

LAS VEGAS SUN

Clinics tied to hepatitis outbreak seek bankruptcy

By Jeff German and Steve Green

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Companies at the center of Nevada's hepatitis scare filed for Chapter 7 bankruptcy liquidation Friday, potentially affecting the recovery of financial damages by patients at clinics operated by Dr. Dipak Desai.

Ed Bernstein, one of the lead plaintiffs' lawyers in the endoscopy litigation over unsafe practices that potentially exposed patients to hepatitis, said the bankruptcy filing could cause delays in the massive case.

"This is a continuing pattern of the endoscopy center to prolong and conceal information from the parties who were injured to keep them from getting their day in court," Bernstein said.

The action automatically stays all matters in the litigation relating to the three clinics that filed for bankruptcy protection, plaintiffs' lawyers said.

The lawyers said they would seek to lift the stay in Bankruptcy Court.

Will Kemp, another lead plaintiffs lawyer, said the case will still be able to move forward in District Court against the other defendants, including Desai, the owner of the clinics, who is named as an individual defendant.

Attorneys who filed the bankruptcies could not immediately be reached for comment.

The Endoscopy Center of Southern Nevada, the Gastroenterology Center of Nevada and the Desert Shadow Endoscopy Center made the filings in U.S. Bankruptcy Court for Nevada in Las Vegas.

The Endoscopy Center filing listed 50-99 creditors, assets of under \$50,000 and estimated debt of \$100,000 to \$500,000.

The Gastroenterology filing listed assets of \$1 million to \$10 million and estimated debts of \$500,000 to \$1 million. It listed 100 to 199 creditors.

The Desert Shadow filing listed 50-99 creditors, assets of \$100,000 to \$500,000 and estimated debts of \$100,000 to \$500,000.

But hundreds and hundreds more potential creditors, mostly unsecured, are listed in the bankruptcy filings. They include patients who have sued the clinics in more than 400 lawsuits. Thousands of patients charge in these suits they were infected with hepatitis or exposed to the

risk of infection because of unsafe procedures at the clinics including the reuse of syringes and vials for anesthesia.

The Southern Nevada Health District late last year classified 101 cases of chronic hepatitis C infection as possibly associated with the Endoscopy Center of Southern Nevada, 700 Shadow Lane; and four cases possibly associated with the Desert Shadow Endoscopy Center, 4275 Burnham Ave.

The patients' claims against the companies are listed in the bankruptcy filings as "contingent" and "disputed."

The bankruptcy filings show the clinics had malpractice or professional liability insurance with Nevada Mutual Insurance Co., Travelers and CNA. However, the filings show the Desai companies are asserting claims of breach of contract against Nevada Mutual and Travelers -- indicating those insurers may be denying or limiting coverage for the massive malpractice claims.

The bankruptcy filings shed new light on the finances of the clinics.

The Endoscopy Center generated revenue of \$6.9 million in 2007, but that fell to \$1.16 million in 2008, when the businesses were closed. The Gastroenterology filing listed revenue of \$11.142 million in 2007, falling to \$5.25 million in 2008. Revenue at the Desert Shadow business of \$3.6 million in 2007 fell to about \$815,000 in 2008.