

August 4, 2015

Dear Mr. Hiser,

On June 25, 2015, I sent you an email correspondence concerning critical issues I continue to have with OPMC as it pertains to my medical license and quite honestly, my ability to actually subsist. One matter discussed in that email was the submitted and completely ignored Vacatur Petition that was sent to Mr. Servis in January of 2015. Another matter was the latest public challenge that was extended to OPMC concerning the overall veracity of these entire thirteen years that has seen my life and career unashamedly marauded by your agency. This most recent effort was done out of frustration due to the former having been wholly dismissed without the decency of any return communication, nevertheless, a formal answer, as required by law. You do realize that there is an implied legal obligation by the State Agency receiving a Vacatur Petition to provide a formal response, don't you? Also as part of that June email, there were ongoing personal ramifications briefly mentioned to you as well.

Surprisingly, that same day, you responded with the following:

**“I am in receipt of your email. Your Petition was forwarded to another office for response shortly after it was sent in. I am not in charge of that response. I have, however, today sent an email to the person handling that, forwarding your email.**

**Thank you.”**

Well, since I have not heard a single thing, despite your follow-up correspondence to “the person handling that”, I decided to learn more about how these matters are conducted and more importantly, by whom, given you didn't provide any specifics as far as even the “office” you referred my Petition to. Knowing *who* this office *is* would be important towards implementing a more focused inquiry as to why I haven't heard anything when these “mystery” people are legally obligated to provide an answer.

Well, as it seems, after doing a little investigation, beyond the obvious, it is, (in fact), your office, (OPMC), which is the *mysterious* entity that handles these cases after all. Not a surprise since Mr. Servis was the one who personally answered a past Petition from 2010. In other words, there is *no other* office other than your own (you do work at OPMC, right?) that is designated to handle a Vacatur Petition. Plus, the language in the law itself seems pretty clear to anyone reading it that this is indeed the case. If my conclusion is somehow wrong, please explain. I will humbly accept that correction. But in the absence of any one body being specifically named by you when you had opportunity, along with the law itself, it would be truly interesting to see that presumption proven incorrect. For a purposed review, the Law itself is pasted below. I have taken the liberty of **bolding** some of the more important words to note.

“(q) At **any time** subsequent to the final conclusion of a professional misconduct proceeding against a **licensee**, whether upon the determination and order of a hearing committee issued pursuant to paragraph (h) of this subdivision or upon the determination and order of the administrative review board issued pursuant to paragraph (d) of subdivision four of section two hundred thirty-c of this title, **the licensee may file a petition** with the **director**, requesting **vacatur**

or **modification** of the determination and order. The **director** shall, after reviewing the matter and after consulting with **department counsel**, determine in the **reasonable exercise** of his or her **discretion** whether there is new and material evidence that was not previously available which, had it been available, would **likely** have led to a **different** result, or **whether circumstances have occurred subsequent** to the **original** determination that **warrant** a reconsideration of the **measure** of discipline. Upon determining that such evidence or circumstances exist, the director shall have the authority to join the licensee in an application to the **chairperson** of the state board for professional medical conduct to vacate or modify the determination and order, as the **director** may deem appropriate. Upon the joint application of the licensee and the director, the chairperson shall have the authority to grant or deny such application.” - NYS PHL 230 Section 10q

For clarity, the following legend is offered:

- Licensee = James R. Caputo, M.D.
- Director = Keith Servis, Director of OPMC
- Department Counsel = Michael Hiser, OPMC Deputy Counsel
- Chairperson of State BPMC = Henry Weintraub, Chief Counsel at *Bureau of Professional Medical Conduct*
- Any time = any time (a.k.a. – no limit, forever)

As stated, Section 230 10q is the **actual** Law governing all of what I am currently addressing with your office. As can be readily seen as wholly consistent with this Law, I persist in seeking the expected “*reasonable exercise of discretion*” concerning “*warranted*” circumstances in my case. Again, this language seems pretty darn clear to any reader as to the process of how a Vacatur Petition is to be handled and more importantly, by **whom**. In reality, the “person handling that” as you put it, ought to be one Mr. Keith Servis – since he is Director of OPMC and the Law states that it is this individual. I have every right to have filed that Petition while expecting an answer and further, have provided every basis for what I seek within it to be granted – and your entire office knows this. So why is this reality so hard to just admit, fix and move on? It’s pride. That’s why. It’s at least a major component.

