

Terminated oncologist claims lost stock value

Defendants' countersuit says doctor disobeyed non-compete agreement

\$951,000

In a lawsuit filed in Oakland County Circuit Court, plaintiff Dr. Samer Ballouz sought compensation from defendant Hematology-Oncology Consultants, P.C. and individually named defendants for lost stock value, lost wages, and lost deferred compensation.

Defendants filed a counterclaim for breaching a non-compete contract clause.

In 2008, Ballouz, a prominent oncologist, pointed out to the managing partner of Hematology-Oncology Consultants that when he originally purchased an ownership interest in the group, he was overcharged by \$90,000. The managing partner disputed the error, and refused to rectify it. After Ballouz pressed the issue, the managing partner engineered Ballouz's termination from the group.

While Ballouz quickly found new employment, the new position paid him slightly less.

Moreover, his previous employer refused to repurchase his shares in the medical practice for fair value. Plaintiff was able to show extensive damages as a result of lost stock value, lost wages, and lost deferred compensation.

Plaintiff asserted termination in breach of his employment contract, and that arguing over financial issues did not constitute good cause for termination. It also was contended that the defendants breached agreements to buy back his stock and pay deferred compensation, and that the defendants also oppressed him as a minority shareholder.

Defendants' counterclaim asserted plaintiff breached a noncompetition agreement by working at the group's most prominent competitor. However, through discovery, plaintiff demonstrated how defendants had actually encouraged him to work at the group's competitor. As such, plaintiff persuasively argued defendants waived the noncompetition clause and were estopped from asserting it against him.

Case evaluation resulted in a \$951,000 award in favor of plaintiff, and zero to defendants on their counterclaim. Six weeks before trial, all parties accepted the case evaluation.

Type of action: Breach of fiduciary duty, minority shareholder oppression, breach of contract

Type of injuries: Loss of value of stock, lost wages

Name of case: *Ballouz v. Hematology-Oncology Consultants, P.C., et al.*

Court/Case no./Date:
Oakland County Circuit Court,
09-101006-CB, June 2010

Name of judge: Edward Sosnick

Settlement amount: \$951,000

Most helpful expert: Tom Frazee,
Sterling Heights

Attorneys for plaintiff: Gerard V.
Mantese, David F. Hansma

Attorney(s) for defendant: Withheld

Keys to winning: Thorough
depositions, meticulous research,
vigorous motion practice