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# Court Upholds \$45K Sanction Against Raynor

Max Mitchell, The Legal Intelligencer

November 16, 2016

The attorney who recently escaped a \$1 million sanction will not be able to avoid a nearly \$45,000 fine the Philadelphia Court of Common Pleas imposed on her for allegedly attempting to pressure a witness, the Pennsylvania Superior Court has ruled.

A unanimous three-judge panel of the court upheld a trial court's decision to disqualify defense attorney Nancy Raynor from a lung-cancer-related case and impose a \$44,693 sanction against her. The trial court's decision to boot Raynor from the case stemmed from a letter she sent to an expert's employer regarding that expert's testimony in the case.

The appellate court's strongly worded opinion condemned that conduct as "egregious tactics" and an attempt to pressure the expert, Dr. Stefanie Porges, into changing her testimony.

"This clear intent of this passage was to pressure [Porges' employer] HUP into coercing Dr. Porges to either change her opinion or to refrain from testifying," said Superior Court Senior Judge Patricia Jenkins, who wrote the panel's opinion in *Sutch v. Roxborough Memorial Hospital*. "[Philadelphia Court of Common Pleas Judge Jacqueline Allen, who imposed the sanction] perceived, and we agree, that Raynor's letter was a threat made in bad faith."

Allen, Jenkins further said, was well within her authority to disqualify Raynor over the conduct and to impose the nearly \$45,000 sanction to cover opposing counsel's attorney fees and expenses.

Raynor had previously faced a nearly \$1 million sanction for a comment a defense expert made in the case that eventually led to a mistrial. The Superior Court, however, [reversed that sanction as "gratuitous" over the summer](#).

That ruling came down after a jury awarded a nearly \$2 million verdict for the plaintiff in the second trial over the claims.

The Superior Court's Tuesday decision regarding the sanction over the letter said Raynor violated rules of professional conduct prohibiting unlawful obstruction of another party's access to evidence, conduct that only embarrasses, delays or burdens a third party, and rules against inducing another attorney to break any of the rules of professional conduct. According to the Superior Court, Raynor appeared to violate that last rule by allegedly having an associate at her firm continue to contact opposing counsel about the expert.

Jenkins further said that given Raynor's conduct it had been necessary for opposing counsel to seek her disqualification from the case, as opposed to reporting the incident to the state Disciplinary Board.

"Simply reporting Raynor to the Disciplinary Board under these circumstances would not have been a sufficient remedy. A mere request for a regulatory body to commence an investigation might not have dissuaded Raynor from continuing these tactics," Jenkins said. "Indeed, Raynor emphatically argued that she violated no rules and was entitled to continue her course of conduct. To prevent Raynor from continuing these egregious tactics in this case, and to assure due process and a fair trial, it was necessary to disqualify her as counsel."

Along with denying Raynor's appeal challenging Allen's jurisdiction and discretion to impose the sanction, the court also denied the appeal from defendants who argued about evidentiary rulings and contended that Raynor should not have been disqualified from the case. Jenkins noted that the case came to its final verdict two years after Raynor was disqualified, and said that not only was removing her proper, but the defense did not suffer any prejudice.

Joe Messa, who represented the plaintiff, said he had expected the result.

"Judge Jenkins in her opinion lays out clearly and carefully how that conduct was inappropriate and something that can't be tolerated," Messa said. "The entire panel spelled out clearly what the authority for a judge is to remove as counsel and sanction an attorney."

Messa noted that the state Supreme Court has been asked to take up an appeal regarding the Superior Court's decision to overturn the \$1 million sanction.

Both William Hill of Klehr Harrison Harvey Branzburg, who represents Sutch, and Maureen McBride of Lamb McErlane, who represents Raynor, did not immediately return a call for comment.

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