

Roswell Park has paid \$4.67million to settle six discrimination lawsuits

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BY JON HARRIS AND STEPHEN T. WATSON NEWS STAFF REPORTERS

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Dr. Anne Grand 'Maison said she was forced out at Roswell Park Comprehensive Cancer Center last year after raising concerns about patient safety and gender discrimination.

Dr. Jane Zhou said she was silenced by a male colleague during tumor boards – meetings in which doctors discuss complex cancer cases and decide treatment plans.

And Marsha Gayles, the only Black employee in Roswell Park's case management department, said she helped her department transition to remote work early in the Covid-19 pandemic but then was not allowed to work from home herself.

The three women are among 15 former employees who have filed lawsuits since 2015 that accuse Roswell Park of discrimination based on race, gender or disability, a review of state and federal court records found. Roswell Park has paid at least \$4.67 million to settle six of those cases, according to public records. Of the remaining nine lawsuits, three former employees were unsuccessful in their legal cases, while six are ongoing, including Grand 'Maison, Zhou and Gayles. "The court filings paint a picture of a pattern of retaliation and intimidation against those who have the courage to speak up," said Laura E. Edidin, an attorney at Wigdor, a New York City employment law firm that has represented five Roswell Park employees, including Grand' Maison. "That's a theme that has been sounded across numerous lawsuits."

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The lawsuits, in part, prodded Roswell Park more than two years ago to hire an outside law firm to produce a

report on the cancer center's policies regarding diversity and inclusion, as well as a review of past discrimination complaints. The cancer center has not publicly released the report, despite objections from several members of its board of directors – a situation that has gained attention from community leaders who want Roswell Park to confront its past.

In a statement, Roswell Park said its employees and management are dedicated to "creating diverse, equitable and inclusive communities both within and outside our center."

"We benefit from an incredibly diverse workforce at Roswell Park," the cancer center said. "Over the course of years we have shaped our policies and employee resources to meet the needs of team members reflecting every dimension of diversity."

The 15 employment discrimination lawsuits filed against Roswell Park since 2015 were more than the number lodged against other area health care institutions, a review of court records found. During the same eight year period, six such lawsuits were filed against Kaleida Health and five against Catholic Health System – both larger than Roswell Park – and three against Erie County Medical Center Corp., similarly sized as Roswell Park at around 3,800 workers.

Roswell Park said the total claims since 2015 are comparable to other large regional employers. It argues an "accurate and complete review" would include state and federal cases, internal claims as well as those filed with the Equal Employment Opportunity Commission and the state Division of Human Rights. Unlike lawsuits, some of those complaints are not publicly available.

Diversity data that Assembly Majority Leader Crystal Peoples-Stokes, D-Buffalo, requested from area health systems – and obtained by The Buffalo News – did show Roswell Park with a similar number of EEOC complaints in 2020 compared to some of its Western New York peers, though the cancer center had more lawsuits or settlements arising from those claims.

"Many large employers routinely settle all claims before they can be heard in court," Roswell Park said. "We have an obligation to challenge unwarranted claims because we feel strongly that we must advocate for the truth as a nonprofit public benefit corporation."

Roswell Park said the majority of claims and allegations The News identified originated before Candace Johnson took over as president and CEO in February 2015.

Of the 15 lawsuits, four were filed by employees who joined Roswell Park in late 2016 or after, and seven other complaints detail at least some allegations after February 2015.

Investigative Post first reported on the number of lawsuits against Roswell Park since 2015.

Roswell Park said it has made major strides in its diversity, equity and inclusion efforts since Johnson took over. For example, the cancer center's minority hiring has grown significantly over the last decade and, in 2022, 32% of its new hires were Black, Hispanic, Indigenous or people of color. As of last year, 64% of Roswell Park's workforce identified as female.

