

2013 WL 5173773 (Ga.State Ct.) (Trial Pleading)
Georgia State Court.
DeKalb County

Melvin C. WATKINS, Jr., Plaintiff,
v.
Gilbert Malcolm TAYLOR, Law Office of Gilbert M. Talyor, L.L.C.,
and Aramark Healthcare Support Services, L.l.c., Defendants.

No. 13A48662.
September 6, 2013.

Complaint and Demand for Trial By Jury

[David S. Bills](#), P.C., [David S. Bills](#), Georgia Bar No. 057132, 1932 North Druid Hills Road, N.E., Suite 200, Atlanta, Georgia 30319, 404-633-6000, 404-633-6400 Fax, david@davidsbills.com.

COME NOW Plaintiff Melvin C. Watkins, Jr., by and through counsel, and files this Complaint and Demand for Trial by Jury naming as Defendants Gilbert Malcolm Taylor, Law Office of Gilbert M. Taylor, L.L.C., and Aramark Healthcare Support Services, L.L.C., and in support shows as follows:

PARTIES

1.

Plaintiff Melvin C. Watkins, Jr., is a resident of the State of Georgia.

2.

Defendant Gilbert Malcolm Taylor is a licensed attorney at law and a resident of DeKalb County. He is subject to the jurisdiction and venue of this Court. He may be served with process at his place of residence, 154 Anita Place, Atlanta, Georgia 30306.

3.

Defendant Law Office of Gilbert M. Taylor, L.L.C., is a law firm incorporated under the laws of the State of Georgia, with its principle place of business and its registered office at 6101 Oakbrook Parkway, Norcross, Georgia 30093. It is subject to the jurisdiction and venue of this Court. It may be served with process upon its registered agent, Gilbert Taylor, at the said principle place of business and registered office address.

4.

Defendant Aramark Healthcare Support Services, L.L.C., is a business entity organized as a corporation under the laws of the State of Delaware, with its principle place of business and its registered office in Philadelphia, Pennsylvania. It is registered to transact business in the State of Georgia, does transact business in the State of Georgia, and is thus subject to the jurisdiction and venue of this Court. It may be served with process upon its registered agent, C T Corporation System, at the said agent's office at 1201 Peachtree Street, N.E., Atlanta, Georgia 30361.

COMPLIANCE WITH O.C.G.A. § 9-11-9.1

5.

In compliance with the requirements of O.C.G.A. § 9-11-9.1, Plaintiffs herewith file the Affidavit of William U. Norwood, III, an expert witness qualified to testify with respect to professional negligence and breaches of the applicable professional standard of care by Defendant Gilbert Malcolm Taylor. This Affidavit sets forth at least one act or omission of negligence claimed to exist on the part of Mr. Taylor and the factual basis thereof.

FACTS GIVING RISE TO THIS ACTION

6.

On September 6, 2011, at approximately 12:37 P.M., Plaintiff Melvin C. Watkins, Jr., sustained serious traumatic injuries as the result of being struck by a vehicle driven by Edward Lamar Tilley on Ralph D. Abernathy Boulevard, S.W, Atlanta, Georgia (hereinafter referred to as “the initial occurrence”), and was transported by ambulance to Grady Memorial Hospital.

7.

The injuries sustained by Mr. Watkins in the initial occurrence included the following: left displaced, comminuted femoral neck fracture; left displaced, comminuted fibula/tibia fracture; left comminuted proximal femur fracture; left displaced, comminuted acetabulum (the portion of the pelvis where the head of the femur meets the pelvis); left displaced inferior and superior pubic rami fractures; multiple facial fractures; and closed head injury encompassing a parietal skull fracture with underlying epidural hematoma and associated traumatic brain injury, with impaired cognition.

8.

Due to his injuries, Mr. Watkins was admitted to Grady Memorial Hospital during the time period of September 6 - September 20, 2011; was then transferred to and was an in-patient at Crestview Health & Rehabilitation Center (which is part of the Grady Healthcare System) during the time period of September 20 - October 7, 2011; was then transferred back to Grady and admitted during the time period of October 7 - October 11, 2011; was then transferred back to and was an in-patient at Crestview during the time period of October 11, 2011 - (on or about) January 15, 2012. At the time of discharge from Crestview, as an indigent and homeless person, he was sent on a subsidized transition basis to a community-based boarding house where he was allowed to stay for several additional weeks.

