

# New evidence in malpractice case called 'concocted'

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Attorney Nancy K. Raynor, Raynor & Associates, poses for a photograph on Jan. 16, 2015, at her law offices in Malvern, Pa. ( Joseph Kaczmarek / The Inquirer )

**Chris Mondics, Inquirer Staff Writer**

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Trial lawyers seeking to impose nearly \$1 million in sanctions on an insurance defense lawyer they claim sabotaged a medical malpractice trial filed court papers Monday arguing that the defense lawyer had "concocted" new evidence to escape liability.

Lawyer Matthew D'Annunzio argued in the filing with Philadelphia

Common Pleas Court Judge Paul Panepinto that defense lawyer Nancy Raynor's claim of new evidence was riddled with contradictions.

"Understood in this context, the Raynor team stories are simply not credible and collapse of their own weight," D'Annunzio wrote.

The sanctions dispute emerged from a 2012 medical malpractice trial in which Raynor's client, an emergency room physician, was accused of failing to inform a patient of a suspicious nodule that appeared on an X-ray of the patient's lungs. The patient, Rosalind Wilson, later died of lung cancer. Her family sued Roxborough Memorial Hospital and physicians involved in her care.

Before the trial, Panepinto ordered that no mention be made of the patient's smoking history. However, an expert witness for the defense, Dr. John Kelly of Einstein Medical Center, referenced Wilson's smoking habit, forcing a new trial.

Late last year, Panepinto imposed penalties of \$946,167 on Raynor to compensate D'Annunzio, Joseph Messa, another attorney in the case, and Wilson's survivors for the cost of the mistrial. Raynor has said that efforts to collect could force her to close her firm.

Raynor, who has said she warned Kelly not to mention smoking, came forward in February with a new witness who backed up her story. The witness, trial technician Joseph Chapman, said he overheard Raynor telling Kelly he was not to mention Wilson's smoking.

In his filing, D'Annunzio accused Chapman of offering changing accounts of what he remembered. He said the story wasn't credible because Raynor only came forward with the information more than 21/2 years after the trial.

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