

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

**COPY**  
Original Received  
Probate Division

IN THE MATTER OF: )  
 )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 WB: WILLIAM BIGLEY )  
 )  
 Defendant. )

OCT 28 2008

Clerk of the Trial Court

Case No. 3AN-08-00493 PR CI

\*\*\* CONFIDENTIAL \*\*\*

This hearing was public.  
Jim Gottstein

VOLUME II

TRANSCRIPT OF MOTION HEARING

BEFORE THE HONORABLE SHARON GLEASON  
Superior Court Judge

Anchorage, Alaska  
May 14, 2008  
10:17 A.M.

APPEARANCES:

FOR THE STATE: Timothy M. Twomey, Esq.  
Assistant Attorney General  
1031 West 4th Avenue, Suite 200  
Anchorage, Alaska 99501

FOR THE DEFENDANT: James B. Gottstein, Esq.  
Law Project for Psychiatric Rights  
406 G Street, Suite 206  
Anchorage, Alaska 99501

1 3AN6308-79

2 10:17:01

3 THE COURT: Okay. We are back on record in a  
4 case involving Mr. Bigley, who is present here in the  
5 courtroom. And we have Mr. Twomey and Mr. Gottstein.

6 And I received paperwork from you,  
7 Mr. Gottstein, yesterday. And in it, it indicated you  
8 had not yet received the chart. Has that been  
9 remedied, or what is the status there?

10 MR. GOTTSTEIN: Your Honor, I received -- it  
11 was there when I got back from my supreme court oral  
12 argument, so yesterday.

13 THE COURT: All right. And I see a rather  
14 lengthy witness list. And I am concerned about the  
15 timeframe. So -- and it looks like three are simply  
16 to have available for cross examination of the  
17 materials you submitted, which I have reviewed; is  
18 that correct?

19 MR. GOTTSTEIN: Yes, Your Honor. I really  
20 only have three witnesses I plan to call.

21 THE COURT: Dr. Jackson, Dr. Hopson, and  
22 Camry Altaffer (phonetic)?

23 MR. GOTTSTEIN: Altaffer.

24 THE COURT: Altaffer. All right.

25 Mr. Twomey, are you ready to proceed?

1 MR. GOTTSTEIN: Yes, ma'am. And I gave them  
2 to Mr. Twomey.

3 THE COURT: Mr. Twomey, you have a copy, as  
4 well?

5 MR. TWOMEY: Yes. I received them this  
6 morning, Your Honor.

7 THE COURT: Do I have Grace Jackson on the  
8 phone?

9 THE WITNESS: Yes.

10 THE COURT: All right. Good morning,  
11 Ms. Jackson. My name is Judge Gleason. We have you  
12 on a speakerphone here in a courtroom in Anchorage,  
13 Alaska.

14 You have been called as a witness on behalf  
15 of the respondent, William Bigley. It is a matter  
16 here where I have the lawyer from the state and  
17 Mr. Gottstein present.

18 I am going to be recording your testimony  
19 here in just a moment. I will administer an oath to  
20 you. But any questions first?

21 THE WITNESS: No.

22 THE COURT: All right. If you'd raise your  
23 right hand, please.

24 (Oath administered.)

25 THE COURT: If you would then please state

1 MR. TWOMEY: Yes, Your Honor.

2 THE COURT: All right. And who would you  
3 seek to call first, Mr. Gottstein?

4 MR. GOTTSTEIN: Dr. Jackson. And her number  
5 is area code 910/208-3278.

6 THE COURT: All right. Thank you.

7 So did I indicate until noon today we could  
8 go, or did I -- is that what I had indicated? Or did  
9 I make any indication?

10 I have to go to an event at noon or there  
11 about. So we'll see where we are time-wise. I know  
12 it's an important issue for your client,  
13 Mr. Gottstein. If we need to find more time in the  
14 next couple of days, we can do so. So let's see what  
15 progress we can make up until noon.

16 MR. GOTTSTEIN: You indicated noon.

17 THE COURT: I did. All right. That was my  
18 recollection, but I didn't see it in the log notes.  
19 All right.

20 We are a little late getting started, which  
21 was not really my fault, but my reality, anyway.

22 MR. GOTTSTEIN: Your Honor, I gave the clerk  
23 exhibits for this morning.

24 THE COURT: I have them right here. A  
25 through F; is that correct?

1 and spell your full name.