9.

Additionally, due to his injuries, Mr. Watkins was required to undergo the following surgical procedures: placement of a traction pin in the left lower extremity on September 6, 2011; open reduction / internal fixation surgery upon the left femoral neck fracture and left segmental tibia fracture on September 8, 2011; and irrigation and debridement of wound and infected tissues in left posterior knee on October 8, 2011.

10.

At all times relevant to this action, Aramark Healthcare Support Services, L.L.C., was a party to a contractual agreement with the Grady Memorial Hospital Corporation, under which it provided certain so-called “environmental” services, which - on

information and belief - primarily consisted of maintenance, housekeeping, and other custodial-type services at Grady Memorial Hospital.

11.

At all times relevant to this action, Aramark Healthcare Support Services, L.L.C., employed Kenneth Bernar Wilkens (Date of Birth: XX/XX/1962; Last Known Address: 1633 Ezra Church Dr. N.W., Atlanta, Georgia 30314) and Emma T. Wilkens, a/k/a Emma J. Tiller (Date of Birth: XX/XX/1962; Last Known Address: 1633 Ezra Church Dr. N.W., Atlanta, Georgia 30314), husband and wife, both of whom regularly worked at Grady Memorial Hospital under the direction and supervision of their employer.

12.

On information and belief, Ms. Wilkens was assigned to and present in the area of the Grady Memorial Hospital's Emergency Department on September 6, 2011, at or about the time of Mr. Watkins' arrival by ambulance as an acutely injured trauma patient; and either at that time or sometime soon thereafter, as part of an clandestine, illegal "runner" operation involving an unknown number of other persons, including but necessarily limited to her husband, Mr. Wilkens, and Dwight David Temples (Date of Birth: XX/XX/1963; Last Known Address: 625 Blueangel Dr., Atlanta, Ga. 30349), and seeking to target patients for solicitation on behalf of one or more unscrupulous personal injury lawyers, initiated the events that thereafter transpired, which are described below and complained of in this action.

13.

On information and belief, Ms. Wilkens contacted Mr. Wilkens regarding Mr. Watkins having been admitted to Grady Memorial Hospital secondary to serious injuries due to being struck by motor vehicle, and Mr. Wilkens in turn contacted Mr. Temples.

14.

After first being medically evaluated in the Emergency Department, Mr. Watkins was admitted to the Intensive Care Unit (ICU).

15.

The next day, September 7, 2011, Mr. Watkins was transferred to a Med Surg Unit on the Seventh Floor, maintained with his left leg immobilized and in traction and administered intravenous Morphine for pain, while awaiting clearance by the neurology service for him to undergo general anesthesia and scheduling of surgery.

16.

On September 7, 2011, at some unknown time during the day, Mr. Watkins awoke or regained consciousness, albeit in a "very mentally messed up" (in his own words) condition and experiencing great pain, to find that a large, physically imposing man, subsequently identified as Mr. Temples, had trespassed and was present in the room.

17.

At such time, Mr. Temples falsely represented to Mr. Watkins that he had been sent by his sister, advised that he had been investigating the initial occurrence, and showed Mr. Watkins color photographs taken of the vehicle driven by Mr. Tilley,

explaining, "This is where your head hit the windshield." Mr. Temples also showed Mr. Watkins color photographs of him asleep or unconscious in his hospital bed. These photographs of him in the hospital bed caused extreme shock and emotional upset to Mr. Watkins because "I looked like I was dead."

18.

At the time of this solicitation, Mr. Temples placed Mr. Watkins under severe duress and aggressively intimidated and coerced him into signing documents that he did not read and lacked the cognitive ability and coherence to read or understand. Mr. Watkins signed the documents because he was extremely intimidated and frightened by Mr. Temples standing over him and forcefully demanding that he sign the documents, because he felt alone and defenseless, because he had been told that Mr. Temples had been sent by his sister, and because he just wanted Mr. Temples to leave. At such time, Mr. Watkins was overtly coerced, was mentally and emotionally incapable of entering into a binding contract, and had no understanding or appreciation of what he had signed.

