

Lawyer Told to Pay \$1M for Allowing Smoking Reference at Trial

A witness for defense lawyer Nancy Raynor mentioned a plaintiff's smoking history, which had been prohibited by a judge. She's paying big.

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A Philadelphia judge has **ordered a suburban defense attorney to pay nearly \$1 million** for allowing an expert witness to make a smoking reference during a lung cancer-related medical malpractice trial.

The defense attorney, Nancy Raynor, says she's going to fight it. She is calling for an investigation into the judge that issued the order, Paul Panepinto. "I'm not only going to appeal the decision, I am going after everyone in this," Raynor told *The Legal Intelligencer*. "If they think for one nanosecond that I'm laying down and putting up with their bullshit, they're crazy."



Raynor says she's also considering lawsuits against Klehr Harrison Harvey Branzburg and Messa & Associates, two firms she was ordered to pay large sums to.

The large penalty stems from a suit filed by Rosalind Sutch. She filed a medical malpractice lawsuit against Roxborough Memorial Hospital, charging they did not advise her mother of a suspicious

nodule on a chest X-ray. Rosalind Wilson's lung cancer wasn't discovered until 20 months later; she died in 2009.

At trial, witnesses were ordered not to mention Wilson's history of smoking. Raynor's defense medical expert, Dr. John J. Kelly, mentioned Wilson's history of smoking. The case ended in a mistrial.

"There have been sanctions like that imposed upon class action counsel for misconduct, but we have never seen anything like that in Philadelphia," former Court of Common Pleas judge Gene Cohen told the *Legal*. "It seems excessive on its face. Judge Panepinto must have been really incensed."

Raynor **previously said** she did instruct her witness not to make the smoking reference. Insurance won't cover her in this case. Sutch was awarded \$2 million Tuesday in a second medical malpractice trial against Roxborough Hospital.