

Mid-Trial Settlement Halts Med-Mal Case

Katheryn Hayes Tucker, Daily Report

October 29, 2015 | [0 Comments](#)

[SHARE](#)

[PRINT](#)

[REPRINTS](#)



Brandon Taylor *John Disney/Daily Report*

A medical malpractice case against a doctor over back pain treatment ended abruptly in Griffin this month after an unusual mid-trial settlement for a confidential amount.

The payment offer came as a surprise to the plaintiff's attorney, Brandon Taylor of Webb & Taylor in Peachtree City, who tried the case with his associate, Jordan Jewkes. Taylor said the defense made no pre-trial offers. Instead, he said he was told, "We'll never pay you."

Defense attorney Matthew Alford of Willis McKenzie DeGennaro & Alford in LaGrange, who tried the case with Nathan Cronic, declined to comment on the trial or the reason for the settlement. The two sides "reached a settlement that was agreeable to all parties during the course of the trial," Alford said. "We remain confident that our client complied with the standard of care."

The defense attorneys were retained by the doctor's insurer, MagMutual.

Establishing the standard of care was a part of the testimony of the last witness called, a defense expert. On cross-examination, Taylor questioned the expert about the differences between his infectious disease practice and that of the defendant, Dr. John Vu of Griffin Family Medicine. Taylor elicited an admission that the

infectious disease expert didn't see patients at the same point as the family practice defendant, according to a preliminary transcript.

"Can you sit here today ... and give standard of care opinion" as to how the family doctor treated the patient? Taylor asked the witness.

The answer: "On that particular day, no."

"Doctor, thank you. That's all I have, your honor," Taylor concluded. Alford had no further questions. The witness was excused.

"At the conclusion of his testimony we broke for the day," Taylor said. It was near the lunch hour on Thursday, Oct. 8, four days into the Spalding County Superior Court trial. "By dinnertime, the case was settled," he added.

The settlement brings an end to a story that began in August 2009 for Milton Cook. He went to the doctor with complaints of pain on both sides of his lower back, according to a plaintiff's summary filed with the court. The doctor prescribed a medication for muscle spasm. That afternoon, Cook's wife, Lynn, called the doctor's office to say her husband had a temperature of 104 degrees. The doctor ordered an antibiotic.

A month later, Cook returned to the doctor's office and said the pain had grown to include his thighs and hips and had become so severe he was having difficulty walking. He reported his fever continuing as well, according to the plaintiff's summary. The doctor changed Cook's pain medicine but did not test his spine.

Two days later, Cook reported he was unable to work. The doctor increased the pain medicine and referred Cook to an orthopedist, who turned out to have no openings for weeks.

The next month, Cook was having difficulty getting out of bed. The doctor prescribed more pain medicine after a phone call.

Cook was finally evaluated by an orthopedist in mid-October of 2009. An immediate MRI showed a compression fracture in the spine with fluid collecting around it "consistent with an abscess," according to the plaintiff's summary. By that time, Taylor said his client was "on death's door" with a septic infection. Cook was taken to a local emergency room, then transferred to Emory University Medical Center, where he underwent surgeries to relieve a spinal epidural abscess, according to the plaintiff's summary.

The lawsuit alleged that the family doctor failed to do a proper work-up of the initial complaints and make a timely referral to a specialist, "in violation of the standard of care."

The defense denied all the allegations. Alford and Cronin contended that the doctor "thoroughly and appropriately" treated Cook and gave the same care that other physicians would in similar circumstances, according to a defense summary they wrote for the court. The spinal infection "would not have been diagnosed by physicians generally," the defense said.

The case is *Cook v. Vu*, No. 2010V-1804.

Read more: <http://www.dailyreportonline.com/id=1202741086841/MidTrial-Settlement-Halts-MedMal-Case#ixzz3r83HTTZF>