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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

JOHNNY B. DELASHAW, JR.,

Plaintiff,

v.

SEATTLE TIMES COMPANY, and
CHARLES COBBS,

Defendants.

Case No.

COMPLAINT FOR LIBEL, DEFAMATION BY
IMPLICATION, TORTIOUS INTERFERENCE
WITH BUSINESS RELATIONSHIP AND/OR
EXPECTANCY, UNFAIR BUSINESS
PRACTICES IN VIOLATION OF RCW 19.86
ET SEQ. AND CIVIL CONSPIRACY

I. INTRODUCTION

1. In early 2017, the Seattle Times (Times) published a series of sensational articles attacking the quality of patient care at the Swedish Neurosurgical Institute (SNI), a practice group within Swedish Health Services d/b/a Swedish Medical Group (Swedish), and accusing Dr. Johnny Delashaw and other SNI surgeons of endangering patients by racing through surgeries in order to make more money.

2. These claims were false. The main factual assertions in these articles, and the overall thesis and message conveyed by the articles, were false, defamatory and caused serious damage to the reputation and career of Dr. Johnny Delashaw, injured patients who needed his care, and damaged the quality of health care in the Pacific Northwest. The Times was in possession of highly

COMPLAINT FOR LIBEL, DEFAMATION BY
IMPLICATION, TORTIOUS INTERFERENCE WITH

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1 credible information demonstrating the falsity of its statements but chose to omit even a hint of the
2 compelling, documented facts showing that its claims about SNI and Dr. Delashaw were false.

3 3. In its articles, the Times claimed that at the time of the articles and for many months
4 before them, Dr. Delashaw was paid based on the volume of surgeries he performed and that, for
5 this reason, Dr. Delashaw had neglected his patients by performing “concurrent surgeries.” The
6 term “concurrent surgeries” refers to a single lead surgeon running two surgeries at the same time,
7 leaving one operating room in mid-operation to go to another. The article claimed that the result of
8 this practice was that the lead surgeon was absent from at least one if not both surgeries during
9 critical times, endangering patients. The Times asserted that Dr. Delashaw was engaging in these
10 dangerous practices at the time of publication and for many months before and was placing patients
11 at risk. The Times claimed that Dr. Delashaw’s “concurrent surgery” practice included leaving the
12 operating room as soon as the patient was under anesthesia and then moving to the next operation,
13 resulting in increased complications and a general decline in the actual outcomes for patients treated
14 by Dr. Delashaw and other surgeons at SNI.

15 4. Each of these claims is false. The Times’ claimed “motive” for the concurrent
16 surgeries alleged to be taking place during the period before the articles were published was that Dr.
17 Delashaw was paid based on volume. But for nearly two years before the Times went to print, Dr.
18 Delashaw was on salary. He had no financial incentive to increase his surgical volume.

19 5. The claim that, because Dr. Delashaw was paid based on volume, “concurrent
20 surgeries” were taking place at SNI is also false. There were no concurrent surgeries. An extensive
21 Washington State Department of Health investigation that included scores of interviews of
22 knowledgeable witnesses found that the Times’ claim that SNI was engaging in “concurrent
23 surgeries” was not true.

24 6. The Times claimed that its “findings” were the product of an “investigation,” but in
25

1 fact the Times' claims would not have survived an actual "investigation."¹

2 7. The Times had in its possession highly credible information from an eyewitness to
3 hundreds of Dr. Delashaw's surgeries clearly showing that its claims were false, but the Times chose
4 not even to acknowledge the existence of this information. The Times' approach to its
5 "investigation" was to omit any information that did not fit the accusations it was determined to
6 make.

7 8. The Times tried to bolster its basic thesis that Dr. Delashaw raced through concurrent
8 surgeries, endangering patients, by also claiming that SNI had been experiencing poor patient
9 outcomes when matched against comparable neurosurgical institutions. But objective data show
10 that, during the period covered by the Times articles, SNI maintained its standing as a high quality
11 neurosurgical institution with outcomes and quality of care as good as, or better than, comparable
12 institutions. SNI achieved this high quality of care while expanding its volume of surgeries, which,
13 in the case of Dr. Delashaw, involved many surgeries at the highest level of difficulty and risk. The
14 Times turned the truth—a major local neurosurgical achievement—into a malicious fiction.

15 9. The Times committed the very sins it purported to uncover: in an effort to generate
16 readers via sensational press, the Times sacrificed truth for accuracy, leveling catastrophic blows on
17 Dr. Delashaw, his reputation, his finances, and his patients. Dr. Delashaw, the medical community
18 in Seattle, and patients here and across the country who needed (and still need) Dr. Delashaw's
19 attention continue to suffer the consequences of the Times' knowingly false reporting.

