

Re: Rape of the Medical Peer Review Process by TENET Health System

Dear Mr. Willick,

A recent government study found that tens of thousands of Americans die each year because of medical errors. (*To ERR is Human: Building a Safer Health System* by Kohn) One of the most important tools available to assure the quality of the medical care provided by Physicians, Nurses, Laboratories is the Medical Peer Review Process. It's purpose is educational but also its duty is to monitor, proctor and recommend solutions in order to prevent that any negligence be repeated in order to protect our patients.

Webster's Dictionary –Encyclopedia Edition

- Rape:**
1. To seize and carry off by force
 2. To destroy (a city, etc....) as in warfare

At ETRMC and Century City Hospital, both TENET facilities, there is no Medical Peer Review for "insiders". At Encino Tarzana Regional Medical Center I know of at least 2 cases of flagrant negligence that did not undergo any review by the OB/GYN Department's meeting. Strangely, it appears that the Tissue Committee did not review the following 2 cases either. The reason these 2 cases escaped any review and, such cases will continue to evade review is that the administration of these Hospitals do not want them to be reviewed.

It is the duty of the Q & A (Quality Assurance), PI (Performance Improvement) and Risk Management departments to bring those cases to the respective committees for review. These departments of the administration failed to do so.

But, that did not prevent these patients from filing lawsuits against ETRMC and the responsible physicians. Following, please find pertinent documents of the public records of the following 2 cases:

1. Barbara Klein **vs.** Michael Vermesh, M.D., Sunit, Ben-Ozer, M.D. and ETRMC.
2. Mr. And Mrs. D. Head **vs.** Micahel Vermesh, M.D., Sunit, Ben-Ozer, M.D. and ETRMC.

In the case of Mrs. Barbara Klein, both Dr. Vermesh and Dr. Ben-Ozer failed to remove the ectopic pregnancy and removed the wrong tube ! When they realized their mistake, they took Mrs. B. Klein back to the operating room about 10 days later and removed the only remaining tube with the ectopic pregnancy.

In the case of Mrs. Head, the same 2 physicians removed both of her tubes. The ectopic was in one of these tubes. The consent form signed by Mrs. Head prior to

surgery at ETRMC reads as follows: "Ectopic pregnancy, laparoscopy". There is no consent for removal of anything let alone 2 tubes !!

Furthermore, there is no explanation for the disappearance of 3 frozen embryos! Since, this ectopic pregnancy resulted from an In-Vitro-Fertilization procedure performed by the same medical group, Mrs. Head thought she could get pregnant with those 3 frozen embryos and have another chance.

I strongly believe that had the case of Mrs. Barbara Klein been reviewed with Dr. Vermesh and Ben-Ozer in the presence of the OB/GYN physicians members of the Peer and Chart Review Committee and the OB/GYN Department, they might have not committed the negligence they did about a year later with Mrs. Head.

One of the most important purposes of a genuine Medical Peer Review is to assist the physician in improving the quality of the delivery of the care he / she provides. By depriving these physicians from appropriate Peer Review, this Administration not only violates its own Bylaws, California and Federal Laws, Joint Commission of Accreditation of Hospital Organization (JCAHO) requirements and the Department of Health Services (DHS) requirements, but they are responsible for the harm done to patients as a consequence of this lack of "balance and check".

A "feedback" mechanism is very important for any organization or living organism. If a bank lacks such a mechanism, it will suffer financial losses. If a Hospital lacks such an important function, patients will suffer the consequences possibly DEATH. Instead of facing reality, tackle the real issues and attempt to resolve problems, TENET's Administration maintain a continuous policy of deceit and cover-up.. In your ruling dated 2/19/02, page 1 line 12 you write that: "appropriate medical staff peer review is essential to the operations of Hospitals...". Paradoxically, your statement may not be accurate. In fact, the more complications a physician has, the more income he or she generates for the Hospital. As an example, because Dr. Vermesh and Ben-Ozer removed the wrong tube of Mrs. Barbara Klein, missing the tube containing the ectopic pregnancy (which was in the other fallopian tube), they had to re-operate her about 10 days after the first surgery at ETRMC. Was the 2nd surgery performed at no charge ? Of course not. So, financially it's to the benefit of the Hospital.

For TENET a "good" physician is a physician that generates "income" which helps the "earnings" of the company at large. But, a physician that generates more money is not necessarily a better physician than another physician that generates relatively less income for the Hospital. For instance, unnecessary i.e. not medically indicated, admissions or surgeries will also increase the Hospital's income even without any complications.