19.

The documents signed by Mr. Watkins on September 7, 2011 at the insistence of Mr. Temples were (1) an Agreement for Legal Services, which by its terms employed the Law Office of Gilbert M. Taylor, L.L.C., on a contingent fee basis with respect to all claims and causes of action arising out of the occurrence; and (2) an Authorization to Release Medical Information in favor of the Law Office of Gilbert M. Taylor, L.L.C.

20.

At no time either prior or subsequent to the solicitation and the coerced signing of these documents did Mr. Watkins take any affirmative act to seek out or obtain legal representation with respect to any claims or causes of action relating to his injuries or arising out of the initial occurrence, or make any request to anyone, including Ms. Wilkens, for assistance to be provided with regard to obtaining legal representation.

21.

At the time of the solicitation by Mr. Temples and the coerced signing by Mr. Watkins of the documents, Mr. Temples was acting at the express direction and as the employee or agent of Gilbert Malcolm Taylor, a licensed attorney, and was engaging in conduct on behalf of Mr. Taylor which is expressly prohibited by [Rule 7.3 of the Georgia Rules of Professional Conduct](#), the maximum penalty for such conduct being disbarment.

22.

Additionally, on either September 7 or 8, 2007, Mr. Temples appeared at Stinson Appliances (1825A Martin Luther King, Jr. Dr., Atlanta 30310), the place of business of Mr. Watkins' sister and brother-in-law, Cynthia and Milton Stinson. At that time, Mr. Temples identified himself by name and asserted in a loud and overbearing manner that he was working with a lawyer, and they would be representing Mr. Watkins. Mr. Temples also advised he was already investigating the occurrence and showed Ms. Stinson one or more photographs of Mr. Tilley's vehicle.

23.

On the morning of September 8, 2011, Vanessa Vann, Legal Assistant to Mr. Taylor, transmitted by facsimile a letter on the letterhead of Law Office of Gilbert M. Taylor, L.L.C., to Grady Memorial Hospital requesting copies of the medical records of Mr. Watkins, as well as itemized billing statements reflecting charges for all medical services rendered.

24.

On the evening of September 8, 2011, Mr. Watkins was visited in his hospital room by Pastor Scott Truitt of the County Line Baptist Church (430 Strickland Road, Alpharetta, GA 30004), along with several other members of the County Line Baptist Church. Pastor Truitt and a number of other church members and their families had developed and maintained close personal relationships with Mr. Watkins over the preceding six or seven years as a result of the church's mission work and humanitarian efforts with respect to under-privileged and homeless people living in low-income areas of the City of Atlanta.

25.

At the time of this visit, Pastor Truitt and other of the church members noted Mr. Watkins was not functioning well mentally and still did not comprehend the fact that he had sustained his injuries as a result of being struck by a moving vehicle while riding his bicycle.

26.

On an undetermined date during the ensuing weeks, Mr. Temples returned to Stinson Appliances and aggressively insisted Mr. and Mrs. Stinson falsely claim Mr. Watkins had lived them, and insisted they provide their automobile insurance information to him such that a claim could be asserted against their insurer. They refused to do so because they understood what was being proposed by Mr. Temples would constitute insurance fraud.

27.

On September 26, 2011, Mr. Taylor transmitted a time-limited settlement demand letter for policy limits on behalf of Mr. Watkins to State Farm Insurance Company, the automobile liability insurer of Mr. Tilley, with respect to the initial occurrence of September 6, 2011.

28.

At no time prior to making this settlement demand did Mr. Taylor or any other attorney or office staff personnel affiliated with the Law Office of Gilbert M. Taylor, L.L.C. ever speak with Mr. Watkins. As such, to the extent Mr. Taylor may have had some basis to believe that he actually, legitimately represented Mr. Watkins, such putative representation was never confirmed and no effort was made to obtain any such confirmation. Likewise, to the extent Mr. Taylor may have had some to believe that he had actual, legitimate authority from Mr. Watkins to make a settlement demand on his behalf, no such authority was ever confirmed in any way and no effort was made to obtain any such confirmation.

