbott and Georgia Alcohol & Drug Associates, Kimberly L. Woodland of Love & Willingham, says her clients were "respectfully disappointed" with the verdict.

Block, of Jacksonville, says the jury's compensatory verdict validated "what the plaintiffs have felt in their heart for years."

Masters testified that a doctor from the Physicians Recovery Network, a branch of Florida's Department of Professional Regulation, told him in 1992 he had been accused of overprescribing narcotics. He could clear himself and keep his license by getting an evaluation at Anchor, Masters said he was told.

Instead, he said, Anchor gave him Alcoholics Anonymous reading material and sent him to a meeting of another alcoholism treatment group, where he broke down.

"I was no longer me," he testified.

Masters admitted he never told doctors he wanted to be discharged and said after his stay he attended AA meetings, during which he identified himself as an alcoholic.

"There was a point in time when I believed I was an alcoholic," he said.

Fired While at Treatment Center

While he was in treatment, his employer, the Family Care Partnership, fired him, Masters said. Although he did work again, he said, he never approached his 1991 income of \$160,000. He retired in July 1994, he testified.

Juror Brown says the plaintiffs' expert, Dr. Anne Geller, retired head of the Smithers Institute, an addiction treatment facility in New York, was persuasive.

Geller said Masters' diagnosis deviated from the standard of care. The defendant doctors and counselors apparently had neglected an essential element in making that diagnosis, she said: interviewing Masters' family, friends, and colleagues.

Satcher represented Anchor, Talbott Recovery Systems and eight social workers, counselors and doctors who were defendants.

Joseph C. Parker of Downey & Cleveland in Marietta represented Dr. Barry Lubin, who had headed after-care programs for Talbott Recovery patients. end

Stephen Ursery's e-mail address is sursery@amlaw.com.

**The Atlanta Journal and Constitution
May 6, 1999, Thursday, Home Edition
DeKalb Extra; Pg. 3JA**

**Hospital sued by man treated against his will;
Misdiagnosed as an alcoholic, Florida doctor claims in his suit, he finally lost his practice.**

Celia Sibley, Staff

In a case that could limit the authority of mental health hospitals to keep patients against their will, a Florida doctor is suing Anchor Hospital in College Park and several staff members in DeKalb Superior Court.

Leonard Masters of Jacksonville claims he was misdiagnosed as an alcoholic and held against his will for four months at Anchor.

Masters is suing Anchor's medical director, Dr. G. Douglas Talbott, and doctors, therapists, counselors and other staffers on the treatment team, and two associated businesses, Georgia Alcohol and Drug Associates and Talbott Recovery Systems Inc. The lawsuit charges them with fraud, false imprisonment, malpractice and intentionally causing him mental anguish.

Masters' wife, Linda, is suing for loss of consortium.

In addition, they are asking for recovery of her travel expenses during her visits to Atlanta, their attorneys' fees and loss of income from Jan. 20, 1992, to July 1, 1994, when Masters decided to quit medical practice.

An expert witness told the court Monday that the lawsuit could hamper treatment programs throughout the nation.

"Elements of this lawsuit potentially threaten every diversion program in the United States, (while) we have worked so hard to get doctors diverted out of the legal system into treatment," said Dr. David Smith, an addiction specialist from San Francisco.

The case began when a woman filed a medical malpractice suit against Masters in 1992, according to testimony. The woman accused him of getting her addicted to pain medication. Also in 1992, an associate of Masters told authorities he feared Masters was overprescribing drugs or using them himself, attorneys said.

When the complaints reached the Department of Professional Regulations, Dr. Guy Salander, chairman of the board of the Florida Medical Association and Masters' friend for 30 years, asked Dr. Roger Goetz of the Physician Recovery Network to intervene.

Goetz, now deceased, was a frequent guest speaker at Anchor and a former patient of Talbott, Anchor's medical director. In fact, many physicians on the Talbott team are recovering alcoholics, one of Masters' attorneys, Harold D. Corlew of Atlanta, said.

According to testimony, Goetz paid a surprise visit to Masters' office on a Monday and told him he must undergo evaluation at the College Park facility, where a room had been reserved for him.

The alternative, Goetz reportedly told him, was that Masters hand over his license.

Under that threat, Masters submitted to a 96-hour evaluation at Anchor on Jan. 20, 1992, said Eric Block, another Masters attorney.

Two patients laughed when Masters mentioned he'd be going home soon, Block said. They told him patients stayed there for months. He later heard of one who had been there a year, Block said.

Masters' fears escalated when he was strip-searched and put in a lock-down ward, Block said.

Masters stayed four months. He was a very different man when he got out in late May, he said.

An evaluation indicated no narcotics dependence, but Anchor physicians diagnosed him as an alcoholic. Family members, employees and longtime friends, including his first wife, testified they were stunned at the diagnosis.

All testified they had never seen him drunk or acting inappropriately or smelling of alcohol at work or at home.