2 THE WITNESS: Grace Elizabeth Jackson.  
3 That's G-R-A-C-E, Elizabeth, E-L-I-Z-A-B-E-T-H,  
4 Jackson, J-A-C-K-S-O-N.

5 THE COURT: All right. Thank you.  
6 Go ahead, please, Mr. Gottstein.

7 DR. GRACE JACKSON  
8 called on behalf of the respondent, testified  
9 telephonically as follows on:

10 DIRECT EXAMINATION

11 BY MR. GOTTSTEIN

12 Q Thank you, Dr. Jackson. First off, did you  
13 send me a copy of your curriculum vitae?

14 A Yes, I did.

15 Q And it's 11 pages?

16 A I believe that is correct, yes.

17 MR. GOTTSTEIN: I'd move to -- it's  
18 Exhibit A. I would move to admit.

19 THE COURT: Any objection there?

20 MR. TWOMEY: No, Your Honor.

21 THE COURT: All right. A will be admitted.  
22 (Exhibit A admitted.)

23 MR. GOTTSTEIN: Should I give this to the  
24 clerk at this point?

25 THE COURT: That's fine. You can hold on to

1 it, and we'll get it later, if that's easier for you.

2 BY MR. GOTTSTEIN

3 Q Okay. And if I might just take care of the  
4 other part of it, too. Did you also send me  
5 essentially an analysis of the neuroleptics,  
6 neurotoxicity of -- oops, I didn't number it -- 19  
7 pages.

8 A Yes, that's correct.

9 Q And is that your work?

10 A Yes, that is my work.

11 Q And this analysis is true to the best of your  
12 knowledge?

13 A That's correct.

14 MR. GOTTSTEIN: I would move to admit that,  
15 Your Honor.

16 THE COURT: That is Exhibit E?

17 MR. GOTTSTEIN: E.

18 THE COURT: All right. Any objection to E,  
19 Mr. Twomey?

20 MR. TWOMEY: No, Your Honor.

21 THE COURT: All right. E will be admitted.  
22 (Exhibit E admitted.)

23 BY MR. GOTTSTEIN

24 Q Thank you, Dr. Jackson. Could you briefly  
25 describe to the court your experience, training --

1 training, education and experience?

2 A Certainly. I attended medical school at the  
3 University of Colorado between 1992 and 1996.

4 Following that, I entered and successfully  
5 completed residency in psychiatry, which was performed  
6 actually within the U.S. Navy. And that residency was  
7 performed -- well, the internship was in 1996 through  
8 '97, the residency 1997 through 2000.

9 Subsequent to completing that residency  
10 program, I served as an active duty psychiatrist in  
11 the U.S. military. I actually transitioned out of the  
12 military in the spring of 2002, and I have been  
13 actually in self-employed status since 2002 working at  
14 a variety of different positions in order to have some  
15 flexibility for research, lecturing, writing, and  
16 clinical work, and also forensic consultation.

17 Q Could you describe -- so have you published  
18 papers?

19 A Yes. I have published papers in peer-review  
20 journals. I have contributed chapters to other books  
21 which have been edited by other mental health  
22 professionals, both in this country and overseas.

23 And I am also the author of my own book,  
24 which I published in the year 2005.

25 Q And what was the name of that book?

1 A That book is called Rethinking Psychiatric  
2 Drugs, a Guide for Informed Consent.

3 Q And have you testified as an expert --  
4 testified or consulted as an expert in  
5 psychopharmacology cases?

6 A Yes. I have served as a consultant in a  
7 number of cases involving psychiatric rights similar  
8 to this case.

9 Also involving disputes over the use of  
10 medications versus alternative treatments in regards  
11 to child treatments. I've served as a consultant to  
12 families or their doctors in other states in order to  
13 assist in the preparation of different treatment  
14 plans.

15 And I've also been involved as an expert  
16 witness in consulting on product liability cases.

17 Q Were you qualified as an expert in  
18 psychiatric and psychopharmacology in what's known as  
19 the Myers case in Alaska here in 2003?

20 A Yes, I was.

21 Q And did Dr. Moser testify I think something  
22 like that you -- that you knew more about the actions  
23 of these drugs on the brain than any clinician he knew  
24 in the United States?