Thus, the hospital has a vested economic interest to "protect" the reputation of such negligent physicians otherwise, any damage to the reputation of those physicians can damage the income of the Hospital. How else can one explain the extra-ordinary motivation and efficiency of ETRMC in "controlling the circulation of the adverse

information". No one in the Department of Obstetrics and Gynecology at ETRMC ever heard of either Mrs. Barbara Klein or Mrs. D. Head. The only reason I know about Barbara Klein is because she came to me after Dr. Vermesh and Ben-Ozer committed their negligent act.

The only reason I know of Mrs. & Mr. Head is because their attorney, J. Nutter, called me to ask for my opinion as she was searching for an expert witness.¹ Since, I have served 13 years on the Peer and Review Committee of our department and never saw either one of these 2 charts reviewed. I was stunned to discover how effective the "control of the circulation of information" is at ETRMC.

You see Mr. Willick, If I had ever removed 2 fallopian tubes from a patient at ETRMC without her consent, I would have had my privileges summarily suspended that same day ! The double standards at ETRMC and other TENET facilities around the country is extra-ordinary.

I hope that you now understand why I want the members of this Hearing Committee to be aware of this double standard in these proceedings. According to your statement of 2/19/02: "Appropriate Medical Staff Peer Review...depends upon the participants abiding by the applicable rules" (page 1, line 12 and 13 of your 2/19/02 ruling). In other words, If I do not comply with your ruling, I "compromise" the "procedure" (line 16). What if your ruling violates not only my rights, but leads to unacceptable lack of fairness? Not only is your statement narrow minded but, extremely dangerous as a matter of public policy.

You see, if a plane crashes, the FAA investigators look for the "black box". That's how they were able to determine that a defect in the tail of the DC-9 of Alaska Airlines caused it to nose-dive into the Pacific Ocean off the shores of Los Angeles a few years ago. Thanks to that knowledge, all DC-9 planes around the world had their tail checked and that piece was replaced. Do you realize how many lives were saved thanks to that knowledge? Legitimate, genuine Medical Peer Review is the equivalent of the "black box" that allows FAA investigators to prevent future disasters and loss of human lives.

At ETRMC, physicians who are "insiders" i.e. significant income providers do not have their negligent acts reviewed at all. That's very dangerous. On the other hand, physicians like myself who stand up for quality of care and attempt to introduce criteria that will detect such problems are subjected to the most ferocious lynching.

This Hearing has nothing in common with a "bona fide" Medical Peer Review since, it does not intend to enhance in any way the quality of the delivery of the medical care I provide.

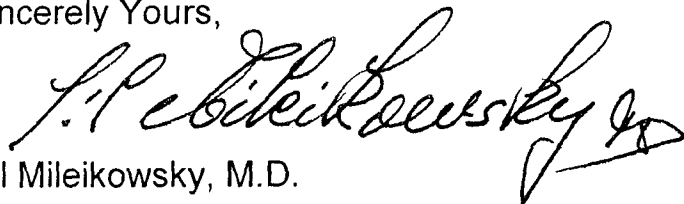
People who know you Mr. Willick, say: "He used to be a good guy but, since most of his income originate from Hospitals where he serves as a Hearing officer, he got corrupted.

¹ Ms. Nutter found my name in the Los Angeles Bar Association Directory of Experts

If he does not favor the Hospitals they will not call upon him." They say that the Hospital attorneys refer to you as "Willing Willick", because you follow diligently their requests. There is most certainly plenty of evidence of it in this alleged Hearing. It saddens me to see what has become of your, once upon a time, distinguished career. I hope for you that you don't fall one day victim of a negligent insider physician.

I do not know if this letter has helped you grasp the dimension and broad impact of your conduct during these proceedings, at least I made a record of how differently we perceive the same words, "Medical Staff Peer Review".

Sincerely Yours,

A handwritten signature in black ink, appearing to read "Gil Mileikowsky, M.D.", with a stylized flourish at the end.

Gil Mileikowsky, M.D.

CC: Medical Staff Office – ETRMC

- Enclosures:
1. Cover page of law suit filed by B. Klein on 11/24/97
Case No: LC043226 against M. Vermesh, M.D., TENET et al.
 2. Cover page of law suit filed by Mrs. & Mr. Head on 12/30/98
Case No: LC046932 against M. Vermesh, M.D., Sunit Ben-Ozer, M.D., ETRMC et al.

