

ORIGINAL

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U.S.D.C.-Atlanta

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

SEP 30 2004

LUTHER D. THOMAS, Clerk  
By: *[Signature]*  
Deputy Clerk

DENNIS AND LISA THOMAS, )  
INDIVIDUALLY AND AS )  
PARENTS AND NEXT FRIEND )  
OF CHRISTIAN THOMAS, A )  
MINOR )

Plaintiffs, )

v. )

STEPHEN B. EDELSON, M.D. and )  
THE EDELSON CENTER FOR )  
ENVIRONMENTAL AND )  
PREVENTIVE MEDICINE, INC., )

Defendants. )

CIVIL ACTION

FILE NO. 04 CV 2876

**TWT**

**JURY TRIAL DEMANDED**

COMPLAINT

COME NOW Plaintiffs, Dennis and Lisa Thomas (hereinafter collectively referred to as "the Thomas Family") individually and as next friend of their son Christian Thomas, a minor, and for their Complaint against Defendants Stephen B. Edelson, M.D. and The Edelson Center for Environmental and Preventive Medicine, Inc. (hereinafter collectively referred to as "Defendants") respectfully show this Court as follows:

FORMS RECEIVED  
Consent to US Mag.   
Pretrial Instructions   
Title VII-NTC   
*[Signature]*

## **PARTIES, JURISDICTION AND VENUE**

1.

The Thomas family are residents of South Plainfield, New Jersey, and are the parents of Christian Thomas, a six year-old child.

2.

Defendant Stephen B. Edelson, M.D. (“Edelson”) is a licensed physician and resides at 5645 Claire Rose Lane, Atlanta, GA 30327.

3.

Defendant The Edelson Center for Environmental and Preventive Medicine, Inc. (“the Center”) is a Georgia corporation. Its offices are located at 3833 Roswell Rd., #110, Atlanta, GA 30342. It may be served with process through its registered agent, Stephen B. Edelson, at 3833 Roswell Rd. #110, Atlanta, GA 30342. At all times relevant hereto, the Center operated a medical clinic and employed medical assistants and technicians. At all times relevant hereto, the medical assistants and technicians employed by the Center were acting within the scope of their employment.

4.

Jurisdiction is proper in this Court because the parties have diversity of citizenship and there is more than \$75,000 in controversy. Venue is also proper in this Court.

## FACTS

5.

Defendant Edelson is a doctor that advertises himself as an “expert in the biology of autism.” He is an M.D. currently licensed to practice medicine in the State of Georgia. He does not have any formal medical training in pediatrics or developmental disorders and is not Board certified in either of these areas.

6.

The Thomas family contacted Defendants after learning about Edelson through his website. At the time, Christian Thomas was four (4) years old. He had been diagnosed as suffering with mild autism.

7.

Defendants provided the Thomas family with a substantial amount of promotional materials, including Edelson’s resume, audio and videotapes, designed to induce the Thomas family to bring their son in for treatment at the Center. Much of this promotional material, including Edelson’s resume, contain partially or wholly false or misleading information.

8.

Defendants' promotional materials discuss autism in some detail and asserts that "the specific cause of "common" autism in an individual has been shown by me [Edelson] to be a toxic one." Edelson proclaims that autism "is not just genetic! It is also toxic!" Id.

9.

It is not been generally accepted in the medical and scientific communities that chemical or heavy metal toxicity is the cause (or a major contributing cause) of autism. Reliable medical and scientific studies have not determined precisely what causes autism, although some of the most widely recognized potential causes of autism include genetic factors and brain abnormalities at birth. Scientific studies are investigating possible genetic, infectious, neurological, and environmental causes and mechanisms of autism, but this research has not identified a definitive cause of autism. [See the Centers for Disease Control's statement at <http://www.cdc.gov/nip/vacsafe/concerns/autism/autism-facts.htm>].

10.

Defendants' promotional materials also stated "[t]he longer the wait, the greater possibility of not being able to reverse the process that is damaging the nervous system. There is too much at stake and almost no "downside" to exploring and elucidating the pathology. The treatments that relate to the environmental and immunological characteristics are not going to cause any harm."

11.

The promotional materials also tell parents of autistic children that they do not "have to be satisfied with only slight improvements but can, if they so choose, "shoot for the moon" and attempt to normalize the cerebral functions of their children." Defendants represent that Edelson's testing "confirms these toxic and environmental links to create treatment programs that have established an international reputation for success."

12.

Defendants widely publicize the Center to autistic parents and hold Edelson and the Center out as experts in the treatment of autism. In fact, neither Edelson nor the Center have any specialized education or training in the treatment of children with developmental disorders.

