

Patient Sues Dentist Over Contract Banning Bad Publicity

By: Rutledge & Yaghmai

www.alabamabusinesslitigationattorney.com

A dissatisfied patient with a bill totaling nearly \$4,800 has filed a [lawsuit](#) to overturn a contract he signed with his dentist. He claims the agreement, which bars him from criticizing the dentist, is unconscionable.

The legal dispute stems from negative comments posted by Robert Lee regarding his Manhattan dentist, Dr. Stacy Makhnevich. The aggrieved patient criticized Makhnevich on Yelp and other online sites, claiming she overbilled him and advising others to "avoid at all cost!"

As detailed in a [press release](#) by Public Citizen, Lee went to Makhnevich to treat a severely sore tooth. Before he could be treated, he was handed several forms to sign. One of them required Lee to agree not to publish any commentary about the dentist, not to disparage the dentist, and to assign copyright to the dentist for any commentary that Lee wrote. Lee was reluctant to give up his right to publish commentary, but he was in severe pain and so signed the form.

Makhnevich subsequently sent Lee an invoice for \$4,766. Lee paid the bill and asked the dentist to send the necessary paperwork to his insurance company. After the dentist sent the information to the wrong insurance provider, Lee asked for his records so he could submit the claim himself. Lee alleges that Makhnevich refused and instead referred Lee to a third party that demanded five percent of the total bill for copying the records.

Following these incidents, Lee criticized Makhnevich on Yelp, DoctorBase, and other online sites. The dentist then sent Lee a letter warning that he had violated the agreement and threatened to sue Lee for breach of contract and copyright infringement.

Makhnevich also contacted Yelp and DoctorBase and demanded Lee's comments be removed. However, the review sites refused to remove the comments, because they regard purported copyright assignments as legally unenforceable. Makhnevich then sent invoices to Lee for \$100 a day for copyright infringement in September and October, and sent another letter threatening to sue Lee.

Lee (and Public Citizen) responded by filing a lawsuit. It contends that the agreement Lee was required to sign is unconscionable and should be declared null and void. It further contends that requiring patients to surrender the right to publish truthful criticism violates medical practitioners' duty to patients because they are placing their own interests above those of their patients. Finally, the lawsuit alleges that the agreement misuses copyright law to suppress expression.

The contract was prepared by a North Carolina company, Medical Justice Services Inc., and has been provided to doctors and dentists around the country. Following the lawsuit, the company is now advising its customers to stop using the agreements, according to [Ars Technica](#).

The Message for Alabama Businesses

As evidenced by this lawsuit, Alabama businesses can find themselves in legal trouble when they use form contracts purchased online. When using a form contract, it is still advisable to consult with an

experienced business attorney who can review the agreement to ensure that it is indeed enforceable and complies with all local regulations.

[Rutledge & Yaghmai](#) is a full service litigation firm that offers more than fifty-seven years of diverse legal experience. The attorneys of Rutledge & Yaghmai leverage that experience to assist large and small businesses throughout Alabama in achieving their business goals while minimizing their risks.

In addition to offering transactional business services such as Alabama business formation and planning, Rutledge & Yaghmai prides itself on the diversity of Alabama business litigation cases it has handled successfully.

To learn more about the wide range of transactional and business litigation services we offer Alabama businesses, please [contact](#) the attorneys of Rutledge & Yaghmai today.

About Rutledge & Yaghmai

<http://rylaw.net/>

Rutledge & Yaghmai (R & Y) is a full service litigation firm that offers more than fiftyseven years of diverse legal experience. Formed in 2006, Rutledge & Yaghmai concentrates on giving each case individual attention as opposed to carrying a mass a number of cases. That way they are able to develop a lifelong relationship with clients.

William Rutledge

William Eugene Rutledge graduated from the University of Alabama in 1960. He graduated from the University of Alabama Law School 1966. Mr. Rutledge served as a Captain in the Judge Advocate General's Corps, U.S. Army and as Chief of Military Justice at Fort Bliss, Texas. He was trial counsel for the United States where he prosecuted several nationally publicized court marshalls. He was the recipient of the Distinguished Service Medal for his trial work in the Army.

He began the practice of law in Birmingham, AL on August 1, 1966. His early trial practice was a mixture of business litigation and railroad related litigation. He has a strong appellate practice in which he has excelled since the early 1970s and continues that practice till the present time. He has handled over 100 cases in the state appellate system and 80 cases in the federal appellate system.

He specialized through the years of his practice in business formations. He has assisted new entrepreneurs in the formation and strategy of their businesses. Also, he represents companies in business litigation. Cases have ranged from business disputes among members to representing smaller companies against the "larger corporations." Practice memberships include the Bar of the Alabama Supreme Court, the United States District Court for the Northern, Middle and Southern Districts, the United States Court of Appeals for the Eleventh Circuit, and the Supreme Court of the United States. He is married to Sherry Crittenden Rutledge and has four children and six grandchildren.

Greg Yaghmai

Greg graduated with honors from The Citadel where he received his bachelor's degree in Business Administration. In 1997, he received his law degree from Cumberland School of Law.

For the first four and half of years of his legal career, Greg served as a Deputy District Attorney for the Jefferson County, Alabama District Attorney's Office. By age 26 he tried his first death penalty case. He went on to try either solo or as lead counsel seven capital murder and six murder cases. He also had the benefit of being the first lawyer in Alabama to be certified by the Alabama State Troopers as a Traffic Homicide investigator. He obtained this after attending a two-week seminar, which required him to live in a closed military base with forty other police officers. He also had the unique experience of being provided alcohol in a controlled setting so he could be utilized by the Jefferson County Sheriff's training academy in officers learning how to administer field sobriety tests. He is a member of the National College for DUI Defense (NCDD) which is a prestigious organization defending those charged with DUI.

He subsequently left the DA's office to become a partner in a forty lawyer civil litigation firm. This firm concentrated mostly on civil defense work, but Greg continued to expand his plaintiff and criminal defense practice.

In 2006, he co-founded Rutledge & Yaghmai. One of Greg's goals was to reduce the number of cases handled to allow for more individual attention to each case. Rutledge & Yaghmai maintains a general litigation practice. Greg focuses on personal injury, business litigation, and criminal defense cases.

Greg has truly handled cases from all sides: criminal prosecution/defense and civil plaintiff/defense. Overall, Greg has tried more than seventy-five jury trials to conclusion. He has significant experience in using visual presentations and present day media applications in presenting cases to jury. His ultimate jury consultant is his wife, Brandi, who he met when she served on the jury of a rape/kidnapping case he tried.

He has recently been asked to teach Trial Techniques for the International Web based site Solo Practice University. There he will share his expertise in trying jury cases.

Greg is licensed in all state and federal courts in Alabama and the 11th Circuit