So, what am I to glean from what you wrote to me in late June? Surely you are educated on this one particular statute in the Law as well as the rest of PHL Section 230, which is supposed to govern ALL of what OPMC is allowed to do to any physician, not to mention what your agency has done to me personally, my family and my career for thirteen years, right? So how can you not know that your own agency, and in particular, your own immediate director, is the very entity responsible for this duty with you having an integral role as Deputy Counsel – again, as stated in the Law? It’s one thing to have endured the deception and dishonesty these past thirteen years, but this present evasion of the truth is just pure folly at this point.

If I was **not** going to be given an honest answer in your email on June 25<sup>th</sup>, consistent with even the actual statute, then why even bother to respond and then place a time and date stamp on such a statement along with the clear acknowledgement that I most certainly did send a formal Vacatur Petition (in accordance with PHL Section 230 10q) all the way back in January, that OPMC did indeed receive?

Come on already, Mr. Hiser. Do you realize how preposterous this entire thing has been and become, on top of what it has reduced your office to when confronted with the truth of my entire (wrongful) prosecution? How many times does my case have to be argued before you and/or OPMC (only to be brushed aside) before someone with a conscience in that agency does the right thing? Nowhere in any of my defense of my license have I *ever* sought anything that wasn’t justified. No special treatment has ever been demanded or

expected. Just the truth, the facts, justice and some good old fashioned humility from your agency to acknowledge the outrageous result that has occurred from your action upon my life that was never really necessary or warranted to begin with. Though I completely forgive OPMC for what they have done to me, I can and still do disagree with (and will continue to denounce) what it *refuses* to presently do in the name of virtue and truth.

I am not sure what it is that goes on at OPMC that it has required years' worth of doing whatever necessary to cover over the transgressions committed towards my license and life, when it would have served all parties much better (not to mention thousands of stranded patients) to have simply been honest about the entire matter, especially from the beginning. As an aside, do you realize how many of my former patients, after being forced to find other doctors to care for them, have had significant complications from either a surgery or a delivery? How do you think they feel? You see, this lack of forthright approach I have experienced shouldn't ever be any sort of manner by which to justify the existence of OPMC by claiming my case as a victory when it was a farce from the beginning, albeit maybe not so obvious to OPMC at first given how manipulated they were by my hospital department, but definitely known at some point thereafter.

Nevertheless, you, Mr. Hiser, have not only been part of such "unbecomings", (if I could fashion such a word) but hold considerable authority as Deputy Counsel to actually help fix it, though you seem to diminish such a leadership role when it comes to applying your title to my case. Why is that, exactly? Is that some way of passing the buck, so to speak, in order to avoid OPMC having to provide a response in writing as to why my requests in the Petition can't be granted? Or does your response just apply to your role in particular? As Deputy Counsel, through title alone, shouldn't it deeply concern you that a Vacatur Petition (which it would seem to anyone to be a very serious document to receive considering what it is seeking – you know – a complete vacating of a previous conviction?) has gone unresponded to and unanswered by your very own agency after six months, when:

Repeated letters (that you are well aware of) to OPMC, to the Commissioner of Health, the Office of Inspector General, State Senators, and even to the Governor have been written seeking to know "why" I have been totally ignored only to have those efforts completely disregarded as well, thus leaving the lives of five children continuing to be negatively affected as a result of such a deafening silence? This doesn't concern you? It ought to. And if not, then why? Is there not anyone with a sense of ethical responsibility working at OPMC such that these actualities are cause for alarm?

So, what is it then? Does OPMC fear looking like they "lost" or are "weak" in my case by correcting the mistake? Is that it? Does my world continue to suffer because of that? Again, that is pride. There is no other explanation because we all know that there is and never was any justification for what was done to me, other than to teach me a lesson of some sort, (I suppose, in the absence of anything else), because I chose to actually defend myself in an outspoken manner. Is this what gets someone in America pounded on? Vehemently defending oneself when they have the truth on their side? Sure it's easy for OPMC to just keep ignoring my shouts for justice, but what does that ultimately say about all of you who actually are the minds and faces of the organization? OPMC is a doctor oversight agency that I don't disagree with as being necessary to some (proper) degree. But again, what does shamelessly imposing your force concerning a complete lie say about how you execute OPMC's mission when this one particular thirteen year ordeal (my case) violates that very admonition so far beyond acceptability that it is inconceivable unto itself with the consequences impossible to ever fully put in writing?