20 II. PARTIES

21 10. Plaintiff Dr. Johnny B. Delashaw, Jr., is a citizen of the state of Arizona, residing in

22 ¹ Attached as Appendix A is a collection of eyewitness statements from the MQAC
23 proceeding. These include statements from 45 individuals based on their personal interactions
24 with Dr. Delashaw. These are representative of Dr. Delashaw's character and approach to patient
25 care and also consistent with information that was provided to, but disregarded by, the Times' reporter before the Times' series went to print.

1 Sedona, Arizona. Dr. Delashaw was employed at SNI from fall 2013 through March 1, 2017.

2 11. Defendant Seattle Times Company is a privately owned business incorporated in
3 Delaware with its primary place of business at 1000 Denny Way, Seattle, Washington, 98109.

4 12. Defendant Dr. Charles Cobbs is a citizen of the state of Washington, residing in
5 Mercer Island, Washington. He is currently employed at SNI.

6 III. JURISDICTION AND VENUE

7 13. This Court has jurisdiction over the subject matter of this dispute pursuant to 28
8 U.S.C. § 1332 because this is an action between citizens of different states and because the matter
9 in controversy exceeds the sum of \$75,000 exclusive of interest and costs.

10 14. This Court has personal jurisdiction over Defendants because each Defendant is
11 licensed to and regularly does conduct business in Washington and the unlawful conduct alleged in
12 this Complaint occurred in Washington.

13 15. Venue is proper in the United State District Court for the Western District of
14 Washington pursuant to 28 U.S.C. § 1391(a) and (c). Each Defendant has continuous and systematic
15 contacts with this District and a substantial part of the events giving rise to Plaintiff's claims occurred
16 in this District.

17 IV. FACTUAL ALLEGATIONS

18 A. Dr. Delashaw's Medical Credentials

19 16. Dr. Delashaw was raised in Longview, Washington. He earned his Bachelor of
20 Science degree in Biology with honors and distinction from Stanford University, and earned a
21 medical degree from the University of Washington School of Medicine. He completed his residency
22 at the University of Virginia under Dr. John Jane, who was a world-renowned neurosurgeon, a
23 President of the Society of Neurological Surgeons, and a close mentor of Dr. Delashaw until Dr.
24 Jane's death in 2015.

25 17. Immediately before going to SNI, Dr. Delashaw was the chief of neurological surgery

1 for University of California, Irvine Health, where he played an important role in building a facility
2 widely recognized for excellence in treating spine problems. He pioneered a national surgical
3 referral network for cranial disease. He served as Chairman of the Department of Neurological
4 Surgery at UC Irvine's School of Medicine.

5 18. Before going to UC Irvine, Dr. Delashaw spent twenty years at Oregon Health &
6 Science University (OHSU), where he held the positions of chief of Neuro-Oncology and Skull Base
7 Surgery and professor of Neurological Surgery, Otolaryngology and Neurology. During his decades
8 at OHSU, Dr. Delashaw traveled once a week to see patients in his hometown of Longview,
9 Washington, where friends and neighbors still lived and in the town where his father had been a
10 doctor. He resumed this practice after joining SNI—weekly he and his staff drove five hours round
11 trip from Seattle to Longview, arriving in Longview at 8 a.m., where he saw patients all day before
12 driving back to Seattle and then, where necessary, arranged for treatment for his patients at SNI. Dr.
13 Delashaw also saw a need for improved neurosurgical treatment in remote areas of Alaska, opened
14 a clinic there, and while at SNI traveled there to see patients, and then arranged for patients in need
15 of surgery to be treated at SNI.

16 19. At the beginning of his career, Dr. Delashaw served as the chief of Neurosurgery at
17 Gainesville Veteran's Administration Hospital, and later became an assistant professor of
18 Neurological Surgery at the University of Florida.

19 20. In the spring of 2013, SNI set out to recruit Dr. Delashaw, who was then at UC Irvine,
20 because of his exceptional surgical skills, his recognition in the profession for those skills, and his
21 record of developing new highly effective surgical techniques. SNI was also very interested in the
22 wide referral base Dr. Delashaw enjoyed as a result of professional recognition of his skills and
23 methods.

24 21. Dr. Delashaw initially declined SNI's offer but a few months later was persuaded to
25 accept, in part because of the unique opportunity SNI presented for new ways to achieve cures—

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