

# Doctors rally on behalf of lawyer facing \$1M in sanctions

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*Defense lawyer Nancy Raynor, who is appealing the penalty, says her accounts have been frozen and a lien is on her home. Opposing counsel counter that her witness cost them and their client more than \$1 million.* JOSEPH KACZMAREK / For the Inquirer

**Chris Mondics, Inquirer Staff Writer**

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The Pennsylvania Medical Society, which represents thousands of the state's doctors, says it will be entering the legal battle over \$1 million in sanctions imposed by a Philadelphia judge on a lawyer who represents physicians in medical malpractice cases.

Society president-elect Scott Shapiro, an Abington cardiologist, said

he expects his organization to file legal papers in support of Berwyn lawyer Nancy Raynor to overturn the sanctions.

"Multiple physicians have reached out to me, and they have all indicated in a variety of ways that this will impact physicians' ability to have the full benefit of a complete and thorough defense if they are named in a malpractice case," Shapiro said. "If I were a lawyer, [I would ask] why would I do a full-court press if my assets are on the line?"

Philadelphia Common Pleas Court Judge Paul Panepinto slapped Raynor with nearly \$1 million in court sanctions Nov. 4 because one of her witnesses testified that a woman at the heart of a medical malpractice trial had been a smoker, breaching a court order against such a statement. The family of the woman, who had died of lung cancer, won a \$190,000 verdict, but Panepinto reversed the award and ordered another trial, finding that the smoking reference had unfairly tilted the scales in favor of the defense.

The sanctions were intended to reimburse the woman's family and her attorneys for the lost time and expense of the first trial. But the decision has triggered sharp criticism, not only from the society, but also from members of the defense bar and others, who say the amount of the sanctions is unprecedented, and, given disputed facts in the matter, unwarranted.

Raynor's bank accounts have been frozen, and there is a lien on her house as a consequence of the ruling. Raynor says she is facing the possibility of shuttering her firm if she cannot gain access to her money.

"There is just no way that a lawyer should lose their home over something like this," said Shapiro.

Raynor has appealed to Superior Court, and Panepinto will preside over a hearing Feb. 19 on Raynor's request that the seizures be halted pending the outcome of that appeal. Shapiro said he expects his organization, which represents more than 17,000 doctors, to file a friend-of-the-court brief on Raynor's behalf.

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The case hinges to a great extent on instructions that Panepinto gave at the outset of the trial, banning any reference to smoking by Rosalind Wilson, and instructions after the trial was underway. Wilson visited Roxborough Memorial Hospital in May 2007, complaining of chest pains and shortness of breath. She was given a chest X-ray, but was never told of a suspicious growth that showed up in the examination. She died of lung cancer two years later.

The attorneys for Wilson's survivors, Matt D'Annunzio and Joseph L. Messa, who were suing Roxborough Memorial and physicians involved in her care, had argued that testimony on Wilson's smoking habit would unfairly bias the jury.

During the trial, defense witness Dr. John Kelly mentioned Wilson was a smoker when Raynor asked him if Wilson had risk factors for cardiovascular disease. She claims she was intending for him to focus on Wilson's high blood pressure. Later, Raynor asserted that she had repeatedly advised Kelly that smoking testimony was off-limits, and has filed statements from other members of the defense team backing up her account.

On Wednesday, Raynor said that yet another member of the defense team, a courtroom technology specialist, also backed up her account.

Panepinto's Nov. 4 order requires Raynor to pay D'Annunzio's firm \$615,349, Messa's firm \$160,612, and Wilson's daughter \$170,235.

Raynor says her malpractice insurance cannot be used because it excludes coverage for court-imposed sanctions.