13.

Mr. and Mrs. Thomas were impressed by Defendants' promotional materials. They traveled to Atlanta in July 2002 to meet with employees of the Edelson Center and Dr. Edelson.

14.

The Thomas family was told by Defendants that the treatment offered by Defendants would be helpful for their son. Defendant Edelson told the Thomas family that he that "everybody" that undergoes his treatments "gets better." Defendants also represented he would "get [their] son healthy" and that "some of [Edelson's autistic patients] go normal" and that he would "get the poisons out of [their son]."

15.

Defendants also told the Thomas family that these treatments were medically necessary and that it was extremely important to get started with treatment as soon as possible.

16.

Defendant Edelson told the Thomas family that if they did not begin treatment with Defendants right away, their son's autistic condition would become "permanent" when the child turned age six. He told them that they must hurry and begin the treatment. There is no medical or scientific evidence supporting the truth of these statements.

17.

As a result of the above, the Thomas family allowed their son to undergo testing with the Defendants in July 2002. Defendants drew approximately twenty tubes of blood from for use in the tests they recommended, requiring multiple needle sticks. Defendants drew all this blood in one sitting.

18.

On or about August 9, 2002, the Defendants wrote to the Thomas family that the “test” results showed that “how complicated this illness is in your child.” The Defendants wrote that “[h]is body has been damaged immensely by poisons...his organ systems have been hit in a multifaceted way.” The Defendants wrote that “it is best that we put [Defendant’s] therapeutic modalities into operation and the faster [sic] we will see him get well.” The Defendants stated that Christian Thomas had numerous different diagnoses, including neurotoxicity, chemical toxicity, heavy metal toxicity, among many others. Defendants represented that these diagnoses needed to be treated with biodetoxification, chelation, and nutritional therapies. Defendants informed the Thomas family that Christian would need to leave their home in New Jersey and spend a seven week period in Atlanta to undergo daily treatments at the Center.

19.

The Defendants sent the Thomas family a “financial protocol” that described the first two months at the Edelson with Gamma Globulin treatment as totaling \$43,700.00. Gamma Globulin is a plasma protein containing the immunoglobulins that are responsible for immune responses. There is no scientific evidence this substance can cure autism



20.

The Thomas family wrote to Dr. Edelson that they could not immediately afford to pay for the Gamma Globulin treatment, and that they would like to begin treatment with the Defendants without it, since such treatment would cost much less, approximately \$21,500.00 according to the Defendant's "financial protocol." The Defendants wrote back on August 22, 2002, stating "I told you what you put into this program is what you'll get out of it...I just want that understood so that five months from now, you don't say to me 'how come he is not getting better faster.' Please remember not to say that to me in the future, since I have pictured for you the optimum program, and you can't do it for practical purposes, keep in mind that the end results are not going to be probably the way you want them." Shortly after receiving this letter, the Thomas family reconsidered and decided to undergo the \$43,7000 gamma globulin treatment. In order to be able to afford this treatment, the Thomas family sold several of its assets (some at below fair market value so as to have cash liquidity).

21.

On or about October 1, 2002, the Thomas family incurred the expense of moving to Atlanta for seven (7) weeks of treatment with the Edelson Center. Mr. Thomas took a leave of absence without pay from his job.

22.

Upon arrival at the Edelson Center, Defendants began administering the detoxification, chelation, ozone and nutritional therapies they recommended. These treatments involved daily injections (sometimes multiple injections per day) of chelating agents, ozonated blood, and liquid nutrients.

23.

Contrary to the representations made by Defendants in their promotional materials, these therapies subjected Christian Thomas to substantial risks. Any I.V. treatment can result in sepsis (blood poisoning). Chelation therapy can result in renal failure and blood dyscrasias. By undergoing these therapies, Christian Thomas was subjected to risks of death and disablement.

24.

Christian Thomas began to undergo the detoxification, ozone, chelation and I.V. vitamin treatment recommended by Defendants. The treatments were administered by unsupervised workers that, on information and belief, did not have formal nursing training or professional licenses of any kind.

25.

These treatments were very difficult and painful for Christian Thomas. He had to endure long days and multiple injections each day at the Edelson Center. He was subjected to daily multiple intravenous treatments with frequent changes of needle sites due to technician errors. He was required to endure multiple sessions per day of sauna “sweat” therapy, followed by intense exercise. He had adverse physical and behavioral reactions to the sauna detoxification therapy. The nutritional supplement regimen prescribed by Defendants required Christian to ingest approximately fifty pills and capsules per day. Christian often would vomit after having to ingest large quantities of supplements. The treatment caused Christian to suffer significant emotional distress and physical pain, and subjected the Thomas family to considerable stress and anxiety as their son suffered under Defendants’ care.

