



# Arizona Jury Awards \$27.6 Million To Company Founder in Retaliation Suit

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PHOENIX, ARIZONA, UNITED STATES, April 25, 2016 /EINPresswire.com/ -- PHOENIX, ARIZ. – April 25, 2016 – An Arizona federal jury has awarded \$27.6 million to a healthcare staffing company founder who claimed his allegation of internal medical billing fraud led to a retaliation plan with a highly unusual method to oust him.

The total awarded on April 20 to Marc A. Wichansky, former president of Zoel Holding Co. Inc. of Phoenix, includes \$14.375 million in punitive damages against his former partner, David T. Zowine.

Wichansky alleged that Zowine, then the company vice president and a co-owner, breached his fiduciary duty by engaging in or concealing the fraud and leading a campaign to take control of the company after Wichansky began his investigation.

“Zowine initiated destabilizing and abusive conduct, which included harassment, intimidation, private and public humiliation, a death threat, and physical violence,” said Wichansky's lead counsel, Sean R. Callagy, founder and owner of Callagy Law, P.C., of Paramus, N.J.

“Zowine carried this out by enrolling others in his campaign. We are grateful the jury saw through this behavior,” Callagy added.

Sean Callagy suffers from a degenerative eye disease called Retinitis Pigmentosa (RP). Notwithstanding this severe impairment, Callagy and his trial team were able to secure this jury verdict after an intense 13-day trial.

Wichansky, who eventually was ousted from his ownership of Zoel, which is now called Zoe Holding Company Inc., was chairman and president. He and Zowine were 50 percent shareholders.

Before the dispute broke out in early 2011, Zoel had gross revenues of over \$40 million, offices in five states and hundreds of hospital clients that hired thousands of workers through the company, according to the complaint.

Wichansky alleged that irregular billing practices had led to the submission of false bills to the government and government payors by a Zoel subsidiary, MGA Home Healthcare LLC.

Wichansky later claimed that those practices were part of a fraud scheme by Zowine and other employees and that Zowine tried to suppress the internal investigation and oust him.

At one point, according to the complaint, Zowine grabbed Wichansky by the neck, threw him across the room and punched him. At other times, Wichansky allegedly was the target of verbal and written abuse, threats and disparagement before employees.

Zowine allegedly told employees that Wichansky was engaging in tax fraud, would be going to jail and had a drug problem.

In addition, according to the complaint, Zowine and his co-conspirators stole and accessed Zoel's server and computers and set up a secret satellite office.

Wichansky sought to terminate Zowine but an Arizona state court said he lacked that authority. Later, the state court ruled that Zowine could buy Wichansky's shares. Wichansky claimed that he sustained damages as a result of this sale and that Zowine misrepresented financial information to the court.

In addition to breach of officer, director and shareholder fiduciary duty, the jury also found that Wichansky was assaulted and battered by Zowine. Moreover, the jury awarded compensatory and punitive damages against several other defendants who aided and abetted Zowine's breach of fiduciary duty, including punitive damages of \$1.5 million against Charles Johnson, \$750,000 against Patrick Shanahan and \$500 against Martha Leon.

Michael J. Smikun, a partner of Callagy Law, has worked closely on the case since 2011 and was a critical contributor to this verdict. Supporting attorneys from the firm were Christopher R. Miller, Samuel S. Saltman and Robert J. Solomon. The trial team was also supported by Taylor Gallo and Dally Shala.

The complaint in the case, Wichansky v. Zowine, is attached.

The Callagy firm has now won two \$27-million-plus jury verdicts in less than two years. In 2014, a New Jersey state jury awarded more than \$33 million to The Law Funder LLC, which alleged fraud by its in-house counsel and others. The total in that case, Prussin v. Sheldon, included \$8 million in punitive damages.

About Callagy Law, P.C.:

The firm, based in Paramus, N.J., and Phoenix, Ariz., concentrates on commercial and business litigation, healthcare law, and family law.

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