What does that say to the public that a tax payer funded State agency can remain completely silent while an actively filed Petition sits on its desks that could right this one particular wrong in an instant? Do you have any idea how long thirteen years is of having

to deal with this lie until someone there actually does what's right? I thought that this was going to be pretty easy and straight forward from the beginning given the obvious material facts of the matter. How foolish of me to think that the truth would actually bear any weight in my case. Is that foolish thought of mine something you also learned in Law School or did they teach that it was totally ok to disregard the truth and legitimate evidence so long as you can win and more importantly, get away with it? I would really like to know since this latter example is what I have experienced from OPMC during this entire ordeal.

Do you have any idea how much lost time and memories with one's children a man suffers dealing with something like this (that directly affects those very children) over the course of thirteen years? Especially when one of the components of the fall-out (thanks to OPMC) was, (almost six years ago), forever losing that day-to-day physical presence in their lives? How would you like it if being a father to your children was curtailed and restricted because of a lie that was forced upon your life wreaked havoc upon that otherwise natural parental circumstance? Not being there every day with my children is an irreplaceable loss that you all there at OPMC don't ever see or seem to care about when you all behave in the way you do with the (abusive) power stick you wield. This is a ghastly consequence that the six of us (my five children and I) have you all at OPMC to thank.

I gave more than a month to hear anything in response to what you "explained" to be the course of my Petition in your June 25<sup>th</sup> email. You once expressed concern over the fact that my 2013 Modification Petition, (filed under this same Statute), had also been completely ignored, (without one single response or acknowledgment of that effort by your office to this day – are we starting to see a pattern by OPMC when confronted with irrefutable truth?), yet now you are party to the *very same thing*. Was that "concern" you previously expressed real or was it just a "token" expression to deflect that previous and ever-glaring omission of your agency's obligatory duties as the recipient of Petitions filed under PHL 230 10(q), as it continues to do in the present for which this letter is being written? Again, do you not grasp the very argument I maintain here that would be the stance of anyone, (including you), were they to experience what I have experienced at the hands of a State agency who purports that they are above such misbehaviors, only to do the opposite when actually asked to act as such?

For review of why I continue to plead with your agency for someone (including really you) to simply do the right thing, please take a good look at the Determination and Order levied against me, albeit completely unjustified from the start – a fact that I simply must continue to reiterate as something we all know to be true. I have attached yet another copy of the D&O to this email for your ease of review. It is pages 63-66 that I refer to. Three obvious items emerge to the reader when reading these pages. Mind you, this was written back in December of 2007 and here it is August of 2015 and this completely baseless document is still inflicting inconceivable damage to the lives of several people.

One obvious conclusion from reading these pages is that my license was somehow permanently limited in the area of Obstetrical forceps without there having been anyone harmed at all by an extensive and historically clean use of these instruments. "Claiming" on paper that I somehow went outside of the standard of care concerning clinical indication when deciding to implement said instruments in these cases (when that is patently untrue on its face alone), particularly in the absence of any adverse outcome, **does not** justify any sort of "permanent limitation" in any sense of reality. I showed clearly in the Petition with the one contemporaneous example of a doctor, who both physically massacred and killed a baby with these instruments where OPMC imposed no limitation whatsoever on his license, as being the quintessential example of prejudice as it applies to my case and absolute justification for what I seek with the complete restoration of my license. OPMC knows

that. You know that too, Mr. Hiser. Enough that both of you remain silent in response simply because you refuse to admit it and then do something to correct it.

Second, it is very clear from reading these pages in the Determination that the license limitation and all other penalties were also heavily prejudiced and slanted by the allegation of my having violated a hospital sanction regarding these instruments, which again is entirely unfounded as clearly pointed out in the Vacatur Petition with irrefutable evidence as seen in Exhibit X. For quick reference once again, the Petition can be found [here](#) and the Exhibits, [here](#). So, those two just mentioned items alone (no one harmed and the erroneous allegation of having violated a hospital sanction) are obvious to anyone who seeks and wants to know the truth in these matters and ought to erase any hint or suggestion for the need of any sort of license limitation or additional stipulation in my case and furthermore, towards my medical license – which is paid through February 2016, by the way.

