

Doctor files complaint against attorney over blog

ADB member Dr. Rosalind Griffin calls for removal of Steven Gursten's post about doctors hired by insurance companies

By: [Lee Dryden](#) in [News Stories](#) February 2, 2016

A prominent lawyer's blog post aimed at shedding light on "enormous damage" caused by doctors hired by insurance companies has resulted in a complaint filed against him by a psychiatrist who sits on the Attorney Discipline Board.

Dr. Rosalind E. Griffin filed a request for investigation with the Attorney Grievance Commission against Steven M. Gursten of Michigan Auto Law for a November 2014 blog post in which he highlighted discrepancies between her recorded examination with his client and her ensuing report and testimony. His client, who was injured in an automobile accident, was awarded \$3.5 million by a Jackson County jury in 2010.

Griffin's complaint says "the one-sided and inaccurate description" in the post is "defamatory and places me in a false light." She asked that the matter be investigated and Gursten be required to remove the "outrageous posting" and the link to Google results for her name.

Gursten said the post isn't coming down. He said he wants the public to be aware of the problem of Independent Medical Examination (IME) doctors — hired by insurance companies — who examine automobile accident victims or those making workers' compensation claims and discount their injuries, resulting in less compensation.

Now, there's also a First Amendment issue with Griffin calling for the post to be removed, said Gursten, whose firm is a longtime advertiser with Michigan Lawyers Weekly.

"I'm not backing down — I will fight this until the end," he said. "I'm willing to risk my license — my ticket — to help the public be informed on this."

Gursten said he hasn't been sued by Griffin.

“I think it’s a lot easier for her to use her power on the Attorney Discipline Board than it is for her to file a lawsuit where truth is an absolute defense,” he said.

He said he responded to the request for investigation and is “disappointed” it hasn’t been dismissed yet because of the clear First Amendment issue. He added that even being forced to respond “creates a chilling effect.”

In her complaint to the AGC, Griffin took issue with Gursten’s blog referring to her as a “notorious IME doctor in Michigan.”

If the case advances to the ADB, Griffin would have to recuse herself.

Griffin did not return calls seeking comment. Attorney Grievance Commission Grievance Administrator Alan M. Gershel declined to comment.

The case

In a lawsuit filed in Jackson County Circuit Court, plaintiffs James W. Fairley and Kim Fairley sought compensatory damages from defendant Schiber Truck Co. and defendant Ray D. Kissick for injuries sustained in an auto-truck accident.

In 2008, James Fairley was stopped waiting to make a left turn with his turn signal activated. A semi-truck, owned by Schiber Truck and driven by Kissick, failed to stop and struck Fairley’s vehicle in the rear, causing it to spin and cross the centerline, where Fairley was struck by another vehicle.

Fairley suffered a traumatic brain injury, depression and two fractured vertebrae.

In December 2010, the jury awarded \$3.5 million for pain and suffering after a \$1 million settlement offer from the insurance company was rejected. The amount was significant as Jackson County juries are viewed as conservative, Gursten said.

Gursten said the discrepancies between what Fairley said in his examination by Griffin and what she said in her recorded deposition viewed by the jury “could have cost (Fairley) everything.”

Court permission was granted for Fairley’s examination to be recorded and Gursten advised practitioners to make such requests in these types of cases.

“This case highlights why attorneys need to record those exams,” he said.

Gursten said education is needed as the public and even judges are unaware of IME abuse.

“I want people to know what is going on there,” he said. “I think it’s really important for the public to know what’s happening.”

In his 2014 blog post, Gursten wrote, “IME doctors, both in Michigan and throughout the country, are devastating peoples’ lives. Innocent people are being hurt every single day by IME doctors. They are being denied No Fault insurance benefits or workers compensation benefits that they desperately need.”

The complaint

Regarding Gursten’s blog post, Griffin’s statement of facts in her request for investigation states, “Not only does it break any rule of civil discourse regarding the law, but the statements, characterizations and comments of Mr. Gursten misrepresent my credentials, my testimony, and my character.”

“His conduct involves dishonesty and misrepresentations which reflect adversely on his honesty, trustworthiness or fitness as a lawyer within the meaning of MRPC 8.4.,” she wrote. “The conduct is also prejudicial to the administration of justice in that it purports to portray the legal system as some sort of game in which litigants can expect no justice from the legal system and that witnesses who express an opinion that is different than Mr. Gursten’s are deemed perjurers who intentionally set out to cause ‘seriously hurt people [to] lose everything.’”

Griffin’s complaint mentioned that the blog post is the first item that comes up after a Google search of her name and will be read by anyone researching her or selecting a psychiatrist.

Her complaint is dated Nov. 19, 2015 — a year after his blog post.

“I don’t know her motivation as to why she waited,” Gursten said.

Gursten wrote another blog on Jan. 25, 2016, that included the videos and transcript of Griffin’s trial testimony. He also includes a link to Griffin’s complaint to the AGC.

“Dr. Griffin clearly doesn’t like that I put her conduct and testimony in this personal injury case on this legal blog for people to read,” he wrote. “But what does seem clear is that based upon what Dr. Griffin wrote in her grievance request, she cares far more about forcing me to take down this blog post than she does about the bedrock protections of the First Amendment and free speech.”

Gursten said other lawyers are supporting his push to protect First Amendment rights. He added that attorneys have the same rights to free speech as everyone else.

“I hope this is an opportunity for the Attorney Grievance Commission to clear this up for all attorneys and protect free speech,” he said.

He compared the situation to “Dante’s circles of hell” with the IME and First Amendment issues along with Griffin sitting on the ADB.

“On one level, we have the IME abuse — if you take a step back, we have a very clear abuse of power,” he said. “Unfortunately she’s leveraging her position and her power there.”

Griffin’s biography on the ADB website states her term expires Sept. 30, 2016. She was appointed to her first full term as a nonlawyer member starting Oct. 1, 2010. She was elected to serve as the board’s secretary in 2010 and 2011. The Michigan Supreme Court reappointed her to a second three-year term in 2013.

She practices in the field of adult and adolescent psychotherapy with special qualifications in forensic psychiatry and is an assistant professor at the Wayne State University College of Medicine. She served as a nonlawyer member of the AGC from 1990 to 1994 and is a former member of the Oakland County Bar Association’s Public Advisory Committee on Judicial Candidates.