Roswell Park also noted it has, over the last five years, built the largest center dedicated to Indigenous cancer research in the country, developed a lung cancer mobile screening unit to boost access for underserved communities and worked to train the future workforce through partnerships with Buffalo Public Schools and Howard University, a historically Black research university.

'We have changed over time'

In a meeting with editors and reporters at The News in September, Johnson acknowledged that Roswell Park hasn't always been known for its diversity and inclusion efforts. When she joined the faculty in 2002, for instance, she said she didn't think Roswell Park was responsive to the community and thought of itself "as sort of an ivory tower of scientists and physicians."

"I think we have changed over time," Johnson said. "And I'd like to think a lot of that is me, because I'm different than the white men who have led us before."

The six settlement agreements Roswell has paid in recent years include \$4 million to urologist Dr. Willie Underwood III, \$425,000 to Dr. Elena Pop and \$125,000 to registered nurse Terry Kearney, according to public records.

Underwood, who filed his lawsuit in 2015, claimed racial discrimination against the cancer center and his supervisor, Dr. James Mohler, who allegedly called him a "token Black."

Pop, in her 2019 lawsuit, claimed gender discrimination against the cancer center and two supervisors, including Mohler. And Kearney, whose 2017 suit states she was the center's only Black registered nurse, claimed a supervisor regularly chastised her but did not treat non-Black nurses the same way.

Grand 'Maison's case, filed Jan. 31, is the most recent lawsuit, while Gayles' complaint was filed in October. Zhou filed her original complaint in 2019.

All three women spoke to The News recently, saying they brought concerns to top executives but nothing was done. Now, they are hoping to change Roswell Park's policies and procedures.

"I hope for accountability," Grand 'Maison said. "The only way is to tell the story, and I hope the public will react."

Roswell Park said it "takes prompt, appropriate and immediate action in all personnel matters," as outlined in its procedure for investigating reports of discrimination, harassment and retaliation – a procedure that was expanded in December.

Roswell Park said it does not comment on ongoing litigation and will defend itself in court.

'Refused to be silent'

In 2016, fresh off a fellowship at top ranked MD Anderson Cancer Center in Texas, Grand'Maison said she was excited to join Roswell Park as a sarcoma medical oncologist. It was close to her native Canada, and she also saw the chance to grow the cancer center's sarcoma clinic.

But during her five-plus years at Roswell Park, her lawsuit claims, she observed error-filled sarcoma pathology reports, doctors who were uneducated in the latest sarcoma research and senior doctors who refused to seek second opinions in difficult cases. She also encountered, the lawsuit states, a work environment that was hostile toward female doctors, especially from pathologist Dr. Carl Morrison during sarcoma tumor boards.

In a statement the day Grand'Maison's complaint was filed, Roswell Park denied the lawsuit's "unfounded claims" and said it is recognized by the Sarcoma Alliance for having the specialized expertise and resources for sarcoma patients. Further, in a response to the complaint, attorneys for Roswell Park claimed the cancer center gave Grand'Maison "every opportunity to learn, grow and succeed as a new staff physician," but she instead "focused on criticizing and belittling" colleagues, including Morrison.

In January 2022, Grand'Maison told a clinical practice plan coordinator in an email that she planned to leave by May 1 of that year because her husband was relocating to Canada.

They ended up not relocating, which the lawsuit claims Grand'Maison's husband – a fellow doctor who also had privileges at Roswell Park – made clear to the cancer center. Since her husband corrected the record and no one replied to her initial email, Grand'Maison did not send any follow-up emails.

Meanwhile, Grand'Maison kept raising concerns to executives, including in an email March 15.

On March 16, Grand'Maison received an email from the director of employee and labor relations, confirming her resignation.

Despite Grand'Maison's attempts to dispute the resignation, Chief Human Resources Officer Errol Douglas in April 2022 denied her request to rescind the resignation because, the lawsuit states, Roswell Park already had extended her probation period by a year for her "lack of collegial relationships with physicians/colleagues and staff."

