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Lawyer presses for delay in trial of nurses connected to hepatitis C outbreak

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A courtroom tongue-lashing from a district judge has not stopped defense attorney Michael Cristalli from seeking to delay the March 14 trial of two nurse anesthetists charged in the 2007 hepatitis C outbreak.

Cristalli, who represents one of the nurses, Keith Mathahs, filed a motion Friday to continue the trial, arguing that District Judge Donald Mosley was wrong to deny his request at a stormy hearing two days earlier.

Mosley accused Cristalli at the hearing of not being prepared and trying to "manufacture" a delay in the long-scheduled trial, which the judge ordered to move forward without the lead defendant, Dr. Dipak Desai, who has been found incompetent.

But in his court papers, Cristalli said Mosley was under the "mistaken belief" that the lawyer had not been diligently reviewing the tens of thousands of pages of evidence previously handed over in the case.

Cristalli said he had been poring over 14 computer disks he received last month of evidence police seized in raids on Desai's clinics, only to be hit with 10 more disks on Friday. Also on Friday, Chief Deputy District Attorney Mike Staudaher informed Cristalli that he now could review six more disks containing depositions of witnesses taken in the massive civil litigation over the hepatitis outbreak, Cristalli said.

If that wasn't enough, Cristalli wrote, his office also just received more than 200,000 pages of notes in the outbreak investigation conducted by officials from the Southern Nevada Health District and the Centers of Disease Control, and may have to review another 217,000 pages relevant to the defense.

"The defense has not been delinquent in its preparation for trial," he said. "It cannot be delinquent in the review of evidence and discovery it has yet to even receive."

Cristalli insisted again in his court papers that it would be impossible for him to review the overwhelming amount of evidence by the March 14 trial date.

"Failure to grant a continuance in this instance would violate the defendant's state and federal constitutional rights to due process, a fair trial, effective assistance of counsel and a right to a reliable verdict," Cristalli wrote.

Mathahs and another veteran nurse anesthetist, Ronald Lakeman, are facing several felony charges, including racketeering, insurance fraud and neglect of patients.

The charges revolve around seven people who authorities say were infected with the potentially deadly hepatitis C virus at Desai's Endoscopy Center of Southern Nevada. Hundreds of former patients might have been exposed at the clinic.

Earlier this month, District Judge Jackie Glass, who handles all court competency matters, ordered Desai to surrender to authorities on March 17 so that he can be taken to Lakes Crossing, the state's mental hospital in Northern Nevada, for further evaluation.

Court-appointed medical experts concluded that two strokes have left Desai, 60, a gastroenterologist who gave up his medical license, incapable of assisting his lawyers.

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