

United slammed with hefty verdict in suspension case

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area."

"He was there 18 years and had built up a practice," said Ned Kimmelman, Witonsky's attorney. "They moved all the members to another doctor under the guise of peer review and they never even spoke to my client. United destroyed his practice and his life."

At United headquarters, there was some confusion about whether Witonsky should be suspended or terminated, and what would happen to

the patients.

Despite the email referring to Witonsky's termination, a later email reads, "Please be advised that his provider has not been terminated. He has been suspended until further

notice."

"If we're only 'suspending' the Dr.," replied one office wag, "how do

you suppose we 'suspend' the members assigned? P.S., I'm have a comical 'visual' of suspended members."

So Witonsky and Kimmelman mounted an appeal without even knowing what Witonsky was accused of.

"It turned out that it was a bogus peer review," Kimmelman said. "In the end, what they did was just moved his patients and, at the same time, said 'We're going to recommend that you be terminated.' While telling him he had the right to appeal, they told everybody else he was no longer affiliated."

"He got the penalty before the trial," agreed Andrew Richman, M.D., a healthcare consultant brought into the case. "They never even spoke to man. Right out of the box they went for the electric chair."

During the appeal process, another peer review session was called, during which it was determined that the original committee didn't have sufficient evidence to suspend Witonsky and United had overstepped its bounds.

"I believe," Kimmelman said, "that United incorrectly elevated it perceived contractual rights. I believe the medical director was more of an activist than he should have been."

Witonsky's contract stipulated arbitration as the vehicle to resolve disputes, so in October, Kimmelman filed a demand for arbitration, charging United with "spreading falsehoods



WINNING ARGUMENT: Kimmelman represented Lewis Witonsky in his suit against United.

concerning Witonsky and otherwise engaging in acts and omissions specifically designed to...divert patients to another physician" and asking for damages of \$500,000 to \$ million.

The arbitrators agreed with the United appeal judges and awarded \$500,000 to Witonsky, tax free as tort judgment.

"I have no idea why they [United] did it to him," Richman said. "But they actually took his practice. All the patients are gone and now they've been exposed to another doctor, and yet none of the committee members ever spoke to [Witonsky]. They acted like they owned his practice. It was peer review run amok."

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