NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NUMBER 2010 CA 2246

DR. WILLIAM T. BARFIELD

VERSUS

ST. TAMMANY PHYSICIANS NETWORK

Judgment Rendered: September 14, 2011

Appealed from the
Twenty-second Judicial District Court
In and for the Parish of St. Tammany, Louisiana
Docket Number 2004-14670

Honorable Raymond S. Childress, Judge Presiding

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Prescott L. Barfield **James A. Marchand** **Covington, LA**	**Counsel for Plaintiff/2nd Appellant,** **Dr. William T. Barfield**
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BEFORE: WHIPPLE, KUHN, AND GUIDRY, JJ.

WHIPPLE, J.

In this contract dispute, both Dr. William T. Barfield and St. Tammany Physicians Network ("Physicians Network") appeal the trial court's judgment, finding that Physicians Network had breached its contract with Dr. Barfield and awarding damages to Dr. Barfield. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

Dr. Barfield is a board-certified internal medicine specialist who was employed by Physicians Network from 1993 until 2004. Physicians Network is a wholly-owned subsidiary of St. Tammany Parish Hospital Service District No. 1, which, in turn, owns and operates St. Tammany Parish Hospital in Covington, Louisiana. Prior to 1993, Dr. Barfield had been in private practice in the Covington area for twenty-one years. In furtherance of his employment relationship with Physicians Network, Dr. Barfield signed employment contracts with Physicians Network in 1993, 1996, 1999, and 2002. Pursuant to the terms and conditions of those contracts, Dr. Barfield was to provide designated medical services on behalf of Physicians Network. Physicians Network in turn, was to provide at its cost, office facilities and staff reasonably necessary for Dr. Barfield to perform the medical services outlined in the contracts. Because Dr. Barfield was an employee of Physicians Network, the contracts further provided that all revenues earned by Dr. Barfield were the property of and belonged to Physicians Network. In exchange for the medical services he provided on behalf of Physicians Network, Dr. Barfield was paid a fixed salary with certain provisions for incentive compensation and compensation for additional services rendered.

The dispute at issue herein involves the provisions of the 2002 employment contract. Specifically, in all his prior employment contracts with Physicians Network, Dr. Barfield contracted to perform certain specified duties regarding "call" coverage. However, in the 2002 contract, Dr. Barfield negotiated with Physicians Network to include Section 1.8(c) in the contract, which provides that "[i]t is understood that Physician is not required to take any call whatsoever."

At the time the 2002 contract was executed, arrangements were in place for other physicians to handle his call. However, these arrangements ended for different reasons, and, by the end of December 2003, Dr. Barfield began taking call, in the evenings and on the weekends, for his patients. Thus, in January 2004, Dr. Barfield sent Physicians Network an invoice for, among other things, the hours he had worked up to that time "assuming call." By letter dated February 3, 2004, Patti Ellish, the president and CEO of Physicians Network, denied that Physicians Network was responsible, pursuant to the employment contract, to pay Dr. Barfield for hours on call, stating as follows: "While your employment contract does not require you to take call [Paragraph 1.8(c)], who cares for your patients after hours and the arrangement for that coverage is your responsibility." Thus, Physicians Network denied payment to Dr. Barfield for his hours on call. Moreover, because there was no long-term solution to the call issue in place, Dr. Barfield continued to assume call for his patients through the end of his contract term, despite the contractual agreement by Physicians Network that he would not be required to take "any call whatsoever."

In October 2004, Dr. Barfield filed suit against Physicians Network, seeking damages under theories of breach of contract, unjust enrichment, violation of the Louisiana Unfair Trade Practices and Consumer Protection

Act, and detrimental reliance. Thereafter, Dr. Barfield filed a motion for partial summary judgment, contending that there were no material issues of fact and that he was entitled to judgment as a matter of law finding that Physicians Network had breached the 2002 employment contract regarding the issue of call coverage. Physicians Network responded by filing a cross-motion for partial summary judgment, seeking a determination by the court that the 2002 employment contract did not obligate Physicians Network to coordinate coverage for call services and further did not provide for compensation to Dr. Barfield if he, in fact, did take call.

