

Physician Unhappy with Patient's Online Comments Files Suit & Loses

Catherine Nazari, an unsatisfied plastic surgery patient, voiced her



dissatisfaction with her physician Jean Loftus online. The comments were critical of Dr. Loftus, so Loftus filed suit for defamation and tortious interference. Unfortunately for the physician, and an important lesson for all physicians, the federal trial court in Kentucky ruled that a physician generally does not have a cause of action for defamation and tortious interference against a disgruntled patient who posts critical comments online about the plastic surgery services received from a physician. **The Defamation Claim** The court stated that, under Kentucky law, statements of opinion may support a defamation claim only if the opinions imply undisclosed defamatory facts as the basis for the opinion. Therefore, the court held that Nazari's statements were mere opinions because the viewers were free to accept or reject the statements and the statements did not imply the existence of any undisclosed facts. As a result, Dr. Loftus lost his defamation claims. **The Tortious Interference Claim** In ruling against the tortious interference claim (which was based on the same online postings) the court opined that since the claim essentially relied on the fact that the postings would be found defamatory, and there was no evidence that the postings were knowingly false, there could be no tortious interference. **The "Internet Age"** The judge noted that opinions such as those involved in this case are likely to appear more and more often on the Internet and, as a result, Physicians must be aware of the power an unhappy patient will have if things go wrong. Patients can't say whatever they want, but many of their opinions will be protected speech. If you've encountered a similar situation and need assistance with an unhappy patient, be sure to contact one of our health care attorneys to discuss your situation. Image: Thinkstock/Marco_Piunti