

Jury awards doctor \$4.75M in defamation, fraud case against St. Vincent

January 17, 2020 | Dave Stafford / The Indiana Lawyer

KEYWORDS **EMPLOYMENT LAW / HEALTH CARE & INSURANCE / LAW**

In what is believed to be the first jury verdict in an Indiana Commercial Court case, a jury in Indianapolis has awarded a doctor \$4.75 million in her defamation and fraud lawsuit against a Carmel hospital and medical group where she had privileges.

The jury found for the doctor, who claimed she had wrongly been accused of having alcohol on her breath while on duty.

The jury concluded Thursday night that Dr. Rebecca Denman was entitled to judgment on four of five claims she brought in a lawsuit against St. Vincent Carmel Hospital and St. Vincent Carmel Medical Group, Inc.

"I feel vindicated by the jury's verdict," Denman, an obstetrician and gynecologist, said in a statement. "It has been a very difficult two years for me, and it is my hope that this finally puts the matter to rest."

Denman's claims stem from a December 2017 incident at St. Vincent Carmel Hospital when a nurse falsely and belatedly accused her by email of having an odor of alcohol on her breath while at work, according to a statement from her law firm, DeLaney & DeLaney.

"Dr. Denman did not consume alcohol on the date in question. The hospital had written policies in effect requiring immediate reporting and testing when doctors are suspected of drug or alcohol use in the workplace. The nurse claimed not to know the policy and she waited 13 hours to send her email report. The belated timing of the report denied Dr. Denman any opportunity to clear her name by blood or urine test," the law firm said in a statement.

A spokesman for St. Vincent's parent, Ascension, said on Friday that a statement on the verdict would be forthcoming. Attorneys with the firm Littler Mendelson, which represented St. Vincent in this litigation, did not immediately respond to requests for comment.

Jurors who heard the case during a four-day trial before Marion Superior Civil Division 1 Judge Heather Welch awarded Denham \$2 million on her defamation claims; \$1 million each on her claims of fraud and constructive fraud; \$500,000 on her claim of tortious interference with an employment relationship; and \$250,000 on her claim of negligent misrepresentation.

The jury concluded Denman did not prove her claim of civil conspiracy.

“We are very pleased with the jury’s carefully considered verdict and are proud of our client for standing up in the face of injustice,” Denman’s attorney, Kathleen DeLaney, said in the statement. “The jury did what St. Vincent Carmel Hospital and St. Vincent Medical Group should have done — recognize the belated and unsubstantiated accusation for what it was.”

Denman, who had provided services through St. Vincent or its predecessor entities since 1996, sued in July 2018. She claimed she was informed of the allegation two days after the nurse’s report and asked hospital officials why the proper protocol had not been followed, according to her complaint.

About a week later, St. Vincent Medical Group informed Denman that it had reviewed the allegation through its peer review process, and she was placed on paid administrative leave and indefinitely suspended. Denman alleged St. Vincent also coerced her as a condition of employment to submit to an alcohol dependency evaluation through the Indiana State Medical Association.

She claimed the association relied on “misrepresentations and omissions” from St. Vincent in referring her to the Positive Sobriety Institute in Chicago. The hospital denied in its answer to the complaint that it made misrepresentations or omissions.

“As a result of PSI’s report, and as a condition of keeping her medical license and her job, ISMA and SVMG required Dr. Denman to state that she was an impaired physician and further required her to enter PSI’s treatment program,” Denham argued in her complaint, which St. Vincent denied.

Denman ultimately returned to work about three months later under terms of an ISMA monitoring agreement requiring five years of monitoring. But she asserted in her suit that St. Vincent never used its peer review process, and that if it did, it deprived her of her right under state law to participate in a hearing. St. Vincent denied those allegations in its answer to the suit.

The Indiana Supreme Court established commercial courts in 2016, creating dockets in Allen, Elkhart, Floyd, Lake, Marion and Vanderburgh counties. The specialized courts are designed to hear and more briskly process complex business, commercial and professional disputes.

Editor’s note: IBJ is now using a new comment system. Your Disqus account will no longer work on the IBJ site. Instead, you can leave a comment on stories by signing in to your IBJ account. If you have not registered, please sign up for a free account now. Past comments are not currently showing up on stories, but they will be added in the coming weeks. Please note our updated comment policy that will govern how comments are moderated.