29.

The demand for settlement was made entirely without the knowledge or consent of the putative client, Mr. Watkins.

30.

The demand for settlement was duly accepted by State Farm and a settlement check in the amount of \$25,000.00, dated October 4, 2011, was issued to Mr. Taylor.

31.

Because Mr. Taylor had “apparent authority” to represent Mr. Watkins and to make the settlement demand on his behalf, the acceptance of the demand by State Farm resulted as a matter of law in a binding final resolution of all of Mr. Watkins' potential claims and causes of action against the tortfeasor, Mr. Tilley, arising out of and/or relating to the initial occurrence. *See e.g., Brumbelow v. Northern Propane Gas Co.*, 251 Ga. 674, 308 S.E.2d 544 (1983); *Omni Builders Risk, Inc. v. Bennett*, 313 Ga. App. 358, 721 S.E.2d 563 (2011).

32.

Between October 6 - 10, 2011, that is, during the time period in which Mr. Watkins had been transferred back to Grady Memorial Hospital from Crestview Health and Rehabilitation Center for the purpose of undergoing an irrigation and debridement surgery on an infected wound behind his left knee, Mr. Temples made yet another unannounced appearance in Mr. Watkins' hospital room. On this occasion, Mr. Temples was accompanied by a short, slightly built oriental man who - on information and belief - was Mr. Taylor's office manager, Frankie (Phuc) Van. This visit involved Mr. Watkins being presented with and aggressively coerced into signing another legal document, a Limited Liability Release, which was in no way explained to him and which he did not read and did not understand. Once again, Mr. Watkins did not even know or appreciate what he had signed.

33.

On or about October 13, 2011, after Mr. Watkins' return from Grady Memorial Hospital to Crestview Health and Rehabilitation Center, Mr. Temples made a third unannounced appearance and presented to Mr. Watkins both (i) a settlement disbursement check in the amount of \$16,667.00, dated October 12, 2011, and drawn on the SunTrust Bank's “Gilbert Malcolm Taylor, IOLTA Account, ... 154 Anita Place, Atlanta, Georgia 30306,” and (ii) a form Settlement Disbursement document with handwriting indicating a settlement amount of \$25,000.00, an attorney fee amount of \$8,333.00, and a net payment amount to client of \$16,667.00. Mr. Temples forcefully directed Mr. Watkins to sign and date the Settlement Disbursement document and to not speak with anyone about the matter. Mr. Temples left abruptly when a Crestview staff member came to the door of the room to determine the nature of Mr. Temples' visit and/or Mr. Watkins' well-being.

34.

On or about October 13, 2011, within a very short time after Mr. Temples' departure, Tyra Reed, a senior Crestview staff member, who clearly understood Mr. Watkins had mental, emotional and/or psychological challenges and “was not really with it” (in her own words), came to his room to inquire about his well-being and the nature of the departed man's visit. At that time, in response to her questions, Mr. Watkins simply kept repeating that the man (Mr. Temples) was “just a friend.”

35.

On or about October 13, 2011, subsequent to Mr. Temples' departure, Paster Truitt and another member of County Line Baptist Church, Michael Stroup, came to Crestview to visit Mr. Watkins and noted that he seemed to be very despondent. When asked what was wrong, he stated, “I think I've done something very bad.” On further inquiry, he showed Pastor Truitt the documents in his possession - which he did not understand - and described the series of events that had transpired, as set forth herein. Based on his long-standing acquaintance with Mr. Watkins and his high degree of confidence in Mr. Watkins' honesty, Pastor Truitt quickly appreciated the seriousness of the matter and encouraged Mr. Watkins to simply not accept what had happened. Paster

Truitt also encouraged Mr. Truitt to discuss what had happened with Ms. Reed of the Crestview staff, which he thereafter did in an emotional and child-like manner.

36.

In an effort to cover-up and obscure the true nature and character of the events that had transpired, as complained of in this action, Ms. Wilkens and her husband, Mr. Wilkens, who is - on information and belief - a convicted felon, have advanced multiple versions of a false and highly implausible story in which they have portrayed themselves as altruistic “Good Samaritans” in directing Mr. Temples, who is also - on information and belief - a convicted felon, to the aid of Mr. Watkins only after having been urgently requested by Mr. Watkins for assistance in obtaining legal representation.

