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Jury orders UCI to pay \$5.8 million to neurosurgeon who complained about patient safety

Dr. Mark Linskey was pushed out of a residency program he founded, which he described as 'very damaging to my reputation'



An Orange County jury has ordered UC Irvine to pay 5.8 million to Dr. Mark E. Linskey for a whistleblower complaint against the university's medical school. (Courtesy of Mark E. Linskey)



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An Orange County jury has ordered UC Irvine to pay \$5.8 million in damages to a neurosurgeon who alleged in a whistleblower lawsuit that university medical center officials banned him from a residency program he founded after he complained about patient safety risks, financial waste and policy violations.

An Orange County Superior Court jury deliberated two days earlier this month before ruling in favor of Dr. Mark E. Linskey, former chair of UCI's Department of Neurological Surgery.

Linskey, 64, sued the University of California Board of Regents in 2021 for labor and whistleblower protection violations.

Linskey's recent jury award covers retaliatory actions taken against him since November 2015. Following a separate 2019 trial, he was awarded \$2 million in damages for retaliation before November 2015.

The UC Board of Regents and officials with UCI did not respond to requests for comment.

Linskey, a tenured professor at the UCI School of Medicine, was recruited in April 2004 to rebuild clinical and academic research operations and develop an accredited residency training program.

By 2012, however, former UCI Medical School Dean Dr. Ralph V. Clayman recruited Dr. Johnny Delashaw to replace Linskey as chair of the Department of Neurological Surgery.

The suit alleges that from the time Delashaw began working at UCI on April 1, 2013, until his departure about six months later, he collaborated with Clayman in a series of “adverse actions” against Linskey affecting his research, teaching, medical practice, reputation, income and well-being

Clayman and Delashaw also allegedly jeopardized patient safety, including an instance on June 25, 2012, when Delashaw announced by email the removal of vascular neurosurgery cases from the general neurosurgery on-call staff. Instead, Delashaw reserved all future emergency neurovascular cases for himself and Dr. Frank Hsu while excluding Linskey, according to the suit.

“Plaintiff stated his concern about the quality of patient care under Chair Delashaw’s new vascular call policy, including that patients would not be able to be treated by additional and more qualified surgeons, as Dr. Delashaw and Dr. Hsu would have a monopoly on the treatment of these patients,” the suit stated.

Linskey alleges Delashaw’s decision to change on-call neurovascular privileges was never vetted through a Neurosurgery Department committee as required by UCI’s medical staff rules and regulations.

When Linskey requested he be included in the neurosurgery vascular call schedule, Delashaw immediately denied the request and threatened that he must accept it or be removed altogether from the on-call schedule, the suit states.

Linskey filed a grievance on March 6, 2013, with UCI’s Committee on Privilege and Tenure against Delashaw and Clayman, who later obtained a copy of the complaint.

Then on May 3, 2013, Clayman allegedly informed Linskey he was being reassigned to UCI’s Department of General Surgery, and, hours later, Delashaw ordered him to leave a routine departmental conference in front of those in attendance.

The suit states Delashaw falsely implied to those at the meeting that Linskey engaged in “dishonorable and disloyal action” and was being permanently separated from the Neurosurgery Department due to his conduct, when, in reality, it was because Linskey complained about patient safety issues.

Delashaw also allegedly threatened medical residents, who are doctors in training, by ordering them not to help Linskey during surgeries.

“Plaintiff continued to operate on complex neurosurgery patients under suboptimal conditions and was left to perform neurosurgical procedures in isolation, with no intraoperative or perioperative neurosurgery intern or resident assistance or participation,” the suit states.

Clayman further retaliated against Linskey by excluding him from a multidisciplinary cancer neuro-oncology center and residency program he founded.

Linskey’s attorney, Ivan Puchalt, said that among the evidence presented during the recent trial was a June 4, 2019, letter signed by eight UCI residents who expressed concern about Linskey’s use of residents’ time, professionalism and commitment to education.

However, on the witness stand, a neurosurgeon and former resident testified he was compelled to sign the letter because he feared retaliation and punitive measures from Dr. Hsu, Puchalt said.

Several other residents testified they also worried Hsu would reprimand or fire them if they scrubbed in and operated with Linskey. “The whole process of gathering complaints to justify not allowing Dr. Linskey to participate in the residency program was tainted,” Puchalt said.

John Murray, a spokesperson for UCI, denied that Hsu pressured the residents.

"At no time did Dr. Hsu direct or compel any resident to sign a letter expressing concerns about Dr. Linskey," Murray said in an email Thursday, May 22. "The June 2019 letter was unsolicited and drew from the authors' own experiences and concerns about Dr. Linskey's potential return. In fact, multiple residents stood by the 2019 letter, testifying that they feared retaliation by Dr. Linskey and that they did not want to work with him, citing patient safety and other concerns."

Linskey is hopeful the jury verdict will serve as a cautionary tale for powerful institutions that retaliate against whistleblowers.

"To be removed from the residency program that I started is very damaging to my reputation," he said. "By persevering and going through this process, perhaps it will prevent it from being done to someone else."

A bench trial is scheduled for July to request that the court order the UC Regents to reinstate Linskey to the UCI Residency Program within the Department of Neurosurgery.

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