Following a hearing on the motions, the trial court rendered judgment on December 1, 2006, granting Dr. Barfield's motion and denying Physician Network's cross-motion. In written reasons for judgment, the trial court concluded that "because the Network is the employer of Dr. Barfield, and pays him for the services he rendered to the patients, ... the exclusion of 'call duty' responsibility in the employment contract renders the Network financially responsible for the necessary cost of the 'call duty.'" Thus, the trial court held that, as a matter of law, Physicians Network had breached the 2002 employment contract by failing to provide adequate call support.

Physicians Network filed a writ application with this court, seeking review of the trial court's judgment, but this court denied the writ on April 4, 2007, noting that an "[a]dequate remedy exist[s] by review on appeal following the rendition of a final judgment on the merits." Barfield v. St. Tammany Physicians Network, 2007 CW 0074 (La. App. 1st Cir. 4/4/07)(unpublished writ action). Thus, the matter eventually proceeded to trial in April 2008 on the issue of damages. Following a bench trial, the trial court rendered judgment dated June 6, 2008, awarding Dr. Barfield

$66,538.08 in damages, together with costs, expert witness fees, and interest from the date of judicial demand.

However, on appeals by both parties, this court reversed the December 1, 2006 judgment granting Dr. Barfield's motion for partial summary judgment and finding a breach of contract on the issue of call coverage. Thus, this court reversed and vacated the June 6, 2008 judgment awarding damages, and remanded the matter for further proceedings. Barfield v. St. Tammany Physicians Network, 2008 CA 2431, pp. 6-7 (La. App. 1st Cir. 5/8/09)(unpublished). Specifically, this court concluded that legal and factual issues remained regarding Dr. Barfield's right to recover payment under the contract for the call he provided, thus precluding disposition by summary judgment. Barfield, 2008 CA 2431 at p. 5.

On remand, a bench trial on the issues of breach of contract and liability was conducted on April 12, 2010, with the understanding that the testimony and exhibits from the earlier trial on damages would be admitted and utilized by the trial court in determining liability and damages. Following trial, the trial court issued written reasons for judgment, again concluding that Physicians Network had breached the 2002 employment contract by failing to coordinate call coverage for Dr. Barfield. Additionally, the court adopted its previous ruling and reasons with regard to the amount of damages it awarded Dr. Barfield.

From the July 24, 2010 judgment awarding Dr. Barfield $66,538.08 in damages, together with costs, expert fees, and interest from the date of judicial demand, both parties again appeal. In its assignments of error, Physicians Network contends that the trial court erred in: (1) finding that Physicians Network breached the 2002 employment contract; (2) finding that Dr. Barfield did not unreasonably obstruct Physicians Network's

performance of the 2002 employment contract; (3) finding that Physicians Network failed to cure any alleged breach of the 2002 employment contract; and (4) finding that Dr. Barfield may have reasonably relied to his detriment upon the 2002 employment contract's "no call" provision. In his sole assignment of error, Dr. Barfield challenges the trial court's measure of his damages, contending that the trial court erred in not applying the 2002 employment contract as written to award him $100.00 per hour for additional services of providing on-call coverage as a result of the breach of contract by Physicians Network.

Breach of the 2002 Employment Contract
(Physicians Network's Assignment of Error No. 1)

In this assignment of error, Physicians Network contends that the trial court erred in concluding that it had breached the 2002 employment contract by failing to provide call coverage where the contract did not obligate Physicians Network to provide such call coverage to Dr. Barfield. Rather, it contends that the provision in the 2002 employment contract stating that Dr. Barfield was "not required to take any call whatsoever" should be interpreted to mean that Physicians Network "merely would not require [Dr. Barfield] to perform call himself," but that Dr. Barfield was nonetheless responsible for ensuring that on-call coverage was provided.