26.

During the entire seven week period that Christian and the Thomas family were at the Center for treatment, Defendant Edelson never came by in person to check on Christian, to evaluate and monitor his progress, or to supervise the workers that were administering the treatments he prescribed. The Thomas family was not permitted to see Edelson personally unless they made arrangements in advance, for a charge of \$185 for each 15-minute interval of Edelson’s time.

27.

Defendants failed to monitor Christian's progress (or lack thereof) and recommended continuing the treatment over lengthy periods of time without any meaningful evaluation of the propriety of continuing treatment. Among other failures, the Defendants did not engage in appropriate CBC or liver function testing.

28.

Christian Thomas did not receive any benefit from the treatment recommended by Defendants. His condition actually became worse, and he lost much weight while following Defendants' nutritional program and sauna detoxification protocol. Christian Thomas regressed in the progress he had made through behavioral and educational therapy.

29.

During and after the treatment, Defendants insisted that the Thomas family purchase the supplements through the Center, and they charged a significant mark-up for these supplements. Even though some of these supplements were available through other suppliers at far lower prices, Edelson insisted that the products be purchased through the Center.

30.

Defendants also insisted that the Thomas family install a home sauna to continue with “detoxification.” Defendants sold this sauna to the Thomas family at substantial profit on the sale and Defendant Edelson was paid a “kick back” by the sauna dealer from whom Defendants purchased the sauna.

31.

The Christian family incurred significant expenses and monetary loss in paying for the services and products sold by Defendants.

32.

In accepting Christian Thomas as a patient, Defendants undertook the duty to render medical care to Christian Thomas in accordance with the prevailing and acceptable professional standards of care for physicians in the national community.

33.

Defendants knew or should have known when they recommended this treatment that there is no reliable medical or scientific evidence proving that autism is caused by environmental or chemical agents. Defendants also knew or should have known that there were no controlled, peer-reviewed studies demonstrating a causal connection between autism and exposure to environmental or chemical agents.

34.

Further, even if environmental or chemical agents had been proven to be a factor in causing autism, Defendants knew or should have known that there is no reliable medical or scientific evidence supporting the idea that autism could be cured or reversed using chelation, detoxification or nutritional supplement programs.

35.

At the time Defendants administered chelation therapy to Christian Thomas, they knew or should have known that the American Medical Association had issued a policy statement that states that “if chelation therapy is to be considered a useful medical treatment for anything other than heavy metal poisoning, hyperglycemia or digitalis toxicity, it is the responsibility of its proponents to conduct properly controlled scientific studies, to adhere to FDA guidelines for drug investigation, and to disseminate study results in the usually accepted standards.”

36.

Defendants advised Plaintiffs that chelation therapy was medically necessary and that the therapy would reverse the brain damage caused by Christian's alleged heavy metal toxicity. They performed chelation therapy on Christian Thomas at an extremely high rate of profit, but did not conduct properly controlled scientific studies, adhere to FDA guidelines for drug investigation, or disseminate study results in the usually accepted standards.

37.

At the time Defendants marketed vitamin supplements to the Thomas family, they knew or should have known that the American Medical Association had issued a policy statement that states that "Members of the AMA shall not: (1) coerce their patients to purchase medications, vitamins, nutritional supplements or medical devices from the physician's practice, and (2) recruit their patients to participate in marketing programs in which the physician personally benefits, financially or otherwise, from the efforts of their patients."

38.

Defendants coerced the Thomas family to purchase medications, vitamins, and nutritional supplements from his practice at an extremely high rate of profit and refused to allow them to purchase the same products through other sources for less.

## COUNT I – MEDICAL NEGLIGENCE

39.

The Plaintiffs reincorporate and restate Paragraphs 1 through 38 of this Complaint as though fully set forth herein.

40.

Defendants owed Plaintiffs a duty to exercise that degree of skill and care ordinarily employed by members of the same medical profession under the same or substantially similar circumstances.

41.

Defendants departed from the prevailing and acceptable professional standards of care in their treatment of Christian Thomas and were thereby negligent, careless, willful, wanton, grossly negligent, reckless and in violation of the duties owed to Plaintiffs in that they committed one of the following acts or omissions, any and all of which were violations of the prevailing and acceptable standards of care:

- (a) In recommending and administering diagnostic tests, medical treatments,
- (b) and nutritional treatments to Christian Thomas without sufficient evidence of their medical necessity or efficacy;



- (c) After prescribing treatments and beginning a course of therapy, failing to sufficiently monitor Christian Thomas's progress and discontinue therapies where there were insufficient clinical indicators of improvement;
- (d) In recommending expensive and unproven treatments without adequate medical or scientific evidence or support for the proposition that these treatments are medically beneficial for treatment of children with autism;
- (e) In failing to disclose the risks associated with these expensive and unproven treatments;
- (f) In coercing the Thomas family to purchase medical products, diagnostic tests, pharmaceutical products; vitamins, and nutritional supplements from Defendants' practice at drastically inflated prices; and
- (g) In causing Christian Thomas to be removed from educational programs for extended periods of time without undertaking measures to prevent regression as a result of the suspension of his education.

