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Missing doc found negligent in death

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March 4, 2009

By Jane Huh

Post-Tribune staff writer

Indiana's tort reform system handling medical malpractice lawsuits protects negligent doctors and insurance companies, a local attorney said Tuesday.

Attorney Ken Allen and his client, Peggy Hood, have been fighting for compensation since they filed suit against a doctor in 2004 for negligence resulting in a woman's death.

Attorney Ken Allen and his client, Peggy Hood, have been fighting for compensation since they filed suit against a doctor in 2004 for negligence resulting in a woman's death.

But Dr. Mark Weinberger disappeared shortly after that and hasn't been found since.

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On Friday, a panel of physicians unanimously found Weinberger guilty of negligence causing Phyllis Barnes' death. Barnes, who was Hood's sister, died in 2004.

The panel of three doctors were randomly selected through a process from the Indiana Department of Insurance.

Allen and Hood held a news conference Tuesday afternoon at his Valparaiso law office to denounce the state's tort reform laws.

"It's an unjust law and this case underscores that," Allen said.

The Barnes case is the first one to receive a judgment against Weinberger of the hundreds of lawsuits filed since he fled.

But even with the panel's verdict, the department of insurance can still defend Weinberger and delay the compensation under the state's current tort reform system, Allen said.

That would force the family to go through a jury trial before receiving the state-capped \$1.25 million compensation.

Tort reform legislation in Indiana was enacted in the late 1980s and has gone through several modifications since.

The system extends the time for insurance companies to pay the claims as families incur higher legal costs, he said.

"It's a broken system," he said. "It's all a scheme to delay."

Barnes came to Weinberger's office with a sore throat in 2001. She had cancer of the larynx but Weinberger diagnosed the condition as a sinus



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MY YAHOO!

problem and performed sinus surgery.

Illinois does not have similar system.

"The family would have been compensated by now (if the case happened in Illinois)," Allen said.

Barnes' 23-year-old daughter, living in California, would be the beneficiary of compensation, Hood said. The daughter was 16 years old when her mother died.

Although there have been sightings in Greece and France years ago, Weinberger, who's been featured on America's Most Wanted, has not been found since.

Weinberger, who ran his clinic in Merrillville, disappeared from numerous lawsuits and \$5.7 million in debt.

Contact Jane Huh at 477-6019 or jhuh@post-trib.com

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amkatt wrote:

Of course there was malpractice! If you look further, you will see some 300 additional claims against Weinberger. Each one of them will be successful in proving that there was malpractice. Does this warrant a press conference with this attorney? Of course not! Does this "announcement" put any money in the plaintiff's pocket? Of course not! Many cases "win" at the panel level, but fail to produce any type of settlement. Did this warrant a full article on this attorney? Of course not! This attorney only takes cases that put him in the newspaper, not for the sake of the plaintiff, but for his own notoriety.

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