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Pasadena Lawyer and Client Tell Their Story in 'SiCKO'

By Rebecca Beyer
Daily Journal Staff Writer

PASADENA — Scott C. Glovsky didn't meet Michael Moore until two weeks ago, but the Pasadena-based attorney and one of his clients are featured in Moore's new documentary "SiCKO," which opens nationwide today.

Glovsky, of Arkin & Glovsky, and his client, Maria Watanabe, who won a breach-of-contract verdict against Blue Shield in 2006, are featured in the film — along with several other California attorneys or their clients — to highlight some of the United States health care system's weaknesses.

Glovsky said the film's producers were referred to him because of his work in insurance bad-faith cases. He said he and Watanabe were interviewed twice in 2006, once at her home in Eagle Rock just a few weeks before her trial against Blue Shield and once, after the first day of trial, in his office.

The "SiCKO" crew tried to film Glovsky's opening statements, but Blue Shield objected, arguing that the film crew was not a news organization. A judge denied the producers' request to tape inside the courtroom. But Watanabe remembers how she felt.

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GERARD BURKHART / for the Daily Journal

Litigator Scott C. Glovsky, above, and his client, Maria Watanabe, will speak at a special screening of "SiCKO" on Monday for the Consumer Attorneys of California and the Consumer Attorney Association of Los Angeles.

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"Scott did an amazing job handling my case against a bunch of lawyers," she said. "On the first day in court, he was the only lawyer on my side. When I looked at the other side, how many lawyers there were, even a technician — and Scott is doing everything."

Producer Meghan O'Hara said she hopes the film will help Americans to "no longer just accept the fact that we have a broken system."

O'Hara also worked with Moore on "Fahrenheit 9/11" and "Bowling for Columbine."

In 2002, when Watanabe began experiencing headaches, blurred vision, dizziness, vomiting and blackouts, she was relieved when she received letters from her HMO denying additional tests.

"I was still kind of scared," said Watanabe, whose cousin died of a brain tumor a year before her symptoms began.

"But it gave me this sense of, 'Oh, the doctor who did the denial must know what's going on. Maybe there's nothing really wrong with me.'"

Good Samaritan Medical Practice Association, a health maintenance organization contracted by Blue Shield, continued to deny Watanabe diagnostic consultations and various tests, including an MRI, in 2002 and 2003. When Watanabe went to visit relatives in Japan, they were so appalled by her condition that they took her

for an MRI. Watanabe was diagnosed with a noncancerous brain tumor.

With Glovsky's help, Watanabe sued Blue Shield in November 2004 for breach of contract. In June 2006, a jury awarded her just \$65 in compensatory damages. *Watanabe v. California Physicians Service*, BC324008 (L.A. Super. Ct., filed Nov. 3, 2004).

Glovsky and his partner, appellate specialist Sharon J. Arkin, are appealing a Los Angeles County Superior Court judge's decision that Good Samaritan, which denied the care and was contracted by Blue Shield, was not acting on behalf of Blue Shield.

David Seldin, a Blue Shield of California spokesman, said that the \$60 award was for an optometrist visit that had not been covered for Watanabe. He said that the court had ruled that Blue Shield, which was Watanabe's insurance company, was not liable for the denial of the MRI or other tests because the denials were made by a third party.

He said the company had no comment on Moore's documentary.

Doctors have not been able to remove Watanabe's tumor. She has problems with her periphery vision and balance, is slightly weaker on her left side, and has regular MRIs to monitor the tumor's size.

Another powerful story in the film, O'Hara said, was Dawnelle Barris'.

Barris' 2½-year-old daughter died because, as the family claimed in a lawsuit, Kaiser delayed her treat-

ment until she could be transferred to a hospital within its system. Ken M. Sigelman, a San Diego-based attorney, represents Barris. *Barris v. County of Los Angeles*, TC007065 (L.A. Super. Ct., filed May 2, 1994).

Barris was awarded \$1.3 million, but the award was reduced because of the \$250,000 California cap on noneconomic damages mandated by the Medical Injury Compensation Reform Act of 1975.

"Ultimately, what we had was a situation where [my client] was a victim twice," Sigelman said. "First, she was the victim of a health care system that was very seriously out of whack, and second, she was the victim of a legal system that provided her a plainly inadequate remedy."

Aside from denials of care, the film highlights rescission and patient-dumping cases.

In the face of litigation, hospitals and HMOs have spoken out against patient dumping and have taken steps to correct patient discharge policies. Many health plans defend rescission practices in cases where the plan determines that a patient has not fully disclosed his or her health history.

A representative of the Sacramento-based Association of California Life and Health Insurance Cos., which represents 35 companies, could not be reached for comment.

Los Angeles attorney Heather M. McKeon represented another woman in Moore's film. McKeon, an associ-

ate at The Quisenberry Law Firm, is bound by a confidentiality agreement within the settlement of the case and cannot discuss its details.

But she said the film is important for people to understand the scope of the problem within the U.S. health care system.

"It's really important for people to realize that this could happen to them," she said. "People only think that this happens to people who don't have insurance, and that's a point I want out there."

Moore attended a screening of "SiCKO" Monday night on Skid Row in front of the Union Rescue Mission.

Glovsky and Watanabe will speak at a special screening of "SiCKO" on Monday for the Consumer Attorneys of California and the Consumer Attorney Association of Los Angeles. They both attended and were honored at the Los Angeles premiere of the film Tuesday night.

Glovsky, 40, attended Cornell Law School. His practice focuses on insurance bad faith, catastrophic personal injury, employment and health-related litigation.

"My father is a physician," he said. "So growing up, I thought universal health care was an awful thing. But because of the abuses I see every day now, I am fully in favor of it. When I saw Moore [Tuesday night], I told him I really hope what he's done and his great work will put me out of business."