Targets of misconduct probe launch a legal counterattack

Heart researchers claim inquiry damaged their careers and derailed the sale of stem cell company

By **Kelly Servick**

Ongoing scientific misconduct investigations usually take place out of the public's view. An unusual lawsuit filed last month, however, sheds some light on a long-rumored inquiry. The complaint, filed in a federal district court by two prominent heart researchers, offers the first indication of just what is amiss in two papers they co-authored, which describe the heart's natural regenerative ability, and an effort to heal damaged hearts with stem cells.

The plaintiffs, Piero Anversa of Brigham and Women's Hospital (BWH) in Boston, an affiliate of Harvard Medical School, and Annarosa Leri, a Harvard associate professor in his lab, acknowledge that there are fictitious data points in a now-retracted 2012 paper that appeared in the journal *Circulation*. They also acknowledge that a much publicized 2011 paper in *The Lancet*, to which the journal had already attached an "expression of concern," contains altered figures. But they blame those problems on a third researcher. Besides raising questions about who bears final responsibility for possible misconduct, the lawsuit delves into another thorny issue: the obligation of research institutions to preserve the reputations of scientists implicated in an investigation.

The pair is suing Harvard and BWH over what they claim is a "procedurally and legally flawed" misconduct probe. The institutions, they argue, have wrongfully damaged their careers and cost them millions by derailing a deal to sell their stem cell company and by taking them out of the running for lucrative faculty positions.

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> **Ferric Fang**, University of Washington

Anversa and Leri claim they were unaware of any misconduct in their labs, which they blame on Jan Kajstura, the first author on the retracted paper and a former member of Anversa's lab. In the case of the *Circulation* paper, which reported a surprisingly high turnover rate for muscle cells in the adult heart, Leri and Anversa's lawsuit alleges that Kajstura apparently altered data from mass spectrometry experiments performed at Lawrence Livermore National Laboratory (LLNL) in California. (A researcher at LLNL contacted the lab after noticing that the *Circulation* paper contained 20 more data points than he had sent in a spreadsheet, the complaint explains.)

They further argue that Kajstura and an unnamed scientist under his supervision were responsible for the now-questioned figures in the *Lancet* paper, which reported results of a phase I clinical trial involving a stem cell treatment for heart failure. Anversa and Leri's complaint says they are willing to correct that paper, but that they must wait for approval from an institutional review board that oversaw the study. (The complaint also notes that 15 other papers were later added to the investigation.)

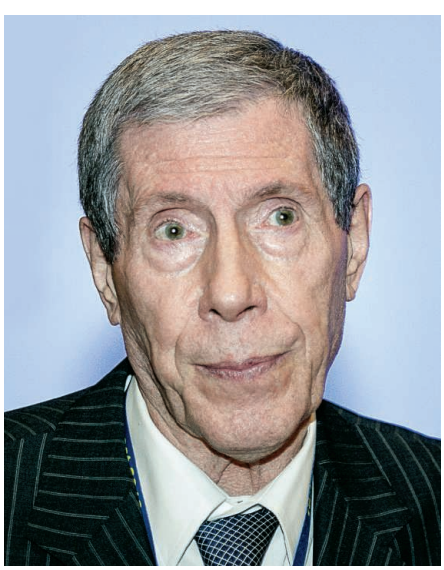
Kajstura could not be reached for comment. And it is not known whether he is actually implicated in the investigations under way at Harvard and BWH, because the institutions have not released any findings so far and have declined to comment on the inquiries. How much responsibility Anversa and Leri bear for any misconduct under their supervision is also an open question. "In the abstract, I think everyone agrees that a principal investigator has to take responsibility for whatever goes on in his or her lab," says Ferric Fang, a microbiologist at the University of Washington, Seattle, who has published several analyses of retractions, misconduct, and the scientific enterprise. But the community is often forgiving when misconduct slips past a principal investigator, he adds, as long as they are honest and forthcoming about the problems.

Anversa and Leri are also suing Gretchen Brodnicki, Harvard's dean for faculty and research integrity, who launched the initial inquiry into the lab, and Elizabeth Nabel, BWH's president. Brodnicki, they claim, exposed them to damaging criticism and speculation by calling for the two papers' retraction before the investigation concluded, without indicating that Kajstura was specifically responsible. They also argue that Nabel should have recused herself from the investigation because she has stock in and advises a firm that competes with therapies developed in their lab. They further allege that she inappropriately disclosed information about the investigation and personally maligned Anversa and Leri.

The claims of a confidentiality breach and conflict of interest, if they prove true, "are serious, and are not off-the-wall," says Paul Rothstein, a professor of torts, evidence, and civil litigation at Georgetown University Law Center in Washington, D.C. They could "give a court some serious issues to deal with and think about."

As for the damages over lost employment opportunities and the derailed business deal, Rothstein points out that courts require a high degree of proof that the defendants are directly responsible—and that the business deals would have definitely happened if not for the defendants' actions. That is often hard to demonstrate, Rothstein says, suggesting Anversa and Leri may face obstacles in making their case.

Fang worries that if the lawsuit is successful, it will deter misconduct probes. "Aside from the specifics of this particular case," he says, "I think it would be a very dangerous precedent to hold institutions culpable for doing due diligence in investigating allegations of problematic data." ■



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Cardiac researcher Piero Anversa and a colleague are suing over an inquiry into their papers.

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