Cosmetic Surgeon Must Pay $375K in Damages for HIV Discrimination

Court findings showed the doctor not only refused to treat people who had HIV but also tested patients without their consent.

August 19, 2020 By Trent Straube

A New York Supreme Court justice ruled that a cosmetic surgeon must pay three men $125,000 each in damages for refusing to perform breast reduction surgery on them because they have HIV, which is a violation of the Americans with Disabilities Act (ADA). What's more, Department of Justice court investigators also discovered that the surgeon, Emmanuel O. Asare, MD, tested patients for HIV without their knowledge.

"It's gratifying to know that justice has been done," said New York resident Mark Milano, one of the plaintiffs, in a press statement provided to POZ. "Dr. Asare treated me horribly, making it clear he wouldn't touch anyone with HIV. It was emotionally and psychologically damaging, and it was terrible to find that he had done the same thing to a number of other people with HIV. This ruling sends a message that such discrimination must stop."

The lawsuit alleging the discrimination was filed in May 2015, after Asare agreed to perform gynecomastia surgery on Milano in July 2014 but then refused to do the procedure once Milano told the doctor he was diagnosed with AIDS in 1982 and anal cancer in 2007. Milano filed a complaint with the Department of Justice, which then filed the lawsuit alleging unlawful discrimination.

As was reported in December 2017, a judge ruled in favor of the plaintiffs, but a damages trial had to be held—that trial resulted in this month's $375,000 ruling for the three patients. Asare must also pay a civil penalty of $15,000, comply with the ADA and no longer test patients without their consent.

Milano was represented by Housing Works, which fights the dual epidemics of HIV and homelessness, and the law firm Emery Celli Brinckerhoff.

"For decades, doctors have employed universal precautions and made reasonable modifications to avoid excluding folks living with HIV," Housing Works attorney Armen Merjian said in the press statement. "There is no medical basis for any blanket exclusion, and we are delighted to see justice finally done for Mr. Milano and the other aggrieved parties."

The case is United States and Mark Milano v. Emmanuel O. Asare, MD, and Springfield Medical Aesthetic P.C. d/b/a Advanced Cosmetic Surgery of New York. You can read the complete ruling here.

To learn about a similar case from Illinois this summer, see "$25K Settlement in HIV Discrimination Case Against Plastic Surgeon." For more information on the ADA and HIV discrimination, visit www.ada.gov/aids. You can file a related complaint at the U.S Attorney's Office at http://www.justice.gov/usao-nj/civil-rights-enforcement/complaint. For more information about the ADA visit www.ada.gov, or call 800-514-0301 or 800-514-0383 (TDD).

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