

**HEPATITIS C OUTBREAK: Desai files bankruptcy, puts lawsuits and malpractice trial on hold**

By BRIAN HAYNES  
March 4, 2010



Dipak Desai

Dr. Dipak Desai, who ran the clinics linked to Southern Nevada's hepatitis C outbreak, has filed for personal bankruptcy.

The Friday filing automatically halts all civil lawsuits against Desai in state court, including the first medical malpractice trial against him.

That trial, involving former patient Michael Washington, 69, was set for May 3. It would have been the first trial involving a patient with a hepatitis C infection genetically linked to other clinic patients.

Health investigators have said that unsafe injection practices spread infection among patients.

"Filing bankruptcy just once again postpones, prolongs and victimizes everybody once again," said his lawyer, Ed Bernstein.

In his Chapter 11 bankruptcy, Desai claims personal assets of more than \$22 million, including his \$2 million house at Red Rock Country Club, \$1.1 million in bank accounts and more than \$18 million in various investments and businesses.

His liabilities include a \$1.2 million mortgage, \$375,000 owed to the Bailey Kennedy law firm and a \$350,000 medical malpractice claim. Those figures don't include the potential damages that could arise from hundreds of pending civil lawsuits by former patients, with estimated liabilities in the millions of dollars.

UNLV law professor Nancy Rapoport said the bankruptcy filing won't protect Desai's assets from civil judgments. However, it does bring them under the same court, which could help divide the assets equitably, unlike the piecemeal litigation spread among many state district courts, she said.

For Desai, the bankruptcy puts those lawsuits on hold indefinitely.

"He's using the automatic stay to give him some breathing room," Rapoport said.

The postponement also saves Desai the legal costs to fight them.

According to the bankruptcy documents, Desai paid more than \$240,000 in the past three months to various law firms, including the one handling his bankruptcy and the one handling any criminal case.

Las Vegas police have recommended criminal charges against Desai and others who worked in the clinics. County prosecutors expect to take that case before a grand jury in the near future.

Meanwhile, Washington can ask U.S. Bankruptcy Judge Mike Nakagawa to lift the postponement in his case, but that would take months, Bernstein said. By then the trial date will be past, and a new trial date likely won't be available until next year.

"It's one roadblock after the next," Bernstein said. "This is a stalling tactic. They're hoping to outlast all these plaintiffs."

Patients suing Desai and his clinics were in a similar spot last summer when the Gastroenterology Center of Nevada, Endoscopy Center of Southern Nevada and Desert Shadow Endoscopy Center filed for bankruptcy.

Nakagawa allowed a handful of lawsuits to go forward because they were close to trial. Most of those have been rescheduled, but trials involving Washington and former Desert Shadow patient Henry Chanin were on schedule for this spring.

Chanin's trial, set for April 12, names Dr. Rajat Sood instead of Desai because Sood performed the procedure.

A two-year investigation by public health officials determined that as many as 115 patients were infected with hepatitis C because of unsafe injection practices at the Endoscopy Center and Desert Shadow clinics.

Nine of the cases were linked to the clinics, while the other 106 were possibly linked, according to the Southern Nevada Health District.

Hundreds of former patients have sued. Most of those lawsuits also include a product liability claim against Israel-based Teva Pharmaceutical Industries, which made the anesthetic used to sedate patients during their procedures.

Lawyer Will Kemp, who represents former patients, said the bankruptcy could backfire on Desai by opening the possibility to tap into his family trusts, where money from the clinics was funneled.

Contact reporter Brian Haynes at [bhaynes@reviewjournal.com](mailto:bhaynes@reviewjournal.com) or 702-383-0281.