Interpretation of a contract is the determination of the common intent of the parties. LSA-C.C. art. 2045; Prejean v. Guillory, 2010-0740 (La. 7/2/10), 38 So. 3d 274, 279. The reasonable intention of the parties to a contract is to be sought by examining the words of the contract itself, and when the words of a contract are clear and explicit and lead to no absurd consequences, no further interpretation may be made in search of the parties' intent. LSA-C.C. art. 2046; Prejean, 38 So. 3d at 279. Common intent is

determined, therefore, in accordance with the general, ordinary, plain, and popular meaning of the words used in the contract. Accordingly, when a clause in a contract is clear and unambiguous, the letter of that clause should not be disregarded under the pretext of pursuing its spirit, as it is not the duty of the courts to bend the meaning of the words of a contract into harmony with a supposed reasonable intention of the parties. Prejean, 38 So. 3d at 279.

If, on the other hand, the terms of a written contract are susceptible to more than one interpretation, or there is uncertainty or ambiguity as to its provisions, or the intent of the parties cannot be ascertained from the language employed, parol evidence is admissible to clarify the ambiguity or show the intention of the parties. Commercial Properties Development Corporation v. State Teachers Retirement System, 2000-0392 (La. App. 1st Cir. 3/28/01), 808 So. 2d 534, 540. In cases in which the contract is ambiguous, the agreement shall be construed according to the intent of the parties, and intent is an issue of fact to be inferred from all of the surrounding circumstances. Commercial Properties Development Corporation, 808 So. 2d at 540. A doubtful provision must be interpreted in light of the nature of the contract, equity, usages, the conduct of the parties before and after the formation of the contract, and other contracts of like nature between the same parties. LSA-C.C. art. 2053; Commercial Properties Development Corporation, 808 So. 2d at 540.

In the instant case, the 2002 employment contract at issue sets forth Dr. Barfield's responsibilities with regard to providing medical services on behalf of Physicians Network, in pertinent part, as follows:

> 1.1 **Employment**. The Network hereby employs Physician, and Physician accepts such employment, as a physician to render professional medical services on behalf of

the Network .... The professional medical services to be rendered by Physician pursuant hereto are the following ("**Designated Medical Services**"):

(a) Internal Medicine, and such other medical services within the Physician's competence as the Network shall determine after having consulted with Physician and for which Physician is properly credentialed by the Medical Staff of the Hospital ("**Medical Staff**");

(b) The performance of the services as described in subparagraph (a) above so as to maintain an office practice, admit patients as may be necessary for care in a hospital, nursing home or other health care facility, and to treat and attend such patients during their hospital, nursing home or health care facility stays; and additionally

(c) All medical services that are performed by internists with active office and hospital practices.

* * *

1.4 **Rendition of Designated Medical Services**. Physician agrees to perform the Designated Medical Services for the Network as follows and to be bound by the following:

(a) Physician shall devote Physician's full time, attention and skill as a physician and in so doing, Physician shall (i) perform professional services and render care in accordance with and in a manner consistent with the standards for the practice of the Designated Medical Services, (ii) comply with the principles of medical ethics of the American Medical Association, (iii) comply with the by-laws, rules and regulations of the medical Staff of the Hospital, (iv) comply with federal, state and local laws and regulations, (v) comply with the applicable standards of the Joint Commission on Accreditation of Healthcare Organizations, and (vi) comply with the rules, regulations and directives of the Network, District and Hospital; and

(b) Without the express written consent of the Network, Physician shall not render professional medical services on Physician's own behalf or on the behalf of any party other than the Network, and Physician shall not participate in any medical activities of

> any find or nature except on behalf of the Network.
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> * * *
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> 1.8 **Time Devoted to Practice**. Subject to the provisions of Sections 3.7 (Vacation) and 3.8 (Continuing Medical Education), Physician shall work the following hours:
>
> (a) Five days per week (Monday through Friday) during the office hours established by the Network; provided that, Physician shall have one of such days off per week except in the event of the occurrence during the week of (i) holidays observed by the Hospital, or (ii) vacations, continuing medical education or illness of Physician or any other physician with whom Physician may practice;
>
> (b) Such hours as may be necessary to treat and attend hospitalized, nursing home or other health care facility patients; and
>
> (c) **It is understood that Physician is not required to take any call whatsoever.**

(Emphasis added).

