
Former DMC doctors awarded \$10.6 million in arbitration for alleged wrongful discharge in 2018

By Jay Greene



Amir Kaki, M.D., (left) and Mahir Elder, M.D. sued Detroit Medical Center and Tenet Healthcare over their firings.

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Metro Detroit cardiologists Mahir Elder and Amir Kaki have won a \$10.6 million arbitration judgment against for-profit Detroit Medical Center based on their contention the six-hospital health system improperly [terminated their employment](#) and medical staff privileges in October 2018.

Elder and Kaki had internally reported numerous instances of poor quality care and management interference at DMC, some of which Crain's reported going back to 2014.

When firing Elder and Kaki and [forcing out](#) Heart Hospital President Dr. Ted Schreiber, DMC said Kaki and Elder were fired for unspecified "code of conduct" violations discovered after an internal investigation.

"The arbitrator found the extensive investigation never occurred and DMC's comments at the time (about Kaki and Elder's behavior) were false," said Deborah Gordon, an attorney with Deborah Gordon Law in Bloomfield Hills representing Kaki and Elder.

"At the moment the DMC is trying to force us to file the award under seal instead of on the federal court docket," Gordon said. "There was a wealth of evidence finding that my clients were retaliated against for engaging in protected activity, such as making complaints about safety and quality."

In a statement, DMC said it will seek to vacate the arbitrator's decision in federal court.

"On behalf of our dedicated employees and medical staff, we stand behind the decision of our governing board to not renew the expired medical staff membership and clinical privileges of Drs. Kaki and Elder for another two-year term (their privileges expired in April 2019)," DMC said in an email to Crain's.

"Medical staff membership is a privilege — not a right — and the DMC will continue to prioritize patient safety and the well-being of its staff when making these decisions, particularly when confronted with very serious physician behavioral concerns."

The arbitrator's decision also reinstates Kaki's and Elder's medical staff privileges at DMC, starting Feb. 1, for a period of one year "equivalent to the same privileges they enjoyed prior to the retaliation," according to arbitrator Mary Beth Kelly in her decision.

Responding to DMC's statement, Gordon said it is difficult to overturn an arbitration decision. "The arbitrator laid out a 86-page decision. Once into arbitration there is a narrow basis to appeal," she said.

Gordon said former DMC CEO Joe Mullany testified in support of Kaki and Elder and told the arbitrator that the two cardiologists had stellar careers while he was at DMC in 2012-17.

"(Former DMC administrator) Scott Steiner (who testified) said he was instructed (by corporate management) to sign the letter in (October 2018) that terminated Kaki and Elder," Gordon said.

On Oct. 1, 2018, Kaki and Elder were fired by DMC and later lost their medical staff privileges. Since 2014, they had been outspoken internally about concerns over quality of care problems at DMC.

In March 2019, Kaki and Elder [sued DMC](#) and its parent, Tenet Healthcare Corp. of Dallas, and four executives for retaliation under state and federal false claims acts.

For years, Elder and Kaki were top patient admitters and popular doctors among patients, staff and resident physicians. They had reported multiple problems to top management about dirty medical and surgical instruments, unnecessary procedures on patients performed by other doctors, lack of nursing staff and cutbacks in critical lab and support services.

In a 41-page lawsuit filed in U.S. District Court in Detroit, the two doctors also claimed top DMC and Tenet executives failed to investigate alleged incidents of Medicare and Medicaid fraud.

The U.S. Department of Justice continues to investigate Medicare and Medicaid billing problems, alleged overpayments to on-call cardiologists, poor quality of care, lack of supervision that led to patient deaths and the improper use of employed nurse practitioners, [Crain's has reported](#).

The investigation by the DOJ was disclosed in February 2018 by Tenet in a federal securities filing. The company has declined interviews on the subject.

Over the past several years, [Crain's has reported continuing problems](#) with surgical instruments at Detroit Receiving Hospital and Harper University Hospital.

The firings, which alleged violation of Tenet's code of conduct, followed an investigation of the doctors' interactions with nurses and other doctors by Medicare compliance attorneys with Latham and Watkins LLC, a Los Angeles-based law firm.

"After an extensive review of complaints received from physicians and team members, DMC has asked Dr. Mahir Elder, Dr. Amir Kaki and Dr. Tamam Mohamad to step down due to violations of our standards of conduct," wrote Steiner, who at the time was CEO of DMC Detroit Receiving, DMC Harper University and DMC Hutzel Women's hospitals, in an email to 5,000 DMC employees and in a statement to the media.

Elder now practices at Beaumont Health hospitals in Dearborn, Taylor and Royal Oak. He is a two-time [Crain's Health Care Hero](#) and was voted Teacher of the Year by cardiology fellows for 10 consecutive years. He also is a professor of medicine at Wayne State University and Michigan State University.

At DMC, he trained Kaki and dozens of other interventional cardiology fellows for more than a decade and was director of cardiac care, ambulatory services and the endovascular medicine program at DMC Heart Hospital since 2008.

Kaki, who was recruited in 2012 by now-Detroit Mayor Mike Duggan when he was CEO of DMC, is practicing at Ascension Providence Hospital in Southfield and Ascension St. John Hospital in Detroit, where he is director of complex higher-risk indicated patients.

Among other duties at DMC, Kaki was hired in 2014 as director of cardiac catheterization services unit at DMC Heart Hospital, also known as DMC Cardiovascular Center, which is located at DMC Harper-Hutzel Hospital.

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