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MAY 12 1998

LOS ANGELES
SUPERIOR COURT

5 Attorneys for Plaintiffs,
DONNA HEAD and RICHARD HEAD
6

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, NORTHWEST DISTRICT
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11 DONNA HEAD and RICHARD HEAD,)
12 Plaintiffs,)
13 v.)
14 MICHAEL VERMESH, M.D.,)
individually and d.b.a. Center)
15 for Human Reproduction and)
d.b.a. The Center for Fertility)
16 and Gynecology; SNUNIT BEN-OZER,)
M.D.; AMI/HTI TARZANA ENCINO, a)
17 business entity, form unknown,)
d.b.a. Encino/Tarzana Regional)
18 Medical Center; WEST COAST)
CLINICAL LABORATORIES, L.P., a)
19 limited partnership; and DOES 1)
through 50, Inclusive,)
20 Defendants.)
21)
22)
23)
24)
25)
26)
27)
28)

CASE NO. LC046932

COMPLAINT FOR:

1. BATTERY (Donna Head);
2. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (Donna Head -- Removal of Fallopian Tube);
3. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS (Donna Head -- Removal of Fallopian Tube);
4. BREACH OF ORAL CONTRACT (Donna Head);
5. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING (Donna Head);
6. NEGLIGENCE (Donna Head - - Loss/Destruction of Eggs)
7. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (Donna Head -- Loss/Destruction of Eggs);
8. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS (Donna Head -- Loss/Destruction of Eggs);
9. BREACH OF WRITTEN CONTRACT (Richard Head);
10. BREACH OF THE COVENANT OF GOOD FAITH AND FAIR DEALING (Richard Head);

- 1 11. INTENTIONAL INFLICTION
2 OF EMOTIONAL DISTRESS
3 (Richard Head); and
4 12. NEGLIGENT INFLICTION OF
5 EMOTIONAL DISTRESS
6 (Richard Head)

(DEMAND FOR JURY TRIAL)

7 Plaintiffs, DONNA HEAD and RICHARD HEAD, hereby allege against
8 Defendants, and each of them, as follows:

9 VENUE AND PARTIES

10 1. At all times herein mentioned, Plaintiffs DONNA HEAD and
11 RICHARD HEAD, were and are residents of the city of Encino, County of
12 Los Angeles, State of California.

13 2. Plaintiffs are informed and believe, and thereon allege that
14 Defendant MICHAEL VERMESH, M.D. ("VERMESH") is and at all times
15 mentioned herein was a medical doctor practicing medicine in the City
16 of Tarzana in the County of Los Angeles, California; doing business as
17 the Center for Human Reproduction in the City of Tarzana in the County
18 of Los Angeles, California; and doing business as the Center for
19 Fertility and Gynecology in the City of Tarzana in the County of Los
20 Angeles, California.

21 3. Plaintiffs are informed and believe, and thereon allege that
22 Defendant SNUNIT BEN-OZER, M.D. ("BEN-OZER") is and at all times
23 mentioned herein was a medical doctor practicing medicine in the City
24 of Tarzana in the County of Los Angeles, California, as the agent,
25 principal, partner, joint venturer, employee or alter ego of VERMESH
26 doing business as the Center for Human Reproduction and the Center for
27 Fertility and Gynecology.

28 ///

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2 Jennifer L. Nutter, Bar No. 192132
3 FINK & FELDMAN, LLP
4 11500 Olympic Blvd., Suite 316
5 Los Angeles, CA 90064
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8 Attorneys for Plaintiffs,
9 DONNA HEAD and RICHARD HEAD

ORIGINAL FILED

JUN 28 2000

LOS ANGELES
SUPERIOR COURT

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF LOS ANGELES, NORTHWEST DISTRICT

12 DONNA HEAD and RICHARD HEAD,)

13 Plaintiffs,)

14 v.)