However, defense witness James Blevins, a general and addiction psychiatrist who evaluated Masters, was "quite certain he's an alcoholic," according to testimony. Blevins said he also satisfied several criteria indicating alcoholism.

When he was released, Masters was under a five-year contract to attend Alcoholics Anonymous

meetings, again under threat of losing his medical license, Corlew said.

He also received a \$ 20,000 to \$ 25,000 disability benefit based on his alcoholism, said Kimberly Woodland, an attorney for the Talbott group.

Masters' lawyers said the Navy veteran and father of five was candid with the Anchor treatment staff, admitting he smoked marijuana about three times a year. Masters also admitted he drank heavily and sometimes had a drink when he was on call, Block said.

That typically meant he verified prescriptions over the telephone or referred people to a hospital, rather than treating them, Block said.

After his hospitalization, he attended support groups and lived in an apartment setting on campus with roommates also in recovery. He complained in court that he never got the one-on-one therapy he needed.

During his treatment, he was allowed to go home about three times for weekend visits.

Tammy Smith, one of Masters' daughters, testified that her father told her he could not think of any negative consequences of his drinking and an Anchor therapist told him he was lying and in denial. "He was scared to death and in shock" right after his evaluation, she said.

"That's when you question the diagnosis," said Dr. Ann Geller, a noted addiction specialist from New York who testified for Masters. "This man had no medical condition requiring him to be hospitalized," she said.

In April 1992, Masters received a letter saying he was fired from his job at a clinic in Jacksonville that he had once owned. As a family care physician at the clinic, he had earned about \$ 160,000 annually.

He partially paid for his treatment by cashing in some annuities, at the suggestion of the hospital staff, his two attorneys said.

In court, Masters testified he eventually came to realize he had been misdiagnosed and the thought of standing in front of people and saying he was an alcoholic made him physically sick. "I began to realize I didn't need to be there. For me to share my feelings was difficult. A mistake was made, and I didn't need going there," he said.

After four years of AA meetings he stopped.

Later, on a cruise, he resumed drinking. Today, he drinks less than he once did. "Three drinks now would be a lot in one day," he said.

GRAPHIC: Photo A defendant: Anchor's medical director, Dr. G. Douglas Talbott, is among hospital personnel being sued. / RENEE HANNANS / Staff Photo Plaintiff: Leonard Masters, who practiced medicine in Jacksonville, claims in his suit that he was held for four months

against his will. His wife, Linda, also is suing, for loss of consortium. / RENEE HANNANS / Staff

Fulton County Daily Report April 27, 1999, Tuesday

I Was Held Illegally in Alcohol Center, Doctor Charges

Stephen Ursery, Staff Reporter

When Dr. Leonard Masters of Jacksonville, Fla., attended Alcoholics Anonymous meetings, he, like the others, would say he was an alcoholic.

Now, however, Masters claims he wasn't telling the truth. He says he was forced to attend the meetings to keep his medical license after being intentionally misdiagnosed as "alcohol dependent" by Talbott Recovery Systems Inc. of Atlanta. He says he was forced to spend nearly four months hospitalized at its treatment center in College Park, and he calls that false imprisonment.

What's more, in a trial that began last week in DeKalb Superior Court, Masters and his lawyers are saying he's not the only physician who's been required to undergo this involuntary treatment or risk losing his license.

Masters and his wife, Linda Masters, sued Talbott Recovery, its founder, Dr. G. Douglas Talbott, Anchor Hospital and 13 others, including doctors and counselors who treated Masters during his hospitalization and treatment center stay. Masters v. Talbott, No. 94-14004-3 (DeKalb Super. filed Dec. 21, 1994).

Masters says the misdiagnosis cost him his career and seeks, among other things, to recover lost income from his release in May 1992 until his retirement in July 1994.

The Masterses allege medical malpractice, false imprisonment, breach of fiduciary duty and intentional infliction of emotional distress.

The defendants deny the allegations and say that during the course of his hospitalization Masters admitted concerns about a possible drinking problem and said he drank a fifth of scotch a week, plus four or five glasses of wine a week.

Milton B. Satcher III of Atlanta's Long, Weinberg, Ansley & Wheeler, representing Anchor and Talbott Recovery, told jurors that this is "a case about a gentleman who wanted treatment for a problem and he got treatment for that problem."

But in his opening statement last week, one of Masters' attorneys, Eric S. Block of Jacksonville, said, "No one ever accused him of having a problem with alcohol. Not his friends, not his wife, not his seven children, not his fellow doctors, not his employees, not his employers. No one."

He wound up in treatment, both sides agree, after the late Dr. Roger Goetz, then the director of the Physicians Recovery Network (PRN), a branch of Florida's Department of Professional Regulation, came to his office in 1992 and told him he'd been accused of prescribing too many narcotics to his chronic pain patients.