Thus, according to the provisions of the 2002 employment contract, Dr. Barfield was obligated to provide designated medical services during certain specified times, on behalf of Physicians Network. However, by the clear and unambiguous wording of the contract, those obligations did not require Dr. Barfield "to take any call whatsoever" on behalf of Physicians Network. As noted by the trial court in its reasons for judgment, "[t]o read this provision in any other fashion results in an intellectual absurdity." Hence, given that Dr. Barfield was an employee of Physicians Network and, pursuant to the 2002 employment contract, treated patients only "on behalf of" Physicians Network, the parties' agreement to alleviate Dr. Barfield from taking "any call whatsoever" clearly obligated Physicians Network to provide such call coverage. See generally Labadie v. Physician Network Corporation of Louisiana, Inc., 01-1180, 01-1181 (La. App. 5th Cir. 1/29/02), 805 So. 2d 1278, 1281 (wherein the appellate court determined that the

employment contract between two physicians and their employer "state[d] unambiguously that the doctors are to 'accrue' one day off for each on call period," entitling the physicians to be paid for those accrued days upon the termination of the parties' contractual employment relationship).

Furthermore, even if we were to determine that the contract was ambiguous as to Physicians Network's responsibility to provide call coverage for Dr. Barfield, we would nonetheless reach the same result from all of the surrounding circumstances. At the outset, we note that while Physicians Network contends that the 2002 employment contract obligated Dr. Barfield to make arrangements for call coverage, the 2002 employment contract is totally devoid of any language imposing such a duty upon him.

Moreover, a comparison of the provisions of the parties' earlier contracts with the provisions of the 2002 employment contract does not support and, in fact, negates the contractual interpretation suggested by Physicians Network. As noted by the trial court in reasons for judgment, changes to the standard form employment contract were made by the parties during negotiations, and "[s]ection 1.8 (c) was a complete change from how the contract had been written since 1993." Indeed, a reading of the prior contracts demonstrates that not only was Dr. Barfield responsible for taking call, but Physicians Network retained the authority to "determine and approve" Dr. Barfield's on-call schedules and the physicians with whom he would assume call. Even more important to the issue before us, the prior contracts further outlined Physicians Network's **responsibility and duty** to provide assistance to Dr. Barfield with the call coverage that he had been previously obligated to handle.

Specifically, the 1993 employment contract provided that "on the Effective Date, it is intended that Physician shall initially share call with one

other physician" and that "[w]ithin 180 days after the Effective Date, Network shall have a **continuing duty** to arrange for Physician to share call with not fewer than two other physicians, provided that Physician shall assist Network in arranging such call with such other physicians." (Emphasis added). The 1996 employment contract similarly provided that "the Network shall have a **continuing duty** to arrange for Physician to share call with no fewer than two other physicians; provided that, Physician shall assist Network in arranging such call with such other physicians." Finally, the 1999 employment contract provided that "it is intended that Physician shall share call with three other physicians" and that the "Network will make every reasonable effort **to provide call** with at least two other physicians." Thus, the prior employment contracts between the parties clearly established a continuing duty upon Physicians Network to provide or arrange for other physicians to assist Dr. Barfield with call coverage.