15 MICHAEL VERMESH, M.D., individually)
16 and d.b.a. Center for Human Reproduction)
17 and d.b.a. The Center for Fertility and)
18 Gynecology; SNUNIT BEN-OZER, M.D.;)
19 AMI/HTI TARZANA ENCINO, a business)
20 entity, form unknown, d.b.a. Encino/Tarzana)
21 Regional Medical Center; WEST COAST)
22 CLINICAL LABORATORIES, L.P., a)
23 limited partnership; and DOES 1 through 50,)
24 Inclusive,)

25 Defendants.)

CASE NO. LC 046 932

DECLARATION OF GIL N.
MILEIKOWSKY, M.D. IN SUPPORT
OF PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION FOR
SUMMARY ADJUDICATION

DATE: July 12, 2000
TIME: 9:00 a.m.
DEPT: Z

Complaint Filed: December 30, 1998

Discovery Cutoff: July 7, 2000
Motion Cutoff: July 21, 2000
Trial Date: August 7, 2000

26 I, Gil N. Mileikowsky, M.D., declare as follows:

27 1. I have personal knowledge of the facts stated in this declaration, except as otherwise
28 stated, and if called upon to do so I could and would competently testify thereto.

29 2. A summary of my qualifications to render an opinion in this matter is as follows: I am
30 certified by the Board of Obstetrics & Gynecology in the United States and Belgium, and am licensed
31 to practice medicine in California, Texas and Belgium. I obtained a medical degree, Cum Laude,
32 from the Catholic University of Louvain, Belgium in 1979. I then completed four years of residency

NOV 24 1997

LOS ANGELES SUPERIOR COURT

1 RODNEY T. LEWIN, ESQ. - BAR #71664
 2 ALLYSON P. WITTNER, ESQ. - BAR #145486
 3 LAW OFFICES OF RODNEY T. LEWIN
 8665 Wilshire Boulevard, Suite 210
 Beverly Hills, California 90211-2931
 4 Attorney for Plaintiffs
 BARBARA KLEIN and JOE KLEIN

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 6
 7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 8 FOR THE COUNTY OF LOS ANGELES
 9

10
 11 BARBARA KLEIN and JOE KLEIN,)
 12 Plaintiffs,)
 13 vs.)
 14 MICHAEL VERMISH, M.D., An)
 15 Individual; NELSON M. COLE,)
 16 M.D., An Individual; TENET)
 CORPORATION, A California)
 17 Corporation dba TARZANA)
 MEDICAL CENTER; TARZANA)
 18 MEDICAL CENTER, a form of)
 business unknown; ENCINO)
 19 TARZANA PATHOLOGY GROUP, a)
 form of business unknown; And)
 20 DOES 1 Through 50, Inclusive,)
 Defendants.)
 21

CASE NO. LC043226
 COMPLAINT FOR DAMAGES
 1. Medical Malpractice;
 2. Loss of Consortium

22
 23
 24 Plaintiffs BARBARA KLEIN and JOE KLEIN, allege:

25 FIRST CAUSE OF ACTION

26 (Against All Defendants for Medical Malpractice)

27 1. Plaintiffs are husband and wife, and at all times
 28 herein mentioned were, residents of the County of Los Angeles,

1 Laurence Y. Wong, Esquire (SBN 106495)
HEMER, BARKUS & CLARK
2 550 No. Brand Blvd., Suite 1800
3 Glendale, California 91203-1900
4 818/241-8999

5 Attorneys for Defendant,
6 MICHAEL VERMESH, M.D.

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES - NORTHWEST DISTRICT

10
11 BARBARA KLEIN and JOE KLEIN,
12 Plaintiffs,

13 vs.

14 MICHAEL VERMESH, M.D., An Individual;
15 NELSON M. COLE, M.D., An Individual;
16 TENET CORPORATION, A California
17 Corporation dba TARZANA MEDICAL
18 CENTER; TARZANA MEDICAL CENTER, a
form of business unknown; ENGINO
TARZANA PATHOLOGY GROUP, a form of
business unknown And DOES 1 Through

19 Defendants.
20

) CASE NUMBER: LC 043226
) (Complaint filed 11/24/97)

) RESPONSE OF DEFENDANT MICHAEL
) VERMESH, M.D. TO PLAINTIFF'S
) NOTICE TO PRODUCE PURSUANT TO
) C.C.P. §2031(a)

21 PROPOUNDING PARTIES : PLAINTIFFS, BARBARA KLEIN AND JOE KLEIN

22 RESPONDING PARTY : DEFENDANT, MICHAEL VERMESH, M.D.

23 SET NO. : ONE

24 TO PLAINTIFFS AND TO THEIR ATTORNEYS OF RECORD:

25 Defendant hereby responds to plaintiff's notice to Produce pursuant to
26 C.C.P. §2031(a), set number: one, as follows:

27 1. To the extent such documents exist and/or have been maintained by
28 defendant, they are attached hereto as Exhibit "A".