However, the third (and most profoundly) glaring item from these pages of the Determination and Order is specifically found on page 64 where it states the following:

*“This Determination was reached upon **due consideration of the full spectrum** of penalties available pursuant to statute, including revocation, suspension and/or probation, censure and reprimand, and the imposition of monetary penalties.....*

*The Committee feels that 30 days of actual suspension must be imposed to provide a period of time during which Respondent can reflect upon his prior misconduct and redirect his energy and focus towards practicing medicine within accepted standards. In addition, **Respondent’s inability to practice for that period of time will serve as penalty by having a significant monetary impact.**”*

While I maintain (and moreover have once again proven in the Vacatur Petition) that any reference to “*misconduct*” or the need to “*reflect*” or any insinuation that “*acceptable standards*” were violated are wholly unfounded, the “*significant monetary impact*” intended for the named doctor in that Determination was to be loss of income for thirty (30) days. This was the **whole** extent of that **intended** penalty after “*due consideration of the full spectrum of penalties*”. This penalty was imposed on a doctor whose clinical track record was arguably in the top 1% of all Ob/Gyn performers across the whole State of New York during the entire time of his thirteen year long, (specially-extended), prosecution. The doctor where, despite a conviction on what really amounted to his “*thought processes*” (given an utter lack of legitimate conclusions) and not actual reality, no patient was unduly harmed by any hint of negligence or breach of the standard of care, as proved by numerous documents submitted in evidence. The doctor who complied with everything asked of him by OPMC, including refraining from returning to work (despite being penniless and homeless) due to the onerous probationary terms imposed upon him, and whose entire clinical performance was scrutinized for two and a half years following his conviction without a single error in patient care. The list of incongruences could fill pages if need be. So, once he “*did his time*” of thirty days, this doctor ought to have been able to return to work without OPMC really ever having to worry about his medical care and moreover, it would have been consistent with what had been intended in the Determination. OPMC not only gets the illustration above of this very doctor, you and OPMC have known every detail of this entire portrait for quite some time but have chosen a malevolent prosecutorial course anyway. And to be clear, “*malevolent*” is not too strong a word. What else would you describe it as, knowing that none of what was done to me was justifiable?

Because, as it stands this very day, now seven years after the imposition of those above terms, there has not been thirty days of monetary penalty at all. Instead, it has been around 2,660 days (and counting) where that monetary penalty has been in force, with little prospect, (given current conditions), for it to ever be over – and that goes for career wide

and not just New York State. OPMC has had no problem imposing and enforcing every other term of that document, but somehow seems to fall short of recognizing the ill effect (cruel and unusual as it clearly is) of what has (overly) occurred as far as the financial arm is concerned.

Is the position of the agency such that so long as the minimum punishment is being met, who cares if it goes way beyond what was originally intended? If this is not the department's policy, then please explain my case. Else, what is one to believe? Or, how about this one? Was the original penalty really intended to look as though it was a "slap on the wrist" when in fact, built in to the subtlety of what it means to have one's license limited, the Determination was actually designed to essentially destroy a once fruitful and medically sound career? The latter is most definitely NOT out of the question as also delineated in the Vacatur Petition where it was proven that OPMC knows full well that a license limitation spells doom to any doctor's career. Did they somehow forget about that hidden fact when "slapping me on the wrist" with what seems to be a nominally "appearing" penalty?