By contrast, the 2002 employment contract omitted any obligation whatsoever on the part of Dr. Barfield to take call. Consequently, the provisions regarding Physicians Network's duty to provide assistance to Dr. Barfield for call coverage were likewise omitted. Thus, considering the continuing duty of Physicians Network in the prior employment contracts it executed with Dr. Barfield to coordinate call coverage to assist Dr. Barfield with his on-call responsibilities, we find no merit to Physicians Network's claim that Dr. Barfield somehow assumed that responsibility of coordinating call coverage in the 2002 employment contract where the parties had specifically negotiated to include a provision in that contract alleviating Dr. Barfield from having to take "any call whatsoever."

Moreover, the mere fact that Dr. Barfield had himself made arrangements with other physicians to handle call for him, which

arrangements were in place at the time this contract was executed, does not negate the fact that the ultimate responsibility for providing call coverage remained with Physicians Network, as Dr. Barfield was no longer contractually obligated to assume any call responsibilities on behalf of Physicians Network. As noted by the trial court in its reasons for judgment, "because the contract exempted the physician from this employment-related responsibility [call duty] the obligation remained with his employer, 'The Network.'" Accordingly, we find no merit to the argument by Physicians Network that although Dr. Barfield was not contractually obligated to take "any call whatsoever," he was nonetheless contractually responsible for arranging for other physicians to assume call on behalf of Physicians Network, or, in the event he was unable to coordinate such call coverage, he himself would be responsible for once again taking call.

Consequently, we likewise find no error in the trial court's finding that Physicians Network breached the 2002 employment contract when it failed to provide call coverage for Dr. Barfield. When the arrangements that Dr. Barfield had put into place for other physicians to handle call dissolved, Physicians Network failed to make appropriate arrangements for call coverage for the patients Dr. Barfield saw in the clinic setting and in the hospital on behalf of Physicians Network. This failure on the part of Physicians Network to arrange for call resulted in Dr. Barfield having to assume that call coverage despite the clear provision of his contract alleviating him of any obligation to do so on behalf of Physicians Network. Thus, we find no error in the trial court's finding that this failure on the part of Physicians Network constituted a breach of the 2002 employment contract by Physicians Network.

This assignment of error lacks merit.

Unreasonable Obstruction of Physicians Network's Performance and the Alleged Cure of Any Breach of the 2002 Employment Contract
(Physicians Network's Assignments of Error Nos. 2 & 3)

In these related assignments of error, Physicians Network contends that the trial court erred in failing to find that Dr. Barfield unreasonably obstructed its performance of the 2002 employment contract and in finding that Physicians Network had failed to cure any alleged breach. Specifically, Physicians Network argues that Dr. Barfield displayed an "unyielding unwillingness" to work with Physicians Network to resolve "the call problem" or to accept a "reasonable call arrangement offer," contending that Dr. Barfield refused an offer by Dr. John Simon to take over all of Dr. Barfield's call if allowed to also "round" on Dr. Barfield's hospitalized patients on weeknights[1] and that he refused an offer to join the call rotation group of Dr. Ralph Millet, which would have reduced the number of days that Dr. Barfield was on call.

Additionally, Physicians Network avers that the actions of Patti Ellish, the president and CEO of Physicians Network, in hiring a nurse practitioner to partially assist Dr. Barfield with call coverage and in arranging to have Dr. Barfield included in Dr. Millet's call coverage group, demonstrate that Physicians Network cured any alleged breach of the 2002 employment contract.

In asserting that Dr. Barfield should be barred from claiming damages for its non-performance of the contract, Physicians Network relies upon LSA-C.C. art. 2003, which provides, in pertinent part, that "[a]n obligee may not recover damages when his own bad faith has caused the obligor's failure

[1]Physicians Network contends in brief that "rounding" on hospital patients in the evenings is "lucrative" given that a fee is generated for the visit. While, in the case of Dr. Barfield's contract, any fees he generated were the property of Physicians Network, his incentive compensation under the contract was calculated based on the amount of fees he generated.