37.

At all relevant times, Defendant Aramark failed to take reasonable and necessary steps to advance and protect the interests of Mr. Watkins, who as a traumatically injured patient admitted to Grady Memorial Hospital, had the right to be left alone, to receive medical care and treatment in a reasonably safe and secure environment, and to in no way be preyed upon or subjected to intermeddling, solicitation, harassment, or **financial exploitation** by Aramark's employees.

38.

More specifically, at all relevant times, Defendant Aramark failed to give reasonable and proper attention to the hiring, training, and on-the-job supervision of its employees, Ms. and Mr. Wilkens.

39.

At all relevant times, to the extent Mr. Taylor may have had some basis to believe he actually, legitimately represented Mr. Watkins, Mr. Taylor failed to act consistently with the fiduciary duties of utmost good faith, loyalty, honesty, candor and fair dealing with respect the attorney-client relationship and the attendant responsibilities in dealings with and providing proper legal services to his putative client, Mr. Watkins.

40.

At all relevant times, to the extent Mr. Taylor may have had some basis to believe he actually, legitimately represented Mr. Watkins, it was incumbent on Mr. Taylor to act consistently with the fiduciary responsibilities inherent to the attorney-client relationship, and Mr. Watkins had every right to rely upon him to do so.

41.

At all relevant times, Mr. Taylor was acting within the course and scope of his employment by and/or agency for and on behalf of the Law Office of Gilbert M. Taylor, L.L.C.

42.

As a direct and proximate consequence and result of the above-described facts and circumstances, Mr. Watkins suffered pecuniary loss, feared imminent physical harm, experienced mental and emotional shock, anguish and upset, and otherwise sustained legally cognizable damages.

CLAIMS AGAINST DEFENDANTS COUNT I: PROFESSIONAL NEGLIGENCE / LEGAL MALPRACTICE

43.

Defendants Gilbert Malcolm Taylor and Law Office of Gilbert M. Taylor, L.L.C. breached the duty of ordinary and reasonable care owed to Plaintiff Melvin C. Watkins, Jr., breached the applicable professional standard of care owed to Plaintiff, and were otherwise professionally negligent in acts or omissions to include, but not be limited to the following:

- A. Failing to properly confirm that Plaintiff, as the putative client, had actually, legitimately and freely entered into the attorney-client relationship;
- B. Failing to properly communicate with Plaintiff;
- C. Failing to take proper and necessary steps to obtain the actual authority of Plaintiff to make a demand for settlement of his claims and causes of action; and
- D. Failing to properly confirm that Plaintiff had actually, legitimately and freely ratified the attorney-client relationship such that any portion of his settlement funds could properly be taken as attorney's fees.

COUNT II: ORDINARY NEGLIGENCE

44.

Defendant Aramark Healthcare Support Services, L.L.C., breached the duty of ordinary and reasonable care owed to Plaintiff Melvin C. Watkins, Jr., in acts or omissions to include, but not be limited to the following:

- A. Failing to conduct background checks and make reasonable hiring decisions;
- B. Failing to properly and adequately train its employees;
- C. Failing to establish and enforce proper and necessary rules, regulations, policies and procedures;
- D. Failing to properly and adequately supervise its employees;
- E. Breaching terms and conditions of its contractual agreement(s) with the Grady Memorial Hospital Corporation, applicable rules, regulations, policies, procedures, and/or other expectations relating to the hiring, training, on-the-job supervision of its employees, and safeguarding of the rights of patients admitted to Grady Memorial Hospital to receive medical care and treatment in a reasonably safe and secure environment.

**COUNT III: RECKLESS, WILLFUL, WANTON, OPPRESSIVE
AND/OR INTENTIONAL FIDUCIARY VIOLATIONS.**

45.

