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**Hospital settles claims of sex assault by anesthetist**

*Tommy Malone settles with WellStar; files similar suit against a plastic surgery center*

By Katheryn Hayes Tucker, Staff Reporter

Criminal and civil matters are about to conclude this week—and another case is beginning—surrounding a contract nurse anesthetist accused of sexually assaulting unconscious women patients in operating rooms.

Cobb County Superior Court Judge Reuben M. Green has scheduled a stipulated bench trial at 8:30 a.m. Monday for Paul Patrick Serdula, a nurse anesthetist accused of sexual assault against patients, according to Green's staff attorney, A. Lee Fudger. That means the defendant will agree to certain facts and give up his right to a trial by jury, but will reserve the right to appeal.

Also this week, a civil case filed in the State Court of Cobb County against WellStar Health System Inc. on behalf of five unnamed plaintiffs settled for an undisclosed amount, according to lead plaintiffs' attorney Thomas W. "Tommy" Malone. "The matter has resolved to the satisfaction of all parties," Malone said.

As the first case settled, Malone filed another case in Cobb County state court this week related to the same nurse anesthetist, this one against Plastic Surgery Center of the South. The new case accuses the surgery center of negligence and asserts it is "liable for its failure to exercise ordinary care to keep the premises safe." The suit alleges that Serdula shot video that showed him touching the plaintiff's nude body while she was unconscious for cosmetic surgery. She is joined in the case by her husband. A second plaintiffs' attorney is listed after Malone, Michael G. Regas II of Houck, Ilardi & Regas.

The Cobb County Police Department arrested Serdula in 2009 after an employee in a dental office noticed a video camera hidden under a sink in a restroom and alerted security authorities, who called police, according to police spokesman Sgt. Dana Pierce. The police tracked the camera to Serdula, arrested him and executed a search warrant at his apartment, where they found recording equipment and more than a hundred videos. Pierce said Serdula worked temporarily in medical offices in Georgia, Florida, Alabama and California. After viewing the videos and searching medical records, police were able to identify victims for the 18 counts now pending against Serdula.

In both civil cases, the plaintiffs are identified by initials "due to the egregious, humiliating and embarrassing nature of the acts perpetrated upon" them. The complaint against WellStar says that Serdula perpetrated sexual assaults against five female patients while they were sedated.

The complaint says that WellStar "is liable to each of them for its failure to exercise ordinary care to keep the premises safe." Four of the plaintiffs were in the hospital to deliver babies by Caesarean section. They are joined in the case by their husbands. The complaint alleges that Serdula over-sedated them to render them totally "unconscious and unable to protest" and "later incapable of remembering the birth" of their children. Serdula "inappropriately administered Fentanyl and Versed" without the patients knowledge or consent, according to the suit.

The fifth plaintiff, a minor child, was in the hospital for an emergency appendectomy and was placed under general anesthesia. She is joined in the case by her parents.

For each of the five WellStar plaintiffs, the complaint alleges that Serdula "recorded a video image of himself placing his penis in [the plaintiff's] mouth while in the operating room in the presence of other WellStar healthcare providers who could have easily seen and prevented this atrocity."

In some of the cases, the complaint alleges that Serdula also "rubbed his penis" across the women's faces and "fondled" their breasts. In the case of the minor, he is accused, in addition to sodomizing her, of recording "video images of [the plaintiff's] vagina while she was being prepped for the appendectomy."

The mother of the minor plaintiff "repeatedly pleaded with defendant WellStar to allow her to accompany" her daughter to the operating room and remain with her "throughout the procedure," but the hospital denied the request, the suit says.

In addition to Malone, other plaintiffs' attorneys listed in the WellStar complaint include: Alwyn R. Fredericks of Cash Krugler & Fredericks; Robert F. Schnatmeier Jr. and John S. Morgan of Gentry, Smith, Dettmering, Morgan & Schnatmeier; and Katherine V. Hernacki of The Hernacki Law Firm.

WellStar spokeswoman Katie Lopez said the hospital would not comment on the case. She said WellStar is represented in the case by John E. Hall Jr. and Ashley Phillips Purcell of Hall Booth Smith & Slover, who also declined comment.

Wade K. Copeland of Carlock, Copeland & Stair said he and Lee P. Gutschenritter will defend Plastic Surgery Center, but they have not seen the complaint. "The Plastic Surgery Center doesn't know anything about what happened, or obviously they wouldn't have allowed it to happen," Copeland said. He added that he had heard that Serdula allegedly used a video camera hidden in his scrub suit to avoid detection by co-workers.

Serdula's criminal trial was originally scheduled to start Monday. Earlier this week, the judge scheduled a plea hearing for today. Then late Thursday, plans changed again and the judge has scheduled the stipulated bench trial, according to his staff attorney, Fudger. Fudger said the judge expects to hear from victims and set a sentence on a later date.

Cobb County District Attorney Patrick H. Head declined to comment on the case. Serdula's criminal defense attorney, Jimmy D. Berry, did not return a phone call about the case.

The judge's discretion in sentencing will likely be limited by the nature of the alleged crimes, the most serious of which involves sexual assault of a minor. Police and prosecutors investigating the case have gradually added charges, including aggravated child molestation, aggravated sexual battery and aggravated sodomy. The sentence for aggravated child molestation under O.C.G.A. § 16-6-4, which covers sexual assault including sodomy on a minor, is 25 years to life.

Serdula is being held without bond in the Cobb County detention center, according to the Cobb County Sheriff's Department website.

Meanwhile, Cobb County police are still trying to identify more victims from the 100-plus videos in evidence. "There are other victims. They just don't know it," said Sgt. Pierce, who said there could be at least 80 victims. "If you have ever heard of Paul Serdula, we want to hear from you," he said. He suggested that anyone put under anesthesia check with their medical providers to see who did the procedure.

The recently settled civil case is *A.L. v. WellStar Health System Inc.*, No. 10-A-9635-5.

The newly filed civil case is *C.C. v. Plastic Surgery Center of the South*, No. 11-A-1506-4.

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