to perform." The determination of whether a party to a contract acted in bad faith is a factual determination which will not be reversed by the appellate court unless it is manifestly erroneous or clearly wrong. N-Y Associates, Inc. v. Board of Commissioners of Orleans Parish Levee District, 2004-1598 (La. App. 4th Cir. 2/22/06), 926 So. 2d 20, 24, writ denied, 2006-0666 (La. 5/26/06), 930 So. 2d 31; Weeks v. T. L. James & Co., Inc., 626 So. 2d 420, 425 (La. App. 3rd Cir. 1993), writs denied, 93-2909, 93-2936 (La. 6/28/94), 630 So. 2d 794. Moreover, the question of whether Physicians Network had cured its breach is likewise a question of fact, dependent upon the particular facts of the case, and, thus, also subject to the manifest error standard of review.

The record before us establishes that prior to the execution of the 2002 employment contract, Dr. Barfield had been in practice with other physicians employed by Physicians Network, and those physicians in his practice were handling call for the practice as a courtesy to Dr. Barfield despite the fact that Dr. Barfield had been obligated under his earlier contract to participate in call coverage. However, as both parties to the contract were aware, at the time the 2002 employment contract was executed, these other physicians in Dr. Barfield's practice had either left the employment of Physicians Network or were in the process of doing so. Nonetheless, two of those physicians had agreed to continue to take call for Dr. Barfield, and that arrangement was approved by Physicians Network.

Eventually, however, this call arrangement dissolved, and Dr. Simon then agreed that he and his nephrology group would handle call for Dr. Barfield in the summer of 2002. However, one physician in particular in Dr. Simon's group became disgruntled about having to take call for Dr. Barfield's patients, and ultimately, in September 2003, Dr. Simon met with

Dr. Barfield to discuss continued call coverage for Dr. Barfield. At that meeting, Dr. Simon proposed that he and his group would agree to continue to take call for Dr. Barfield if Dr. Barfield would agree to allow Dr. Simon's group to also perform all of Dr. Barfield's rounds on his hospitalized patients.

However, Dr. Barfield testified that this was not the agreement that he had reached with Dr. Simon, which was that Dr. Simon and his group would gradually take over complete hospital coverage after a year to one and one-half years.[2] Dr. Barfield explained that his patients did not find this arrangement pleasing or acceptable because they wanted Dr. Barfield to continue to see them and treat them in the hospital.[3] Thus, Dr. Barfield believed that a gradual transition of hospital coverage by a hospitalist was needed to ensure patient satisfaction and "for the benefit of the hospital, the patients, everyone involved." Accordingly, Dr. Barfield would not agree to hand over complete hospital coverage for his patients to Dr. Simon and his group at that time, and, as a result, this call arrangement also dissolved by the end of December 2003.

Considering the foregoing, it is clear that Dr. Barfield's reasons for not allowing Dr. Simon and his group to take over complete hospital care of his patients in exchange for call coverage clearly related to his concern over patient care. Additionally, we note that pursuant to section 1.1(b) of the 2002 employment contract, Dr. Barfield was personally responsible for "treat[ing] and attend[ing] ... [to his] patients during their hospital, nursing

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[2]According to the testimony of record, a physician or group of physicians who handles all patient care while patients are hospitalized is referred to as a hospitalist, a position which Dr. Simon was evidently seeking to achieve.

[3]Indeed, Dr. Simon acknowledged that, in addition to the resentment displayed by one of the physicians in his group over having to take call for Dr. Barfield's patients, the other physician in his group had issues with communication skills, which left "something to be desired."

home or health care facility stays." Thus, considering Dr. Barfield's responsibilities pursuant to the 2002 employment contract and his legitimate concerns about handing over complete hospital coverage to Dr. Simon and his group, we find no merit to Physicians Network's argument that the trial court erred in not concluding that Dr. Barfield obstructed its performance of the contract by his failure to hand over complete care of his hospitalized patients to Dr. Simon in exchange for call coverage.