25 MR. TWOMEY: Objection, hearsay, Your Honor.

1 THE WITNESS: I'm sorry. I'm getting a lot  
2 of beeps on my phone. Can you hear me all right?

3 THE COURT: Yes.

4 But, Mr. Gottstein, your response to the  
5 hearsay objection?

6 MR. GOTTSTEIN: It's actually in the  
7 testimony that was filed, I believe.

8 THE COURT: Well, then the testimony speaks  
9 for itself.

10 MR. GOTTSTEIN: Okay.

11 THE COURT: So you can go forward.

12 MR. GOTTSTEIN: I would move Dr. Jackson as  
13 an expert in psychiatry and psychopharmacology.

14 THE COURT: Any objection there, Mr. Twomey,  
15 or voir dire?

16 MR. TWOMEY: No, Your Honor.

17 THE COURT: All right. Then I will find the  
18 doctor so qualified in those two fields.

19 Go ahead, please, Mr. Gottstein.

20 BY MR. GOTTSTEIN

21 Q Dr. Jackson, in preparation for this case,  
22 have you reviewed the -- what's known as the -- well,  
23 the affidavit of Robert Whitaker?

24 A Yes, I have.

25 Q And what is your opinion on that affidavit?

1 A I believed it was very truthful. I thought  
2 it was a very accurate presentation of the history of  
3 this specific class of medications which we are  
4 discussing in this case, the antipsychotic  
5 medications.

6 And also a very succinct but accurate  
7 description of some of the problems that have emerged,  
8 not only in the conduct of the research, but also in  
9 terms of the actual lived experience of patients. So  
10 I felt it was a very accurate and very clear  
11 presentation of the information as I understand it  
12 myself.

13 Q Now, would it be fair to say that this  
14 information is not generally shared by most clinicians  
15 in the United States?

16 A Oh, I think that would be a very fair -- very  
17 fair statement.

18 Q And why would you say that is?

19 A Well, I think we have a short time here.  
20 It's really a broad subject. But quite succinctly  
21 what has happened is that the educational process  
22 throughout medicine, not just psychiatry, and also the  
23 continuing medical education process, even when  
24 physicians have completed the first steps of their  
25 training, have actually presented a very biased

1 depiction of the history, or actually omitting the  
2 history of many medications.

3 So a lot of this is a reflection of the  
4 educational process, both in the first stages of  
5 medical school and residency, and then what is  
6 occurring in the medical literature even now.

7 Q Let me stop you right there just for a  
8 minute. So were you trained in this way?

9 A Yeah. I was -- absolutely. I was trained in  
10 the traditional sense that basically serious --  
11 especially severe -- quote, severe mental illness or  
12 mental illnesses are diseases of the brain which  
13 require chemical treatments, i.e., medication  
14 treatments, and that in most cases, these medications  
15 must be used on a very chronic or even permanent  
16 basis.

17 Q And did something happen to cause you to  
18 change your mind or question that information?

19 A Lots of things happened. Probably one of the  
20 most important things is that I was fortunate enough  
21 to be trained -- or be training in a location that  
22 exposed me to some additional information.

23 In other words, some of the history, and also  
24 some of the alternative work which could be done that  
25 might be effective. So that was one part, is I did

1 begin to have an exposure to a different perspective.  
2 But the most -- probably the most important  
3 thing for me was the lived reality of my patients,  
4 just opening my eyes and really paying attention to  
5 see whether or not people were improving.

6 Q I'm sorry; I missed that a little bit. Could  
7 you go into that a little bit further, what you found?

8 A Sure. Well, what really happened is that  
9 internship -- I should probably just back up and say  
10 that I regard -- in retrospect, I look at the  
11 educational process as really an indoctrination.

12 And I think it's rather unique or heroic when  
13 people can begin to examine things more critically.  
14 And I was just lucky enough to have an exposure to  
15 some individuals who allowed me to do that.

16 But more specifically, I began to see that in  
17 clinic after clinic, whatever setting I was moving  
18 through, I was seeing the patients were in fact not  
19 improving, that in most cases, in fact, patients were  
20 getting sicker and sicker.

21 And there are two ways to react to that. One  
22 could either blame that on the underlying illness and  
23 say that we just don't have treatments yet that are  
24 effective, or one could even begin to pay attention  
25 and ask a broader question or more pointed question,

1 gee, is it possible that there's something about the  
2 way we are approaching these phenomena that is in fact  
3 getting in the way of recovery?

4 And once I began to ask that question, I  
5 basically had a 180-degree turnabout in terms of how I  
6 had to practice ethically and according to science.

7 Q And did that result in a -- I think you kind  
8 of testified to this -- in a change in direction more  
9 towards researching this issue?

10 A Oh, absolutely. Well, basically, it resulted  
11 in two things. It resulted in a great deal of  
12 conflict between myself and most conventional  
13 settings. It's why I'm an independent practitioner  
14 and not a person enjoying an academic appointment or  
15 an appointment in a facility.

16 So it really made -- I had to make a firm  
17 decision, was I going to be truthful to science or was  
18 I going to go after a \$200,000 a year job with nice  
19 perks and the respect of my colleagues?