On paper, that license limitation levied is about as relevant to the practice of Ob/Gyn as restricting basket weaving while in the delivery suite. The actual limitation itself is meaningless in the grand scheme of things and again, OPMC knows this. What OPMC *also knows* is that by placing ANY limitation on one's license, that person is through as a doctor because of this baloney of the industry not being able to read between the lines as it pertains to such limitations. Once a limitation is placed upon a doctor's license, regardless of what it is, there is an industry wide shunning. If you want to call it engineered (below the radar) blacklisting, then so be it – because that is what it is. In the Matter of Vito Edward Caselnova, M.D., which was submitted as part of the Vacatur Petition, this point was proven without question. OPMC readily admits in this document that any sort of license limitation would result in the inability to work. So why was there such a huge disparity of ruling in my case, especially when no one was harmed? The only conclusion for any rational mind is that the limitation was placed there on purpose and that purpose was to cause the very harm it is known to cause. Tell me I'm wrong. Please. And do so in an answer to the Vacatur Petition so we all can see the official voice of OPMC speak on this issue. That's if you can. I contend that you cannot which is precisely why you remain silent.

To believe such a thing as the wholly unjustified (and really meaningless) limitation being purposely placed there for this reason is to imply that OPMC would purposely act in such a calculated and nefarious manner. Is that possible? Would they do such a thing? Would they use their power to covertly manipulate the process to cause me harm in the face of no real evidence? What history does one have to go on? Oh, I forgot, OPMC wouldn't act in such a manner so as to place a dirty juror on my first hearing panel in 2005 only to have such obviousness be the reason for a precedent setting throwing out of the first conviction by the ARB, would they? Someone at OPMC wouldn't violate the Law (as affirmed by the NY State Supreme Court) and release to the public my Determination and Order during an appeal phase in order to publicly shame me and bury my practice at a time where I was still obliged by law to have everything remain confidential, would they? Or how about a laundry list of other such examples of "willingness" to act dubiously while also possessing the "means" to carry it out as repeatedly demonstrated in the Vacatur Petition? Again, we all know the answers to these rhetorical questions. One could hardly imagine what would happen if a doctor were to act in such a deviant manner while under your jurisdiction? Would they get a pass since you also do the same thing? Or do you act hypocritically and levy charges towards holding them "accountable" to some professional standard for conduct?

PHL 230 10 (q) was written explicitly for this very circumstance that I am in. I have been wronged by both the conviction itself and then the penalty thereafter. I, therefore, have every right to have my voice and the evidence heard and subsequently answered under this Statute. Another fact that OPMC and you personally know to be another truth. PHL 230 10(q) was not put in the Law so as to allow anyone to get away with anything. Contrarily, it serves as a protective layer so that both sides of the argument would have the means by which to ensure that any mistakes or any extended punishment (for that matter) didn't lack an avenue of correction. But I shouldn't have to tell any of you that. You do believe in our Constitution and its principles, don't you, Mr. Hiser? Surely those at OPMC are upright men and women who want to see justice served, even if it doesn't necessarily result in a conviction or excessive punishment, right? They aren't that juvenile in their thinking and reasoning to want to win at all costs, even if it means seriously harming someone as a result, are they?

However it is as far as governance of OPMC's collective conscience, I sit here nearly seven months after submitting a document that ought to fix everything while also enabling the agency responsible, (that being you, OPMC), to justifiably and satisfactorily grant the requests being made while saving face at the same time since everything is in accordance with the law and the rightful execution of such a Petition to vacate what has been done and still, the entire thing as been ignored. Why is this? Has OPMC made this a personal agenda instead of an official, rule of law, quality of patient care driven one? At this point in time, that is the only conclusion that can be reached. Therefore, I ask, on behalf of my children, my family and any patient so aggrieved, why have you acted this way and moreover, continue to do so after several attempts to obtain an answer as well as justice?

Again, is OPMC so worried about looking bad that they do nothing at my continued expense? My life and the affected lives of my five children are that sacrificial at the alter of your collective egos? What's sad is that despite such monstrous pride, there need not be any worry about looking bad or setting a precedence by doing the right thing and fixing this situation in my case because the facts and material evidence necessary for such a reversal is not only highly individualized on a case per case basis, but the level of proof needed to carry the burden of actually justifying a vacating of a previous conviction is all the more difficult to achieve.

Nevertheless, such a situation, (when indeed present), ought never be met with refusal simply because it might be a bit embarrassing or even entail a little work or moreover, require a little humility to simply do what everyone knows is right. And you and I both know, Mr. Hiser, that my case in particular, [especially after reading what is contained in the formal Vacatur Petition that makes all of what I seek even possible for me to pursue], easily and convincingly meets (and even surpasses) this necessary burden of proof in order for OPMC to justifiably clear my name and restore my license.