We likewise find no merit to the assertion that Dr. Barfield obstructed Physicians Network's performance of the 2002 employment contract by refusing an offer to join the call rotation group of Dr. Ralph Millet. In finding that Dr. Barfield's actions in this regard were not unreasonable, the trial court noted in reasons for judgment "the existence of a longstanding acrimonious relationship between Drs. Millet and Barfield which had resulted in litigation" and further noted that "Dr. Millet at trial was unaware of objections by another physician within his group to carrying the call load associated with Dr. Barfield's practice." Moreover, as noted by the trial court, this arrangement would not have provided complete call coverage for Dr. Barfield, as contemplated by the 2002 employment contract, but, rather, would have required Dr. Barfield to "continue to have night and weekend call." Based on our review of the record, and mindful of the deference owed to the trial court's findings where there is conflicting evidence, we cannot conclude that these factual findings of the trial court were manifestly erroneous.

Finally, we also find no merit to Physicians Network's contention that the trial court erred in finding that Physicians Network had failed to cure its breach of the 2002 employment contract. At the outset we note that when the problem developed with call coverage, Ellish's attitude was that Dr.

Barfield, not Physicians Network, had the responsibility of providing call coverage if Dr. Barfield was unable to find someone to cover call. Thus, although Dr. Barfield had to take call himself, according to Ellish, he nonetheless was not entitled to any compensation for this additional work that was not contemplated by the 2002 employment contract. Moreover, none of the limited efforts made by Ellish would have provided complete call coverage for Dr. Barfield. Thus, while Physicians Network contends that the actions of Ellish in hiring a nurse practitioner to partially assist Dr. Barfield with call coverage and in arranging to have Dr. Barfield included in Dr. Millet's call coverage group demonstrate that Physicians Network cured the breach of the 2002 employment contract, the trial court concluded that these efforts "were not curative" of Physicians Network's breach of the contract, a finding that we cannot say is manifestly erroneous or clearly wrong.

With regard to the hiring of the nurse practitioner to assist Dr. Barfield, as noted by the trial court, the assistance she could provide with call coverage as a nurse practitioner was limited, and Dr. Barfield often was present with her because she was unfamiliar with the patients and their conditions and did not have particular expertise in the field of internal medicine.[4] Moreover, as discussed more fully above, the attempt to include Dr. Barfield in Dr. Millet's call group was untenable and also would have **required** Dr. Barfield to assume call on some weeknights and weekends, contrary to the provision of his 2002 employment contract providing that he was not responsible for "any call whatsoever."

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[4]Notably, when the nurse practitioner was hired by Physicians Network, her contract provided that she was not required to take call. However, when she was later told by a representative of Physicians Network that she would have to assist Dr. Barfield with call, Physicians Network agreed to compensate her for that additional work.

Accordingly, for the foregoing reasons and based on our review of the record as a whole, we find no manifest error in the trial court's findings that Physicians Network failed to cure its breach of contract and that Dr. Barfield did not obstruct Physicians Network's performance of its obligations under the contract.

These assignments of error also lack merit.[5]

Damages
(Dr. Barfield's Assignment of Error)

Dr. Barfield contends in his assignment of error that the trial court erred in not applying the 2002 employment contract as written to award him $100.00 per hour for the "additional services" of providing on-call services as a result of the breach of contract by Physicians Network.

With regard to compensation for "additional services," the 2002 employment contract provided that Dr. Barfield would be compensated for additional services at a rate of $100.00 per hour. The contract further defined "additional services" as follows:

> In addition to the activities provided for in Section 1.22, the Physician shall undertake, as reasonably directed by the Network from time to time, special activities on behalf of the Network, District or Hospital, included but not limited to, medical/administrative duties, selected medical society activities, education and marketing programs, and activities of the Network, District or Hospital which are consistent with the accepted professional standards of conduct for physicians (collectively, "**Additional Services**").