20 So it was very clear to me that in order to  
21 honor the dictum first do no harm, I had to really  
22 stay truthful to the science. And that's really what  
23 necessitated my breakaway. So that's why I'm really  
24 an independent person who does my own research and  
25 tried to just help where -- you know, where the help

1 is actually needed or asked for.

2 Q Thank you. And so then, just to kind of fill  
3 in then this, it's Exhibit C, your neurotoxicity  
4 analysis, that would be some of your, you know, more  
5 recent work, is that correct, or current state of your  
6 research into this issue?

7 A Yeah. Fairly current.

8 I am trying to finish a second book this  
9 year. And what has really happened over the past two  
10 years is that I try to do clinical work to keep myself  
11 current with that.

12 But I also step aside. And probably every  
13 single day, I am working on the most current research  
14 in the field in order to, you know, lecture and to  
15 also write this second book.

16 What really happened about four years ago is  
17 I began to appreciate the fact that most physicians --  
18 and this isn't just a criticism of psychiatry, by any  
19 means. But most of us ignore something which is  
20 called target organ toxicity. We don't pay attention  
21 to how the treatments we're using might actually be  
22 adversely affecting the very target we are trying to  
23 fix or help improve or repair.

24 So in my case, about two years ago, I started  
25 to just begin focusing on the most current research

1 phenomena as brain diseases.

2 The second thing that happened was the birth  
3 of something called evidence-based medicine. This  
4 was -- actually sort of became official through the  
5 Journal of the American Medical Association and other  
6 major journals to really elevate an importance, not  
7 the actual day-to-day observations that a doctor would  
8 be making and not the actual science of what causes  
9 illness, but clinical trials that are aimed at just  
10 improving or changing symptoms.

11 The third thing that happened was something  
12 that is called direct consumer advertising in 1997,  
13 which again was trying to market these drugs and make  
14 them more popular or appealing to the public.

15 And the fourth big thing that has really  
16 changed is something called the preemption doctrine.  
17 And also, the Daubert litigation.

18 Daubert was a supreme court decision in 1993  
19 that has really made it quite difficult for toxic tort  
20 litigation to occur, so that the implications of that  
21 for doctors -- and they don't realize this. It's very  
22 much behind the scenes -- is that the pharmaceutical  
23 industry began publishing as many papers that they  
24 could as fast as possible in the journals in order to  
25 meet the Daubert standard of something called weight

1 that looked at the brain-damaging effects of different  
2 kinds of interventions. And that is really what I've  
3 been focusing on.

4 So the document that you have there is a  
5 reflection of some of that research. I should say  
6 that it's not completely up to date, because some of  
7 the research I've been doing more recently even  
8 demonstrates that these drugs are more toxic than what  
9 I have written in this report.

10 Q Okay. Thank you. I want to get to that --  
11 get to that also a little bit more. But I'm also --  
12 are there other reasons why clinicians are not really  
13 understanding this -- this state of affairs?

14 A Sure. Well, I think there are so many things  
15 that happened.

16 I'll just take my example. I went to medical  
17 school in 1992, graduated in '96, and did my residency  
18 until 2000. This was a very pivotal time in what was  
19 occurring within the mental health field and also  
20 within the United States culturally. And if I just  
21 picked, like, maybe four key things.

22 One is the government decided to name this  
23 decade the decade of the brain. In doing so, it sort  
24 of attached a governmental license or the  
25 (indiscernible) of sanctioning regarding these

1 of evidence or preponderance of the evidence.

2 So essentially what happened in the 1990s is  
3 that the journals, more than ever before in history,  
4 became a tool of marketing, a marketing arm for the  
5 drug companies. And drug companies shifted in terms  
6 of previous research in the United States.

7 Most of the research had previously been  
8 funded by the government and conducted in academic  
9 centers. In the 1990s, that was pretty much over, and  
10 most of the funding is now coming from the  
11 pharmaceutical industry. So that's really in a  
12 nutshell what happened in the 1990s when I was  
13 training.

14 Now, where are we now? What that means is  
15 that the journals that most doctors are relying upon  
16 for their continuing information continued to be  
17 dominated by pharmaceutical industry funded studies  
18 and by papers which are being written, if not entirely  
19 by the drug companies, then by authors who have part  
20 of their finances paid for by the drug companies.

21 And while I don't believe that it's  
22 necessarily going to buy us the information in an  
23 article, I think trials have to be funded by someone.  
24 Unfortunately what has happened is that there have  
25 been too many episodes of the suppressed information,