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U.S.

# Doctor's Defamation Suit Highlights Online Patient Reviews

Case involving a Chicago woman is scheduled to go to trial next year



Dr. Bahman Guyuron has sued a former patient over online reviews. PHOTO: JOE SMITHBERGER

By Joe Palazzolo

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A defamation lawsuit filed by an Ohio plastic surgeon that is slated to go to trial early next year could have far-reaching consequences for disputes between doctors and their patients over online reviews about the quality of medical care, according to legal experts.

Dr. Bahman Guyuron, former chairman of the department of plastic surgery at Case Western Reserve University School of Medicine, sued Marisa User in 2015 over anonymous reviews she had posted on the cosmetic-surgery website RealSelf and other sites where patients swap information about doctors.

Ms. User, who lives in Chicago, wrote on the site that she went to Dr. Guyuron for surgery to alleviate nasal congestion and for minor cosmetic work to her nose. After two procedures, Ms. User wrote in 2013, her breathing problems were worse and her nose was less attractive, leaving her with “confidence that has been destroyed.”

Dr. Guyuron's lawsuit says that Ms. User's RealSelf review and her subsequent reviews on Yelp and RateMDs.com are rife with false information. The lawsuit seeks unspecified damages.

Ms. User's “relentless, vindictive and false accusations” compelled him to file the lawsuit, Dr. Guyuron said in an emailed statement to The Wall Street Journal.

Daniel Gourash, one of Ms. User's lawyers, said her reviews were “substantially true or were her opinion” and said the reviews didn't damage Dr. Guyuron's reputation.

To win on his defamation claims, Dr. Guyuron would have to convince a jury that Ms. User's reviews contained false information and harmed his reputation. If the jury deemed him a public figure, he would have to show that Ms. User knew the information was false or showed reckless disregard for the truth.

Ms. User said in an email exchange with the Journal that she wrote the reviews to inform others. "I never thought it could lead to a life-altering, traumatic experience that has threatened my financial ruin," she said.

Doctors are more susceptible to the impact of bad reviews than other service providers, according to lawyers who work on defamation cases. Few people are willing to gamble with their health; a negative comment can diminish a doctor's business in short order, they say.

Medical privacy laws prevent doctors from discussing treatment of specific patients, making it difficult for them to mount a public defense in the face of accusations of shoddy work. With fewer options and more resources than many of the people they treat, some doctors turn to litigation or the threat of it to erase reviews they consider beyond the pale.

Dr. Guyuron's lawsuit is unusual in that it could proceed to trial, said Eric Goldman, a law professor at Santa Clara University who found more than two dozen defamation lawsuits filed by doctors against patients over online reviews in a survey of cases from 2003 to 2015. Two of the cases went to trial, ending in jury verdicts for the doctors, though one was reversed on appeal, according to a list of cases he compiled.

Many doctor-patient disputes over reviews settle quietly, defamation lawyers said.

Legal experts who reviewed the case at the Journal's request said it could become a bellwether in future disputes between doctors and patients over online reviews.

"Given how few defamation cases go to trial—and cases involving doctors are even more rare—any trial would be an important signpost for future litigation," said Sara Kropf, a lawyer in Washington, D.C., who provides legal advice to doctors regarding patient reviews.

Ms. User said in a phone interview that Dr. Guyuron offered in February to drop the case if she agreed to take down the reviews and pay \$700,000, a settlement she said she couldn't afford to pay. He has since increased the amount to \$1.8 million, Ms. User said. Dr. Guyuron and his lawyers declined to comment on the settlement discussions.

Dr. Guyuron's lawsuit is scheduled to go to trial in February in the Cuyahoga County Court of Common Pleas.

Ms. User said in online reviews that the surgery resulted in her nostril collapsing when she breathes through her nose, requiring her to sleep with a breathing aid, and made her nose wider, despite Dr. Guyuron's promises to the contrary. A second procedure also by Dr. Guyuron failed to fix the problems, she said in a RealSelf review.

Dr. Guyuron, in a deposition, said Ms. User exaggerated the surgery's impact on the width of her nose and her nostril. Ms. User also made false statements in her reviews about Dr. Guyuron guaranteeing certain results and providing inadequate follow-up care, among other things, his lawyers, Thomas Barni and Jason Hochman, said in court documents filed earlier this year.

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