Defendants Gilbert Malcolm Taylor and Law Office of Gilbert M. Taylor, L.L.C. violated fiduciary duties owed to Plaintiff Melvin C. Watkins, Jr., in acts and omissions to include but not be limited to the following:

- A. Failing to properly confirm that Plaintiff, as the putative client, had actually, legitimately and freely entered into the attorney-client relationship;

B. Failing to properly communicate with Plaintiff;

C. Failing to take proper and necessary steps to obtain the actual authority of Plaintiff to make a demand for settlement of his claims and causes of action; and

D. Failing to properly confirm that Plaintiff had actually, legitimately and freely ratified the attorney-client relationship such that any portion of his settlement funds could properly be taken as attorney's fees;

E. Misappropriation of funds belonging to Plaintiff which could not properly be considered to constitute duly earned attorney's fees.

46.

The said acts and omissions of Defendants amounted to and evinced reckless, willful, wanton, oppressive and/or intentional fiduciary violations, and/or such an entire, egregious and aggravated want of care as to raise the presumption of conscious indifference to the consequences, authorizing the recovery of punitive damages under [O.C.G.A. § 51-12-5.1\(b\)](#).

47.

Further, the said acts and omissions of Defendants evinced specific intent to cause and inflict harm to and upon Plaintiff, such that the general limitation regarding the amount which may be awarded as punitive damages pursuant to [O.C.G.A. § 51-12-5.1\(f\)](#) is inapplicable as a matter of law.

COUNT IV: FRAUD

48.

Defendants Gilbert Malcolm Taylor and Law Office of Gilbert M. Taylor, L.L.C., perpetrated fraud upon Plaintiff Melvin C. Watkins, Jr., by making false representations to him with knowledge of the falsity (scienter) of such representations and with intent to defraud him of his legal rights. The circumstances surrounding such representations, to include, for example, the **exploitation** by Defendants and their employees or agents, Mr. Temples and Mr. Van, of his lack of ability to comprehend, understand or appreciate that he was being solicited, why he was being solicited, the nature of documents he was coerced into signing, and what Defendants intended to do ostensibly on his behalf, were such that it was reasonable for Plaintiff to take no affirmative steps to attempt to prevent the continuation of their fraudulent scheme and to instead simply assume and thus justifiably rely on Defendants and their employees or agents to not undertake no acts at all in connection with his legal rights without his actual knowledge and consent.

46.

Defendants' fraudulent acts but are not limited to the following:

A. False representations of material fact such as asserting that they had been sent by his sister;

B. False representations of material fact to third-parties, such as State Farm Insurance Company, without providing any notice of such communications;

C. Intentionally failing to timely communicate with Plaintiff as to important legal actions being taken ostensibly on his behalf, such as, for example, issuance of a time-limited settlement demand; and

D. Misappropriation of funds in the amount \$8,333.00 belonging to Plaintiff as to which no valid or legitimate claim for attorney's fees existed.

47.

The said acts of Defendants amounted to and evinced reckless, willful, wanton, oppressive and/or intentional fraud, and/or such an entire, egregious and aggravated want of care as to raise the presumption of conscious indifference to the consequences, authorizing the recovery of punitive damages under [O.C.G.A. § 51-12-5.1\(b\)](#).

47.

Further, the said acts of Defendants evinced specific intent to cause and inflict harm to and upon Plaintiff, such that the general limitation regarding the amount which may be awarded as punitive damages pursuant to [O.C.G.A. § 51-12-5.1\(f\)](#) is inapplicable as a matter of law.

COUNT V: BAD FAITH

42.

The acts and omissions of Defendants Gilbert Malcolm Taylor and Law Office of Gilbert M. Taylor, L.L.C., constituted bad faith and, as such, Plaintiff is entitled to recover attorney's fees and expenses of litigation pursuant to [O.C.G.A. § 13-6-11](#).

WHEREFORE, Plaintiff Melvin Watkins makes demand for a trial by jury, for all proper relief to include an award of all compensatory and other money damages recoverable at law, and for the entry of judgment against Defendants.

This 6th day of September, 2013.

Respectfully submitted,

DAVID S. BILLS, P.C.

David S. Bills

Georgia Bar No. 057132

1932 North Druid Hills Road, N.E.

Suite 200

Atlanta, Georgia 30319

404-633-6000

404-633-6400 Fax

david@davidsbills.com

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.