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# Froedtert Hospital dropped from doctor's lawsuit

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Froedtert Hospital & Medical College of Wisconsin.(Photo: Google Maps, )

A heart surgeon who says he was wrongly fired by the Medical College of Wisconsin after blowing the whistle on substandard care now alleges the institution and several of its doctors "orchestrated a smear campaign in an attempt to silence" him.

The allegation was included in an amended complaint filed Thursday in federal court by cardiothoracic surgeon Robert Love in his civil lawsuit.

Earlier this week, Love reached a settlement with Froedtert Hospital, which was named in the original suit, and Froedtert was dismissed from the case. Neither side disclosed the terms of the settlement.

"Froedtert Hospital has been vigorously working through the court process to defend the lawsuit," a statement issued by the hospital said. "However, we determined that it was in Froedtert's best interest to settle the case at this stage. Froedtert Hospital's resolution of this matter does not constitute an admission of liability in the lawsuit."

Love's new complaint alleges that a rival doctor repeatedly violated the federal patient privacy law as he hunted through Love's records in an attempt to dig up dirt.

The 81-page amended complaint portrays the Medical College as a dysfunctional institution, torn by allegations of poor care and warring factions, a situation one senior doctor described as "money and politics trumping patient care."

Love first filed his lawsuit under seal in 2015.

The fourth iteration of Love's complaint, refined by several years of discovery and pre-trial litigation, has grown to a dozen counts, including retaliation under the False Claims Act, wrongful interference with prospective contractual relations, intentional infliction of emotional distress, civil conspiracy and several counts of defamation.

Also Thursday, the Medical College moved to dismiss the complaint, saying Love negotiated his own departure from the college after he failed to build a coalition of support as a section chief at the institution.

U.S. District Judge Lynn Adelman has not yet ruled on that motion.

The Medical College cites a separation agreement in which Love released all claims against the institution, and challenges Love's allegation that the agreement has no effect because he was fraudulently induced to sign it.

So far, the Medical College — and Froedtert before reaching the settlement — have produced about 120,000 pages of documents in response to the case.

The new complaint says Medical College employees conspired to retaliate against Love for pointing out alleged misconduct, then, after he left the college, sought to destroy his career by defaming him to other medical centers where he sought employment.

One, cardiothoracic surgeon Alfred C. Nicolosi, is alleged to have accessed the private medical records of 52 patients treated by Love and a second doctor. Nicolosi, a surgeon, now practices with SSM Health St. Mary's Hospital in Madison.

In its motion to dismiss, the Medical College said it and Love parted ways because he lacked "critical leadership skills," couldn't collaborate and was "arrogant, dismissive and self-serving" toward colleagues.

The Medical College discounted Love's claim of whistleblowing, saying he was only participating in the standard internal quality review, and added no one campaigned to torpedo Love's career

after he left the institution.

The Medical College's response said also that Nicolosi was allowed to review patient records without their consent as part of "health care operations."

### **More allegations about surgeon**

The complaint contains more explosive allegations about the college's handling of cardiothoracic surgeon Christopher Stone, who was accused of performing unnecessary surgery even before he was hired. Stone was kept on staff for almost three years as concerns about him mounted, court papers and emails alleged.

Stone is not among those named by Love in the lawsuit.

Paul Erickson, Stone's lawyer, dismissed the accusations against Stone as "unfounded hearsay," adding, "I understand that those who have actually reviewed the full medical records related to any patient of Dr. Stone's have found no issue of any sort."

According to the lawsuit, Love was only one of several doctors who urged the college to dismiss Stone. Even after Love stopped practicing at MCW, other doctors continued to express concern about Stone, according to the latest complaint.

Gary R. Seabrook, a professor at the Medical College and section chief of the division of vascular surgery, wrote to college leaders saying that Stone "had performed a non-standard operation and then failed to diagnose or treat a serious surgical complication ('obvious' severe blockage of arteries in the arm, as well as sensory and motor defects) ... for six weeks."

"How can we continue to accept this well established and well

known unacceptable care under the Froedtert and Medical College brand?” the complaint quotes Seabrook as writing. “Do we not have an obligation to protect patients from ongoing exposure to this pattern of care?”

Douglas B. Evans, a professor and chairman of the department of surgery, gave this reply to Seabrook, according to the complaint:

“Moral compass simply not active — money and politics trumping patient care — nothing more disappointing. I have done all possible and was ordered to stand down yesterday.”

Seabrook wrote back to Evans explaining that Stone’s patient now had “a completely useless left arm.” The dates of their correspondence were redacted from the court complaint.

Love’s complaint also repeated the allegation from his earlier filing that when doctors were originally debating whether to go ahead with hiring Stone at the end of August 2012, Medical College Dean Joseph E. Kerschner sent an email to colleagues, saying, “We believe that the case brought forward suggests that Dr. Stone performed unnecessary surgery.”

According to the lawsuit, Kerschner noted that if the Medical College terminated Stone’s contract it would risk losing the considerable income he had been bringing into his small group practice.

“We discussed the importance of ‘doing the right thing,’ ” the dean wrote, “but we need to understand the financial implications of this.”

Stone was allowed to operate on patients until his final day at the Medical College, Aug. 31, 2015.

Kerschner was a defendant in an earlier version of Love's suit, but

was dismissed from the case last year.

Although he has not made a statement to the Milwaukee Journal Sentinel, Kerschner sent a statement to the college's faculty, staff and students, saying the allegations in Love's complaint "are demonstrably false and unfounded ... We take any and all allegations and/or complaints about patient care very seriously, and we follow our policies including internal and external reviews."

The new complaint includes two claims that MCW, Nicolosi and anesthesiologists Larry Lindenbaum, Paul Pagel and David Warltier conspired to damage Love's reputation by forcing him out.

It cites emails from Kerschner to MCW's general counsel Sarah Cohn saying that she needn't get involved in trying to quiet the criticism unless she was worried there was a risk Love might sue for slander.

According to the complaint, Cohn replied that the separation agreement with Love only restricts MCW officers, not all employees, from speaking about Love. She notes that truth is a defense to libel and that a public dispute with Love "would hurt him more than MCW overall."

Still, she wouldn't prefer that, "since as you know, there are issues in the whole mess."

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