In other words, due to the monstrous impairment of my career as a result of this wrongful prosecution, where the limitation to my license has proven to be the most damaging element, (and known to be so by OPMC itself, again as proven in the Vacatur Petition), the actual vs. intended penalty disparity has gotten so out of hand that the consequences are beyond the limits of this email to even try to describe to you. Let's just talk dollars and cents since that seems to mean more to people than anything else, like the radical concept of simply seeing and doing what's right. Thirty days of income loss (when things were normal with the practice at that point in time) would have equaled somewhere around \$35,000. Well, as it stands right now, those losses are in excess of \$4Million and counting, given strategic particulars that were present with the practice when your agency destroyed it. What would the original hearing panel say to this current reality given how they decided? Would they be content with what has happened or would they also see the merit

of my efforts to end this destructive consequence that was never intended from the beginning? Do they even know of what has transpired and how OPMC has flat out ignored all efforts to alleviate the damage? It might be interesting to write them to see what they think.

Let's just say that at 48, with a medical degree, I now find myself once again searching for a stable place to live and further separated from my children due to the financial and logistical fallout created by your agency and its unwillingness to simply correct a huge wrong imposed upon an otherwise innocent doctor who was singled out as part of a larger problem in medicine called sham peer review. In fact, if OPMC really wanted to improve matters for patients, sham peer review ought to be on the top of the list of agendas, since this is the very mechanism by which "bad" medical care is often swept under the proverbial rug for doctors who are "connected" to those who sit on the Quality Assurance Committees for their hospitals.

Instead of having to pad your numbers with prosecutions of innocent doctors, if you were to look into the cover-ups amongst the good old boy network of those who have favor with the various Quality Assurance committees in hospitals, you would have more than enough legitimate cases by which to justify your existence while also targeting the proper crowd with patients as the ultimate winners. Again, so long as it is done with integrity to the process. But pursuing the world of sham peer review and hospital cover-ups would actually entail OPMC listening to truth and then acting on it, which, after my thirteen-year experience, is now a doubtful expectation to even entertain.

The common question that seems to come up in the minds of many is, "why can't you just get a job teaching at a college or doing something else related to your educational background?" Yeah, right. Ask yourself how many companies, when given the choice of just two candidates, are going to hire the one who has been convicted of multiple counts of professional misconduct? Hmm? My employability is worse than that of a convicted felon. At least society gives that individual the benefit of the doubt after having served his/her time. Not the case here. Total disregard concerning any effort, thus far. And besides, I am a highly trained, board certified medical doctor and pelvic surgeon. That is what I really do.

The totality of this entire thing is simply unfathomable considering the fact that your agency has before it a real chance of cleaning up medicine in New York with what you ought to have learned in my case alone. And still, I sit here seeking to understand why a wrong such as my case continues to be uncorrected, despite a legitimate and justifiable avenue to do so, all while known deficiencies and criminalities in medical care, (including the premeditated murder of a five day old newborn), continue on your watch unchecked. Doesn't this paradox trouble you, Mr. Hiser? No one is asking your agency to put anyone in jail, just to act in accordance with your jurisdiction to clean up what your mission statement makes clear as your objective.

The various other points wrapped within this one issue are so numerous that this letter could go on much further. However, what has been written thus far is more than sufficient to establish the outright basis, once again, for the assertions and expectations established herein. The question that continues to remain is this. How long is someone to wait until OPMC actually steps up and fulfills this one particular portion of its duties? That being the agency that receives and then renders a decision concerning a formal Vacatur Petition? It's been almost seven months and my circumstance is moving in a negative direction as a result of OPMC's very own professional misconduct.



This issue is really one for you (Michael Hiser), Keith Servis, and Henry Weintraub since all of your roles are clearly defined in the law as stated above – with Mr. Servis’ being the most direct. I mean come on now. Is Mr. Servis really that busy such that he can defensibly ignore his express duties as Director for over two years when not one but two formal Petitions have been submitted to him? What does that say about him in reality? Knowing all of this, what does it then say about you, Mr. Hiser, as his right hand man as far as the legalities of OPMC are concerned? It has to say at least one of a few things about either of you men.