42.

Pursuant to O.C.G.A. §9-11-9.1(b), Plaintiffs state that there is a good faith basis to believe the statute of limitations will expire on any claim stated in this complaint within ten days of the present date of filing and, because of such time constraints, the plaintiffs state that an affidavit of an expert could not be prepared. The plaintiffs will file said affidavit within 45 days after the filing of the complaint to supplement the pleadings.

As a direct and proximate result of the negligence and departure from the professional standards of care by Defendants, the Thomas family suffered injuries including but not limited to pain and suffering, emotional distress, extreme weight loss, malnutrition, and regression in his developmental progress.

43.

As a direct and proximate result of the negligence and departure from the professional standards of care by Defendants, Plaintiffs suffered injuries including loss of the funds they paid for unnecessary and worthless treatment provided by Defendants, additional expenses incurred in providing with additional medical and behavioral therapies necessitated to return Christian Thomas to the state he was in prior to beginning treatment with Defendants.

## **COUNT II – BREACH OF FIDUCIARY DUTY**

44.

Plaintiffs reincorporate and restate Paragraphs 1 through 43 of this Complaint as though fully set forth herein.

45.

By virtue of the physician/patient relationship, Defendants had a fiduciary duty to Plaintiffs.

46.

Defendants breached their fiduciary duties to Plaintiffs by recommending unsafe and unproven treatment, failing to appropriately monitor Christian Thomas's treatment, failing to inform Plaintiffs of the risks associated with this treatment, misrepresenting the safety and efficacy of the treatment, and overcharging Plaintiffs for the treatment performed.

47.

As a result of Defendants' breach of fiduciary duty, Plaintiffs suffered injuries including but not limited to monetary loss, physical and mental injury, pain and suffering, and emotional distress.

### **COUNT III – NEGLIGENT MISREPRESENTATION**

48.

Plaintiffs reincorporate and restate Paragraphs 1 through 47 of this Complaint as though fully set forth herein.

49.

Defendants supplied information to Plaintiffs during the course of their business, profession, and employment, and in connection with a transaction in which they had a pecuniary interest.

50.

Defendants had a duty of reasonable care and competence to Plaintiffs, who relied on the information. Defendants were manifestly aware of the use to which the information was to be put and intended it to be so used.

51.

Plaintiffs were foreseeable persons for whom the information was intended to be used in connection with their decision to undergo the treatments recommended by Defendants. Defendants made these representations with the purpose of inducing Plaintiffs to rely and act on the reliance.

52.

The information provided to Plaintiffs by Defendants was materially inaccurate, and caused Plaintiffs to enter into the treatment recommended by Defendants.

53.

Plaintiffs are entitled to recover actual and compensatory damages as a result of Defendants' negligent misrepresentation, including but not limited to pecuniary loss in the amount of the charges incurred by Plaintiffs for the treatment performed by Defendants, additional charges incurred by other professionals in returning Christian Thomas to the physical and mental state that he was in prior to the treatment, pain and suffering, emotional damages, and such other damages as may be proven at trial, but in any amount exceeding the jurisdictional limitations of this Court.

**COUNT IV – CONSTRUCTIVE FRAUD**

54.

Plaintiffs reincorporate and restate Paragraphs 1 through 53 of this Complaint as though fully set forth herein.

55.

By virtue of the physician/patient relationship, Defendants had a confidential relationship with Plaintiffs that obligated them to disclose all material information regarding their son's treatment and be accurate and truthful in their representations to Plaintiffs.

56.

Defendants made false, inaccurate, and misleading representations to Plaintiffs in violation of their duty of disclosure. These representations were made with the intention to induce Plaintiffs to undergo the course of treatment recommended by Defendants.

57.

Defendants knew at the time that they made these representations that Plaintiffs placed their trust and confidence in their representations. Plaintiffs' trust and confidence was justly reposed in Defendants.

58.

Defendants' representations were contrary to good conscience and operated to the injury of Plaintiffs.

59.