Douglas said Roswell Park intended to terminate Grand'Maison but instead deemed the resignation "an acceptable way of ending the work relationship," the lawsuit claims.

'Just shut up'

Soon after Dr. Jane Zhou started working as a pathologist at Roswell Park in December 2016, she felt like her voice was being silenced.

In particular, Dr. Mihai Merzianu, who led head and neck pathology, hindered Zhou's ability to partake in the head and neck tumor board, according to an amended complaint Zhou filed against the cancer center in August and a recent interview in her attorney Lindy Korn's office. And when Zhou did speak up at tumor boards to share her expertise, Merzianu degraded and demeaned her, the lawsuit states.

Summarizing her interactions with Merzianu, Zhou put it this way: "He basically was saying, 'just shut up.'"

Roswell Park attorneys denied Zhou's allegations against Merzianu in court records, but noted human resources, after being contacted by Zhou in 2017, "worked to alleviate the disagreement between" Zhou and Merzianu.

During her Roswell Park tenure, Zhou experienced sleep deprivation, "debilitating anxiety" and heart palpitations, which resulted in her taking medical leave for a five-day stretch in February 2018.

By March 30, 2018, Zhou's employment was terminated.

Zhou was told she was being dismissed because she did not have backup coverage for her medical leave or on Feb. 14, 2018, when she left work 90 minutes early to get her car inspected, the lawsuit claims.

In their response to the complaint, Roswell Park attorneys said Zhou was "terminated for the unprofessional conduct of leaving work early without arranging for proper patient coverage."

Zhou, born and raised in China before coming to the United States in 1990, said she got into medicine to try to make a difference in society. It's why she underwent 16 years combined of medical school, residency and a fellowship at MD Anderson.

"My way of doing that is to be good at my job, to make sure I help the patients with my skills and expertise," Zhou said. "That's all I wanted, and that's why I spent 16 years to be good at something." 'A looming tumor'

Near the end of March 2020, Marsha Gayles' supervisor tasked her with arranging remote work for the case management department.

By mid-April, after Gayles had received her laptop to work remotely, Gayles was informed that she would not be working remotely due to the "needs of the department," according to her lawsuit filed in October and a recent interview in the office of her attorney, Kevin P. Wicka.

Her supervisor further said that she was "not comfortable" with Gayles working and answering calls from home.

Gayles was frustrated and in a bind, with her 10-year-old son's school shifted to remote instruction. And since her son had asthma, she was concerned about bringing Covid home. Meanwhile, she claims, other department assistants were allowed to work remotely.

Gayles burned through her paid leave time and then ran into unpaid leave. Around May 1, 2020, she worked in the office three days a week and was later advised she would have to return to the office full time.

Gayles reported complaints to human resources multiple times but was told it was up to her supervisor to approve or deny remote work, the complaint states.

Asked for a comment, Roswell Park said it accommodates remote and hybrid work requests through its policies. "During the Covid-19 pandemic, most clinical workers, including support staff working in clinical areas, worked onsite in order to provide clinical care to cancer patients," Roswell Park said.

In court papers, Roswell Park's attorneys deny Gayles' claims and argue a denial of a request to work remotely is not an adverse employment action.

Gayles submitted a resignation letter, detailing the discrimination she felt, to Douglas, the chief human resources officer, her supervisor, and Johnson on June 10, 2020.

Afterward, David Scott, then-director of diversity and inclusion, reached out. In a meeting with Scott on June 17, Gayles claims Scott told her that "there are difficult situations everywhere" and "it does not get better than Roswell."

Gayles worked her last day there on June 24, 2020, less than three years after she started as an executive assistant in its urology department.

Gayle shopeshesher story will instigate change.

"You walk in, you see this beautiful facility, everybody's walking around and moving," she said. "But it's almost like there's a looming tumor somewhere that's spreading and that is covered over with this imagery of, 'We're top notch, we're the oldest cancer center in the U.S.,' but where are the fruits?"