One possibility is that Mr. Servis is so out of touch with his own agency over which he is Director, (no less), and you the Deputy Counsel, that he doesn’t realize that there sits (for six months) an unanswered Vacatur Petition addressed specifically *to him* and further, ignored after several letters have been written *to him* about the very fact that the Petition remains unanswered – just as the Modification Petition of 2013 has been equally ignored. Mind you, this is after he was all too glad to respond to my Modification Petition of 2010 whereby he immediately shot down everything I was asking for citing my lack of material documentation of what I was asserting.

So when I did, in fact, submit a formal Petition in 2013 meeting every single requirement outlined by Mr. Servis himself, he chose to ignore it this time instead of acting in the same capacity as before. Think about that for a second. A person in charge gets correspondence that corners the very agency, over which they preside, to do a right and good thing and the only response the one in charge can muster is to ignore it outright – essentially because he does not want to do the right and good thing. Is that leadership? Is that a sign of strength, weakness or gutlessness? Whatever it is, having a formal Petition to OPMC flat out ignored is a fact, that you, (Michael Hiser), acknowledged to me on the phone in February of 2014 and also (who knows how genuinely at this point) expressed concerned about not having been responded to. And you now stand equally aware of a formal Vacatur Petition having not only been submitted but also disregarded and the same level of “action” (really lack-there-of) seems to be felt from you as that of Mr. Servis – or whoever it is in your department that really gets delegated the duty to take care of this. Nevertheless, it is OPMC who handles these matters, so let’s just at least put that to rest.

My conclusion is that Mr. Servis is not out of touch but is all too aware of both of my Petitions – the undeniable Modification Petition of 2013 and of course the latest being the Vacatur Petition, both of which had to be ignored out of necessity in order to persist in fulfilling some ridiculous and kindergarten agenda of having to continuously lie and cheat in order to sustain a “win” in my case so as to keep me completely “put out” as a functional physician in this State, and really everywhere beyond given the damage all of this has caused me nationally as well as worldwide. I cannot even work as a physician in a third world country as a missionary given the damage you and your agency have caused my life for not having hurt anyone with my completely competent, departmental leading medical care and not having violated a single standard of care as part of it. Way to go with how well you uphold your own mission standard given how you carry out your own duties. And you wonder why OPMC is not only unpopular but has been the subject of Reform efforts. Did you ever stop to think that people in America simply don’t stand for and thus, take odds with government agencies who violate the very principles by which this nation was founded? Radical concept, I know. Imagine how much different your agency might be perceived if they actually DID approach their duties with a Constitutional commitment.

No, Mr. Servis and you too, Mr. Hiser, are not out of touch or clueless as to your duties such that my Vacatur Petition has gotten bureaucratically “delayed”. Again, as stated above, how many times does your office (remember, it IS your office that is to receive them and where I addressed my own, in fact), get a Vacatur Petition that essentially *challenges* one of your very own Determinations? In the world of OPMC, this is sort of a

big deal and don't play dumb by trying to pass it off as anything but – which is really what you did in your email. Your written admission that you are “not in charge of that response” is testimonial of your attitude when the law is clear of your role, again as above. You may not be “in charge”, per se, and thus you felt that you were not lying by making such a statement. But you are integral in the process but don't seem to concede that when sidestepping your own responsibility. What, has that agency taught you that you can do just about anything you want while remaining above the law and outside any sort of accountability? Admit it already, for crying out loud. You know you and your agency operate under such conditions. What kind of “man” comfortably and legitimately lives out his professional life that way? I will refrain from the obvious response but “integrity” is a key component in the answer.

No, a Vacatur Petition is a pretty big deal and surely would (in any case) get the immediate attention of all key players at OPMC. But depending on what is being sought and by whom along with, (and most importantly) the current minds in charge of that governing agency – all the way up – the result of such a Petition may very well depend on factors far outside of that which is supposed to only be considered – you know, the content. In other words, if the modus operandi previously has been to lie and cheat in order to fulfill an ongoing agenda, then these tactics are fully available still in order to deal with the irrefutable facts in the Vacatur Petition as well.