Plaintiffs are entitled to equitable relief as a result of Defendants' constructive fraud upon Plaintiffs, including but not limited to restitution of the charges incurred for the treatments performed by Defendants, restoration of the charges incurred for subsequent medical and professional treatment required to return Christian Thomas to the physical and mental state he enjoyed prior to his treatment with Defendants, and such other relief that this Court may deem appropriate.

**COUNT V – BATTERY**

60.

Plaintiffs reincorporate and restate Paragraphs 1 through 59 of this Complaint as though fully set forth herein.

61.

Defendants' fraudulent misrepresentations of material facts nullifies any consent that Plaintiffs may have given to the medical treatments recommended by Defendants.

62.

Defendants' medical touching of Christian Thomas without consent constitutes a battery.

63.

Defendants are liable to Plaintiffs for compensatory damages including but not limited to return of the charges incurred for the treatment performed without valid consent, the cost of remedial treatment necessary to restore Christian Thomas to the physical and mental condition he enjoyed prior to Defendants' unauthorized touching, pain and suffering that Christian Thomas experienced as a result of the unauthorized touching, emotional distress experienced by Christian Thomas and Plaintiffs with regard to the unauthorized touching, and other compensatory damages as may be proven at trial but in any event in excess of this Court's jurisdictional amount.

**COUNT VI – ACTUAL FRAUD**

64.

Plaintiffs reincorporate and restate Paragraphs 1 through 63 of this Complaint as though fully set forth herein.

65.

In entering into the doctor/patient relationship, Defendants intended Plaintiffs to rely, and Plaintiffs did in fact reasonably and justifiably rely, upon the representations of Defendants as to the necessity for, efficacy of and appropriateness of the medical treatments Defendants recommended.



66.

But for these material representations Plaintiffs would not have entered into the relationship, agreed to spend these sums of money, or subjected their son to this treatment.

67.

At the time the previously stated representations were made, Defendants either knew these representations were false or acted with reckless disregard for whether the representations were true.

68.

The previously stated conduct of Defendants constitutes fraud and fraudulent inducement which was intended to cause, and did in fact cause, Plaintiffs to enter into the course of treatment recommended by Defendants.

69.

As a direct and proximate result of the previously stated fraud and fraudulent inducement, Plaintiffs are entitled to compensatory damages including but not limited to return of the monies charged for provision of these services, additional damages to return Christian Thomas to the state he was in prior to undergoing such treatment, pain and suffering, and such other damages as may be proven at trial.

COUNT VII - INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

70.

Plaintiffs reincorporate and reallege the allegations of Paragraphs 1 through 69 above as though fully set forth herein.

71.

Defendants are liable for their own actions and for the acts of their employee/agents via the doctrine of respondeat superior and the principles of agency.

72.

Defendants' conduct was intended to and did inflict severe mental and emotional distress upon Plaintiffs.

73.

The malicious and willful acts of Defendants were so extreme and outrageous as to cause Plaintiffs to suffer severe mental and emotional distress.

74.

As a direct and proximate result of Defendants' intentional infliction of emotional distress upon Plaintiffs, Plaintiffs are entitled to recover damages for emotional pain and suffering, emotional distress, humiliation, and embarrassment.

**COUNT VIII – PUNITIVE DAMAGES**

75.

Plaintiffs reincorporate and restate Paragraphs 1 through 74 of this Complaint as though fully set forth herein.

76.

Defendants' actions constituted willful misconduct, malice, fraud, wantonness, oppression, or that entire want of care which would rise to the presumption of a conscious indifference to consequences.

77.

Defendants' conduct justifies an award of punitive damages under O.C.G.A. § 51-12-5.1 to deter Defendants from repeating their misconduct.

**COUNT IX – ATTORNEYS' FEES**

78.

Plaintiffs reincorporate and restate Paragraphs 1 through 88 of this Complaint as though fully set forth herein.

79.

Defendants' actions as described above constitute bad faith and intentional misconduct which has caused Plaintiffs unnecessary trouble and expense.

80.

Plaintiffs are entitled to an award of the costs of this litigation, including reasonable attorneys' fees, pursuant to O.C.G.A. §13-6-11. WHEREFORE, Plaintiffs respectfully request that this Court award the following relief:

- (a) General, special and compensatory damages in an amount to be proven at trial;
- (b) Punitive damages in an amount to be determined at trial pursuant to O.C.G.A. §51-12-5.1;
- (c) Costs of litigation and attorneys' fees pursuant to O.C.G.A. §13-6-11;
- (d) For a trial by jury;
- (e) That process issue and service be made upon Defendants as provided by law; and
- (f) For such other relief as this Court may deem just and proper.

This 30<sup>th</sup> day of September, 2004.

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