



## Victims of cancer doctor who committed “horrific” crimes settle for \$8 million

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Victims of a former cancer doctor who gave his patients unnecessary and potentially dangerous treatments will share an \$8 million settlement.

But the attorney for former patients of Michigan oncologist Farid Fata -- who told them they had cancer when they did not -- described the settlement as the “least desirable of the undesirable alternatives.”

Attorney Brian McKeen argued that the plaintiffs settled for much less than they deserved because of the state’s cap on non-economic medical malpractice damages, and the former doctor’s insurance cover limit.

Following the announcement of the settlement, McKeen called for the cap to be lifted, describing it as unconstitutional because the decision on damages should be in the hands of juries.

The Michigan State Medical Society, while reluctant to speak specifically about the Fata case, said the cap is in place for good reasons.

Increasing numbers of physicians were refusing to conduct any higher risk procedures because of the rising number of lawsuits, and many were unable to get insurance, or it was unaffordable, said Colin Ford, the medical society’s director of state and federal government relations.

Ford said there is no cap on economic damages, those awarded for continuing

medical expenses.

Michigan's Supreme Court has upheld the constitutionality of the index-linked cap, currently \$440,000, or close to \$800,000 if an injury is found to be catastrophic.

Thirty-five states have introduced legislation capping damages for non-medical pain and suffering. The constitutionality of the laws have been challenged, most recently, and successfully, in Florida, with an appeals court ruling that it violated the equal protection clause.

Fata was sentenced last year to 45 years in prison after pleading guilty to multiple counts of fraud, money laundering, and conspiracy to pay and receive kick backs.

The now delicensed oncologist, who operated clinics in the Detroit area, told patients they had cancer when they did not, and gave them toxic chemotherapy and other drugs, making \$17 million in fraudulent billings. He also undertreated some of his victims if he could make money, and overprescribed drugs to terminally ill cancer patients.

This continued for years, and he bankrolled an opulent lifestyle until a staff member blew the whistle in 2014.

"This is a huge, horrific series of criminal acts that were committed by the defendant," U.S. District Judge Paul Borman said before sentencing Fata. Federal authorities identified more than 550 victims, the majority of whom did not sue, or could not because of the statute of limitations.

One prosecutor described Fata as the "most egregious fraudster in the history of the country."

On Wednesday, 43 of those former patients settled their lawsuits against Fata and three medical facilities where he leased space.

An arbitrator will decide how much each will receive, but the \$8 million settlement works out at an average of \$186,000 per patient.

"It's totally unfair, the least desirable of undesirable alternatives," McKeen, the attorney, told AMI Newswire. "There should be no cap, people have a right to a jury trial. It is up to a jury to determine an award."

He said a change is unlikely with the present make up of the courts in Michigan but added: "We see courts changed and hopefully one day we will have a more consumer and patient orientated court."

McKeen conceded that, even if the legislation was different - with no caps - there would have been big obstacles to securing a larger settlement for the former patients.

Fata had a relatively low amount of insurance coverage, and he was not an employee of the three medical facilities where he leased space, making it more difficult to find the three centers liable, McKeen said.

He described Fata's insurance as "paltry," but would not confirm a report in the Detroit News that it would have worked out at \$3.6 million, or just over \$80,000 per patient.

Michigan law does not require doctors to carry malpractice insurance, and when they do, it is rarely over \$200,000, McKeen said. Doctors performing higher risk surgeries normally carry insurance with higher limits.

Physicians in Michigan used to carry limits of only \$200,000 to \$600,000, according to the website of Hamilton Group, an insurance company that specializes in medical malpractice. However, more and more doctors are requesting higher limits of \$1 million to \$3 million, the company said. Ford, of the medical society, said many states do not require physicians to carry malpractice insurance, but in Michigan "frequently it is required for visiting privileges" at hospitals and medical centers.

Wednesday's settlement is separate from an \$11.7-million federal restitution fund for Fata's victims. The 550 identified by federal authorities can file claims, but there could be more as Fata's practice treated 17,000 at seven locations in the Detroit area.