The question then begs to be asked, “what exactly is that agenda?” Is the agenda to forever keep me from practicing medicine in New York despite having put forth a top 1% clinical performance record for my entire time in the State? Or is it to continue forcing a known lie through a totally controllable (and unaccountable) process rather than just correct the wrong? If this is so, (which it truly is in reality), then what is the reason? Is it because you simply don't like me and the fact that I have been (rightfully) outspoken against all that you have done to me and my family on lies? Seriously?

If personal animus be a thought in any of your minds at OPMC, then you have no true right to serve in that capacity. Or is the continued forcing of a lie being done so that the agency doesn't have to admit that they have had to lie all along in order to do all that it did in my case? Is this it? Was such an employment situation as you currently maintain at OPMC part of your future goal when applying and subsequently rejoicing over the acceptance to Law School? Was this level of agency dishonesty your life's goal to be part of? Or how about that of Mr. Servis? Do you equally embrace this “abuse laden” career setting that OPMC provides you? Does it make the paycheck sweeter or slightly bitter or have you just gotten used to the taste? Is your example of employment and “commitment” to the duties of your current post what you would teach your child as far as career goals, path or personal integrity? Could any of you involved with this continued charade at my expense stand before your own mothers and allow me to tell her about what you have done and continue to do? How about if they got a copy of this letter? And you know me well enough by now to establish, without question, the ultimate One before Whom you and I will most invariably stand to give an account, whether you believe or fear it or not. Can any of you justifiably stand before the God of Heaven over this one matter? I know I can.

Furthermore, nowhere in your email response was there any hint of concern that such a serious document could have been sitting unanswered for so long. Again, testimonial as to your attitude towards not only your job but of the lives of others that have and continue to suffer greatly at the hands of your agency that YOU KNOW has acted wrongfully and maliciously against me, my license and my family for thirteen years. You know it, Mr. Hiser and so does Mr. Servis and most likely Mr. Weintraub as well. Cases like mine don't “just happen”. They have to have the interest and knowledge of at least a few key players, and particularly those with final authority. I wasn't born yesterday, so please let's just admit it.

You all have the gall to prosecute me in the name of Professional Conduct (or misconduct, so alleged), yet you sit there bathing in your own pool of deceit and wrongdoing. Do you all essentially enjoy such hypocrisy or have you simply become blind and/or immune to it? Either way, it is glaringly obvious and you could care less, apparently.

The bottom line with all of this remains the following. I have been wronged by your agency. I have taken an enormous amount of time in order to defend myself, an endeavor that has cost me dearly. I have a legitimate avenue to pursue in order to compel the very agency responsible to actually act in accordance with the law and their own mission and correct the error that has occurred. There is nothing special about this case other than that simple principle. All it takes is for you to uphold your end of responsibility.

Will you do it? Or do I have to keep writing you and posting these letters for the public to see? Do I actually go through with a complaint to the Committee for Professional Standards in order for there to be a return on what you and Mr. Mahar have served me? Or does rational thought actually prevail as it pertains to what I seek and an answer and resolution is reached in accordance with truth and justice and nothing more?

Though it may very well be sport to OPMC to sit back and watch as destroyed doctors writhe in distress from what has been done to them, this matter has gone too far. I have made it as easy as possible for you to simply do what is right and be done with it. Complete restoration of my record and license after which we all go our separate ways. Do it quietly and swiftly so that we can all move on in silence. But do it already. You have already given what the local boys have wanted all along and that is to see me out of practice. Now do the right thing and act with the dignity and the grace that is becoming of a New York State Official Office, thought to be run by trustworthy and honorable gentlemen.

Respectfully,



James R. Caputo, M.D.

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**“Whereas ye know not what shall be on the morrow. For what is your life? It is even a vapour, that appeareth for a little time, and then vanisheth away.**

**For that ye ought to say, If the Lord will, we shall live, and do this, or that.**

**But now ye rejoice in your boastings: all such rejoicing is evil.**

**Therefore to him that knoweth to do good, and doeth it not, to him it is sin.” - James 4:14-17**

c.c. Keith Servis  
Henry Weintraub  
The Honorable Andrew M. Cuomo  
Howard A. Zucker, M.D., J.D.  
New York State Office of Inspector General  
Timothy J. Mahar, Esq.  
David Brittain, M.D.  
Gregory Eastwood, M.D.  
Others, incl. the public.