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From a Connecticut doctor: "What a mighty GOD"

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Yale Doctors Win \$5.5 Million In Suit  
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A state jury awarded \$5.5 million Friday to three physicians who said Yale University punished them for complaining of poor patient care and mismanagement in its radiology department.

The jury of four women and two men deliberated for 15 hours over three days before reaching its verdict. The decision capped six weeks of testimony in Waterbury Superior Court.

"I think they gave a patient-care message: You should not penalize doctors who are speaking out in good faith on behalf of their patients," said Joseph Garrison, lawyer for one of the physicians.

Yale said it plans to appeal. Spokesman Tom Conroy defended the diagnostic radiology department within Yale's school of medicine and insisted that no patients have been placed in harm's way. "We maintain it's a model system," he said.

The trial hinged on changes Dr. Bruce McClennan instituted when he took over the department in 1995, as forces were reshaping the health care industry. Insurance companies and the federal government were paying less for CT scans, MRI tests and other exams even as the demand for diagnostic images was growing. Yale was forced to do more with less.

The doctors, longtime professors at Yale's medical school - Arthur Rosenfield, Morton Burrell and Robert Smith - complained to administrators that the cost-cutting measures were putting patients at Yale-New Haven Medical Center at risk. They took their complaints all the way to Yale President Richard Levin.

They alleged that non-specialists were doing the final reads on diagnostic studies and that teaching physicians were signing off on studies interpreted by residents, without checking their accuracy - a violation of Medicare rules and basic patient care principles.

Instead of addressing their concerns, the doctors alleged, the administration cut their pay and removed them from their leadership positions.

Rosenfield was removed as head of the CT service and reassigned to what he termed a nonexistent job at the Veterans Administration hospital in West Haven. When he refused to go, he said, his salary was slashed 60 percent, to \$80,000. Burrell was removed as head of abdominal imaging and his pay was cut \$20,000. Smith was removed as chief of MRI and called back from a sabbatical, and his pay was cut \$8,000, though he did receive a bonus in the same amount. He finally quit.

The doctors sued in January 2000, arguing that Yale had violated their freedom of speech rights and their academic freedom by retaliating against them. At trial, Yale portrayed the doctors as disgruntled employees worried about protecting their turf and maintaining a comfortable workload. Yale claimed the doctors used patient care as a cover to air their private grievances.

More than a dozen physicians testified on behalf of the plaintiff doctors, vouching for their credibility and extraordinary talent, with one doctor who trained under Rosenfield describing his mentor as "a mom and pop store in a day filled with Wal-Marts."

Ultimately, the jury decided in the doctors' favor, finding that Yale retaliated against the doctors for speaking out against procedures they believed were compromising quality care. The jury awarded \$3,848,000 to Rosenfield, \$1,395,000 to Burrell, and \$259,000 to Smith. The jury also awarded punitive damages to cover trial costs, although Judge Carl Schuman will decide on the amount later. Lawyer fees are estimated at between \$1.5 million and \$2 million.

All three doctors have world-class reputations. Smith revolutionized the diagnosis of kidney stones, through a discovery he made at Yale. But not long after quitting, he changed careers. He is now studying to become a lawyer. Rosenfield and Burrell remain at the medical school. McClennan stepped down as chairman of the radiology department last year. One of his former vice chairmen, James Brink, is the interim chairman.

"It's our hope that the verdict will cause a re-examination of the treatment that Dr. Burrell and Dr. Rosenfield have received over the last four years," said Jacques Parenteau, who represented Smith and Burrell. "And that they will be restored to their positions of respect and influence."

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