However, "additional services," as defined in the contract, does not specifically include taking call. As noted by this court in its prior opinion in this matter, "the contract is silent concerning the parties' responsibilities if

[5]Because we have affirmed the trial court's finding that Physicians Network breached the contract by failing to provide call coverage for Dr. Barfield, we pretermit discussion of Physicians Network's fourth assignment of error, wherein it challenges the trial court's finding, under Dr. Barfield's alternative claim of detrimental reliance, that Dr. Barfield reasonably relied to his detriment on the provision of the contract providing that he would not be responsible for taking "any call whatsoever."

Dr. Barfield took call," in that it does not specifically address payment to Dr. Barfield if he were required to take call. Barfield v. St. Tammany Physicians Network, 2008 CA 2431, p. 5 (La. App. 1st Cir. 5/8/09)(unpublished). Thus, in the absence of a contractual provision providing for the specific amount to be paid to Dr. Barfield for taking call, we cannot conclude that the trial court erred in failing to apply the $100.00 rate for "additional services" in the 2002 employment contract to compensate Dr. Barfield for his on-call duties.

Rather, the appropriate award herein is the measure of Dr. Barfield's damages as a result of Physicians Network's breach of contract. An obligor is liable for the damages caused by his failure to perform a conventional obligation, and damages are measured by the loss sustained by the obligee and the profit of which he has been deprived. LSA-C.C. arts. 1994 & 1995; Frankel v. Exxon Mobil Corporation, 2004-1236 (La. App. 1st Cir. 8/10/05), 923 So. 2d 55, 64.

The party bringing suit has the burden of proving any damages suffered by him as a result of a breach of contract. L & A Contracting Company, Inc. v. Ram Industrial Coatings, Inc., 99-0354 (La. App. 1st Cir. 6/23/00), 762 So. 2d 1223, 1235, writ denied, 2000-2232 (La. 11/13/00), 775 So. 2d 438. When damages are insusceptible of precise measurement, much discretion shall be left to the court for the reasonable assessment of these damages. LSA-C.C. art. 1999; L & A Contracting Company, Inc., 762 So. 2d at 1235. Thus, absent an abuse of discretion, an appellate court will not disturb a trial court's assessment of damages.

In the instant case, the trial court, in assessing Dr. Barfield's damages, relied upon Dr. Barfield's own expert economist, Dr. Hugh Long, who calculated Dr. Barfield's damages by estimating the hourly rate Dr. Barfield

was paid for services he was contractually obligated to render and by then multiplying that amount by the number of hours in which Dr. Barfield assumed call. Based on his calculations, Long estimated that Dr. Barfield earned between $50.40 and $65.52 per hour for the services he provided under the contract and that he had worked approximately 1,180 hours assuming call. Thus, he estimated Dr. Barfield's damages to range from $93,712.50 to $121,826.24.

In assessing Dr. Barfield's damages, the trial court found that Dr. Barfield should be awarded $57.96 per hour for the uncompensated hours that Dr. Barfield was on call, which was the midpoint in the range suggested by Long. Furthermore, the trial court reduced the number of hours that Long estimated Dr. Barfield was on call by thirty-two hours, based on Dr. Barfield's testimony that he was able to find other physicians to take call for him for two weekends during the time in question. Accordingly, the trial court determined that Dr. Barfield was entitled to $66,538.08 in damages as a result of Physicians Network's breach of contract.

Considering that the language of the contract at issue did not specifically provide for compensation to Dr. Barfield if he were forced to take call, and further considering the trial court's reasonable reliance on Dr. Barfield's own expert, as well as the testimony of Dr. Barfield, in calculating his damages, we cannot conclude that the trial court abused its discretion herein in the amount of damages awarded.

Accordingly, Dr. Barfield's assignment of error is likewise without merit.

CONCLUSION

For the above and foregoing reasons, the July 24, 2010 judgment of the trial court is affirmed. Costs of this appeal are assessed equally against Physicians Network and Dr. Barfield.

AFFIRMED.