According to Block, Goetz told Masters that he could either surrender his medical license until he could disprove the allegations or go to Anchor in Atlanta for a 96-hour evaluation. Block said Goetz was a recovering alcoholic who had been treated at the Atlanta facility and who sent many other physicians there.

Masters went to Anchor, but instead of merely being evaluated, he was "immediately immersed into treatment," was diagnosed as "alcohol dependent" and was enrolled in the Talbott recovery program. He was released four months later, in May 1992, and forced to sign a five-year continuing care contract, according to Block.

While he was being treated, Masters' employer, the Family Care Partnership, fired him, Block said.

Block told jurors Masters was afraid to leave the program because "if any doctor dared to dispute the team's diagnosis, if they wanted to leave and go home, or even consent to get treatment in their home state," Talbott Recovery personnel "would threaten to report that doctor to his or her state board of medicine ... as being an impaired physician, leaving necessary treatment against medical advice."

Kimberly L. Woodland of Love & Willingham in Atlanta, representing Talbott and the other physician-defendants, told jurors Masters' scar "is self-inflicted."

Masters told the defendants, through his words and through filling out questionnaires, "about his alcohol problem and his concerns that he was an alcoholic," she added. "And he agreed to get treatment."

Masters told employees that he had suffered blackouts and had discussed his drinking with his wife, Woodland said.

On a questionnaire, Master checked "yes" when asked whether he thought alcohol had had a negative impact on his life, according to Woodland.

She added evidence will be introduced that when Masters later applied for disability benefits, he stated that his disability was alcoholism.

Woodland told jurors the defense would offer evidence that other doctors have requested a discharge from Talbott before completing their treatment, have left and haven't lost their medical licenses, she said.

But Block said in his opening statement that Masters told Talbott employees he regularly had "a few" drinks while watching television and eating peanuts, Block said. He also told them he kept

a bottle of scotch at the office and had a drink at the end of the day while working on insurance forms, Block added.

Masters "did the best he could to tell them what they wanted to hear, even if he had to exaggerate," Block said.

After his release, Masters got part-time work, but never approached the \$160,000 salary he was making at the time he left for Atlanta, Block added.

Woodland told jurors that Masters was eventually rehired by his practice group.

Testifying Monday for the plaintiffs, a witness identified only as an emergency room physician in Florida said he went to Anchor in 1994 after the PRN told him that co-workers had complained of smelling alcohol on his breath.

He was told he must either disprove allegations of a drinking problem or go to Anchor and enter the Talbott program. Once there, staff members told him he could not leave without his license being suspended. "So I stayed," said the witness. "I didn't feel like I had a choice."

On cross-examination, however, the witness acknowledged he had been in drug treatment and had been accused of taking narcotics from his workplace when the PRN called him. And while he insists he had no addiction when he was admitted, he testified that he benefited from his time in the program.

The witness was allowed to testify without identifying himself to avoid violating his confidentiality as a patient. But both sides know his identity.

As for Masters, the plaintiffs' first assault on the "alcohol dependent" diagnosis came last week with the expert witness testimony of Dr. Anne Geller, retired head of the Smithers Institute in New York City, who said the diagnosis "deviated" from the standard of care.

She examined Masters' records from Anchor and Talbott and testified she saw "no evidence of loss of control."

Geller admitted Masters was at the time "a chronic heavy drinker" who was consuming "more than is medically recommended" but added "there's no evidence he increased his drinking" and no mention of withdrawal symptoms in the records.

On cross-examination by Woodland, Geller said she disagrees with the Talbott system because "it keeps people for too long." But she also mentioned her objection to the center was not a "blanket" one: "There are many good things they do and many successes."

The plaintiffs last week also put up eight witnesses-family, friends, patients, office workers and a former colleague-who testified they never knew Masters to have a problem with alcohol.

But on cross-examination, all of the witnesses acknowledged they had not seen Masters at home on a nightly basis.

One of the eight was Warren Childers, a patient of Masters' who also served as his mentor in Alcoholics Anonymous meetings following Masters' release.

As a recovering alcoholic for more than 25 years, Childers testified he was particularly sensitive to signs of alcoholism.

Childers said he never smelled alcohol on Masters while in his office and never saw Masters act inappropriately because of drinking.

Upon learning that Masters was undergoing alcohol treatment in Atlanta, "both my wife and I were shocked . . . we had no suspicions at all," he testified.

Childers said Masters was "resentful" about his after-care requirements.

From the moment Masters began attending Alcoholics Anonymous meetings, Childers had doubts that he was really an alcoholic, he said. However, Childers said, he thought it "prudent" for Masters to carry on.

On cross-examination, Childers said he witnessed Masters say he was an alcoholic in Alcoholics Anonymous meetings.

Ethel Miles, Masters' ex-wife to whom he was married for 26 years, said she never saw Masters intoxicated or do anything inappropriate while drinking.

She also testified that eight of her nine siblings were "bad" alcoholics, so she was familiar with the symptoms.

end