

Santa Clara County sued by pediatrician fired in wake of toddler's killing

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Lawsuit alleges doctor was scapegoated after bringing up systemic mandated reporting problems at Valley Medical Center

By [Eric Kurhi](#) | Bay Area News Group

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SAN JOSE — A pediatrician who was one of two fired by Santa Clara County last year for allegedly failing to report glaring signs of abuse on a toddler — which may have spared the 2-year-old boy a horrific death had it come to light — has filed a lawsuit against the county, saying she was scapegoated for problems she was trying to fix.

Melissa Egge and her then-boss John Stirling were first suspended then terminated last April. On Wednesday, Egge's attorney filed a complaint for damages alleging that she was sent packing after she spoke up about "systemic failures and mistakes of her supervisors," and that she had told Stirling about her concerns about the boy and was assured that he would notify Child Protective Services.

"What's so troubling about this case is that when this terrible tragedy occurred, she was trying to do the right thing, and said 'we need to fix things here,'" said attorney James McManis. "The county's way of fixing things was to fire her and ignore the systemic shortcomings they have."



Manuel Lopez, 22, of San Jose, has been booked into the Santa Clara County Jail for sexually assaulting and killing his girlfriend's 2-year-old son on Jan. 16, 2016, according to San Jose police. (San Jose Police Department)

The county issued a statement Thursday that said "we have not yet reviewed the complaint, but we generally do not comment on pending litigation."

At the time, sources said the doctors were dismissed because they did not report possible child abuse as required by law when the boy was at the hospital with two suspicious arm fractures six months before his January 2016 death. His mother's boyfriend, Manuel Anthony Lopez, 22, is suspected of raping, beating and suffocating the boy and faces a possible death penalty trial.

The firings shocked child advocates who held both doctors in high regard — Egge was a popular pediatrician who testified as an expert witness in court cases, while Stirling was a well-known speaker at child abuse symposiums who has written guest commentary for this newspaper about foster care issues.

According to the lawsuit, which was filed at the U.S. District Court in San Jose on Wednesday, the two doctors were the only Suspected Child Abuse and Neglect doctors at Valley Medical Center, with Egge reporting to Stirling.

Egge conducted a phone consultation with an O'Connor Hospital intern on July 3, 2015, who said she wanted to “run something by” Egge — the case of the 2-year-old boy, whose mother said had broken his arms from a slip and backwards fall. According to the lawsuit, Egge told the intern that if non-accidental trauma was suspected they should have made a report to Child Protective Services but added that “given the age of the child, was not a pattern of injury that is typical for non-accidental trauma, and thus, she did not have a suspicion of child abuse.”

“The intern had very little information for her and she didn’t think it was a reportable event,” McManis said. “Later, when she was given information that was known to others but not to her, she said ‘this needs to be reported.’”

He said Egge told Stirling, who was in charge of the case, and he agreed to file the CPS report.

According to the lawsuit, when Egge asked Stirling more than a month later if that had been done, she was told that he “had forgotten to make the CPS report but promised he would do so that evening.”

“Then later, she learns that he reviewed the file and decided that it didn’t need to be reported,” McManis said. “And when she tells management that they have all these shortcomings in the reporting system, they are not interested and they fire her. It’s outrageous.”

According to state law, “mandated reporters” such as health care workers are responsible for alerting authorities to possible cases of child abuse. As part of training, VMC physicians are given a presentation that outlines such duties, which stresses that any worker with “reasonable suspicion” of abuse must immediately call CPS or police.

“Unless you are certain that someone else has made the report, make the report yourself,” reads the presentation.

However, child abuse reporting experts have said that oftentimes matters are reported internally to an abuse specialist, who would then decide whether a call is warranted. McManis acknowledged that it’s a “typical practice” and “there’s nothing wrong with that if the person who is responsible actually makes the report.”

Charles Wilson of the Chadwick Center for Children and Families — considered a foremost authority on abuse reporting — said that hypothetically, informing another doctor does not relieve someone of reporting responsibilities.

“And if the second doctor doesn’t think it rises to the level where they need to report it, they don’t have to,” he said. “The responsibility lies with the doctor who has reason to suspect that this is child abuse.”

The lawsuit states that after the boy’s death, Egge went to Dr. Stephen Harris, the chair of the pediatric department, with concerns about the case as well as Valley Medical Center policies “which she believed led to the failure in reporting.” She said that in addition to Stirling’s failure to report the case, other medical personnel — all mandated reporters — deferred such decisions up the line to child abuse experts.

The next month, Egge was placed on leave, then terminated in April.

“Government moves in mysterious ways,” McManis said. “They were looking for some easy solution — this child’s death got a lot of coverage as it should have, so they wanted to do something but instead of appointing a commission or independent outsiders to look into what happened they fired her, and that’s just wrong.”