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July 14, 2011

George R. Hearst III
Times Union
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James K. Reed, MD
Northeast Health Inc.
2212 BURDETTE AVE
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BY CERTIFIED MAIL

Dear Mr. Hearst
Dear Dr. Reed,

Seven years ago, in September, 2004, I made a disturbing discovery: I learned that the Times Union had for several years been suppressing news of all civil lawsuits alleging medical malpractice filed against hospitals in its circulation area – hospitals that between them were running a continuous stream of advertising in the paper.

I then wrote to the paper's editor, suggesting that the two facts were connected, and asking for a comment.

I received no response.

My discovery of what I consider to be a total abandonment of journalist integrity came just under a year after my wife, Lisa, died in Samaritan Hospital from what – according to the hospital's own records – was a failure of the nursing staff to follow a physician's specific written instruction to apply the facility's printed protocol for Lisa's life-threatening condition.

The result of this negligence was irreversible damage to Lisa's brain and other organs. After three weeks in a coma, she died.

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Seven months later, another patient with diabetes, Alec Mackenzie, died in Samaritan Hospital in almost identical circumstances. Lisa's death obviously had done nothing to change the hospital management's callous disregard for the safety of its patients. And the Times Union continues to run those ads – and continues to ignore dozens of lawsuits in which those advertisers are alleged to have caused deaths and serious injuries.

Details of some of those lawsuits are posted on my website. I have also posted stories of other claims of medical negligence against entities that are not Times Union advertisers, but which *were* reported in the paper, some in great detail. Laura Woolsey was one.

And then, Mr. Hearst, there was your own reporter, Mike Hurewitz.

Your editor certainly showed no reluctance in presenting extensive coverage of that tragedy in a hospital in New York City, even as the TU continued to ignore lawsuits alleging serious harm filed against its Capital Region advertisers.

The result of the Times Union-driven publicity that the Hurewitz case generated was a fundamental change in the way live-liver-transplant participants – donors as well as recipients – are cared for.

And now Lisa's death is going to lead to a similar change in the way the area's media and its medical providers – particularly Northeast Health – do business. The only question for both of you is: Will you cooperate willingly – or will you resist, and allow me to permanently change the way your organizations are viewed?

And change it I will.

Up until now, promotion of my website has been very limited. Most residents of the Capital Region have not viewed the stories about unreported lawsuits and so are unaware of the cozy, highly unethical arrangement between the newspaper and some of its advertisers.

But that can change; I am now ready to aggressively promote my site to a very wide audience. Once that happens, few people will think of any parties to this arrangement in the same way. The hospitals will be seen as being far more concerned with their public image than with the safety of their patients. And the newspaper will be seen as totally corrupt. From then on, readers will always wonder what the newspaper is not telling them because doing so would cost the paper advertising revenue.

This absence of news about lawsuits alleging medical negligence has undoubtedly harmed the public, in several ways.

First, knowing that details of a claim for serious and preventable harm would probably be published in a newspaper would have pushed the providers into putting far more effort into preventing the harm in the first place. As it is, the knowledge that news of claims would be kept from the public – as the Alec MacKenzie case shows – contributed greatly

to an emphasis on denying liability and defending claims instead of preventing the harm from occurring.

Second, this policy of denying every claim, even in cases of obvious negligence, puts many victims of preventable harm through a second anguish, as lawyers for the providers routinely obstruct and delay claims, usually for years. The result of this callous routine denial is that as few as one in seven cases where there was negligence and serious harm results in a lawsuit, because lawyers who represent plaintiffs are often unwilling to commit the resources necessary to prevail against the huge wealth of the providers' insurers.

It's a cruel tactic, but with the cooperation of the Times Union it has worked for the providers, but has left many people who have valid claims with no compensation – and no explanation for an unexpected death or injury.

Third, because they are protected from bad publicity, the providers can instruct their lawyers to fight most cases right up to the courtroom steps – which the defense lawyers encourage as it results in increased legal fees – which are paid by malpractice insurance carriers. Those fees are then reflected in higher malpractice insurance premiums, which in turn are passed on to the public in high health insurance costs.

Finally, when providers fail to beat down the plaintiff and agree to settle, the cost of doing so is far higher than it would have been if there had been an immediate acknowledgment of error and an offer of compensation. This, again, adds to costs that are ultimately passed on to the public. Take the Joseph Bartoski case, reported exclusively in several stories on my website.

That claim has just settled, four weeks before trial, for a total of \$350,000. Of this, \$103,460 – 34 percent – was for the plaintiff's lawyers' legal fees and the costs – stenographers, filing fees, etc. – of the lawsuit. The reminder, \$245,915, will go to Joseph Bartoski's estate.

Joseph Bartoski was 88 years old. It seems highly likely that had Samaritan Hospital immediately informed his widow, Dorothy, of the mistakes and offered compensation, she would have accepted far less than almost a quarter-million dollars. Perhaps even less than the \$98,800 her lawyers received for prosecuting the case.

If so, instead of mounting another clearly frivolous defense, the providers could have spared a grieving widow the second anguish of a year-long legal battle, while reducing the cost to the insurer – and ultimately, the public – by perhaps \$200,000.

Instead, assisted by a media that has totally abandoned journalist integrity, the providers have continued this alliance against the public interest. It has to end. And now, it will.

You both have a choice in what happens next. One way is for the Times Union to start doing what it should have been doing all along: Report lawsuits that contain allegations

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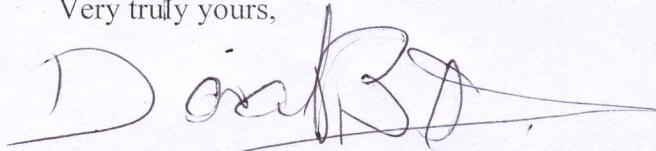
that death or serious injury was caused by a Capital Region medical provider. For its part, Northeast Health must switch its focus away from defending every claim, no matter how obvious the liability, to promptly acknowledging errors when it knows they occurred and offering appropriate compensation. It must give up the money it received for treating Lisa Baker during the three weeks she was in a coma as a direct result of the documented failure of its nursing staff to follow the hospital's printed instructions for treating her known life-threatening condition. And it must finally produce to me documents from Lisa's medical chart that, despite a very specific demand to its lawyers that were the topic of a hearing I requested in a judge's chambers, were deliberately withheld during my wrongful-death action.

That's the choice. You can do as I suggest.

Or you can continue your present alliance against the public interest that for more than a decade has benefited the hospital, the newspaper and dozens of lawyers on both sides but is damaging the public as described above. If so, I will move forward with plans to bring a lot of attention to it. If that happens, make no mistake; the way both entities are perceived will be permanently changed. Both will lose the trust and respect of the public. Samaritan and the other hospitals in the Capital District will be seen to be far more concerned with money and their public image than with the safety of their patients. The Times Union will lose all credibility and be reduced to an object of contempt. For its editor in particular, that will be his legacy; a man who willingly allowed his paper's news coverage to be dictated to him by advertisers with lots of money.

I await your response. Should none be forthcoming, or should one of you resist, the plan to bring your unhealthy conspiracy to the attention of the public will proceed without further notice. Once started, it will be an ongoing, open-ended project which will be re-launched as often as is necessary to reach new people, and to remind those who already know of your alliance that it still exists.

Very truly yours,

A handwritten signature in dark ink, appearing to read "David Baker", with a long horizontal flourish extending to the right.

David Baker