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Expert Analysis

The Malpractice Trial in the Case Of James Woods' Brother (Michael): The Power of Apology in Litigation

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I am certain that I am not telling you something you don't already know; an apology goes a long way to beginning to repair a damaged relationship or righting a wrong. Knowing that someone is truly sorry for the hurt he/she has caused is an important step in moving forward. An apology also serves to acknowledge a mistake, intentional or unintentional, and, further, serves as notice, even if unstated, that a person will try his/her hardest not to repeat the offending conduct.

However, the apology must be sincere; a "phony" apology will have an effect that is opposite of what the apologist may truly intend. If one says, "I'm sorry," one must mean it.

As you may or may not know, the family of Michael Woods, brother of actor James Woods, has settled a high profile, hotly contested medical malpractice lawsuit against Kent Hospital in Rhode Island. Yes, there was an undisclosed financial settlement, but that is not the point. There were two additional aspects of the resolution of the case; without them, the trial would likely have continued to a contentious verdict and endless appeals.

The two additional features of the settlement, you ask?

The first was a sincere apology from hospital president Sandra L. Coletta who had dinner with the actor the evening before the settlement and offered the apology for the hospital's role in his brother's death.

The second important feature of the settlement was a promise from the hospital to invest \$1.25 million over the next five years into the creation of the "Michael J. Woods Institute" at Kent Hospital. A separate board (which will include a Woods family member) will run the institute, which will assist in developing new procedures and training for hospital staff members.

Coletta said, "We know we're not perfect at Kent Hospital. Mistakes were made. We can do better."

The Woods lawsuit was filed two years ago, alleging that Kent staffers missed or ignored signs and symptoms of Michael Woods' impending heart

attack. Staffers allegedly left Michael unattended, in a hallway, on a hospital gurney, until the heart attack occurred and killed him.

The highly publicized and contentious lawsuit included harsh public words of criticism for the hospital from James Woods.

At a news conference announcing the settlement, Woods praised Coletta and called her “very gracious.” This is quite a change in rhetoric; it is amazing what a sincere apology can accomplish.

Woods said that Coletta had apologized to his family, and he admonished the press.

Let’s not rub anyone’s nose in anything,” he said. “They did do it (the apology) and people don’t do it. ... I don’t want to put her in the position of saying it twice.”

He indicated that the apology was the framework for the settlement. The process started with a phone call from the hospital president; during the call, Woods said, he heard something he had been waiting to hear for over two years: Someone from Kent Hospital was saying “I’m sorry” for his family’s tragic loss.

Ironically, the definitive book on the subject of the effect of an apology to patient or a patient’s family who believes to have been wronged by a hospital or physician was written by someone named (I kid you not) Michael Woods; the book is called “Healing Words: The Power of Apology in Medicine,” by Michael Woods, M.D.

In the book, “the other Michael Woods” opines that the words “I’m sorry” do not seem to be in the average doctor’s playbook when conversing with patients or their families. Dr. Woods offers his colleagues his “four R’s of apology,” to help assuage patients and reduce the incidents of malpractice lawsuits. The “four R’s” are:

- **Recognition:** Knowledge that an apology is in order. Read the feelings of the patient and family.
- **Regret:** Respond with appropriate empathy. Express regret for what the patient or his family is going through. Acknowledge their feelings. Expressing regret is not an admission of guilt or fault.
- **Responsibility:** Own up to what’s happened and be accountable, even if it was unforeseeable. Disclose and explain details that led to the outcome.
- **Remedy:** Do what it takes to make it right. Explain corrective measures to the patient and his family. Make them realize that you will not to abandon them.

Here is more from Dr. Woods:

No matter what role you play (in the health care field) ... at one time or another you’ve been a consumer of medical services. Try to remember the last time a doctor apologized to you, even for a relatively minor infraction like keeping you waiting. Can you recall a single instance? If you’re a clinician, consider these questions: When was the last time you told a patient I’m sorry? When did you last hear another physician apologize to a patient?

Most medical professionals, I presume, are afraid that an apology will serve as an admission of liability. However, much litigation is conducted in anger; I submit, as does Dr. Woods, that fostering a less contentious legal environment, one of increased cooperation, should result in an improved, less adversarial atmosphere for case resolution.

Dr. Woods proposes an appeal to our basic humanity, an appeal to our capacity to forgive. A patient’s relationship with his/her doctor, positive or negative, will have a substantial impact on whether that patient will institute litigation for a medical mistake. And, an already positive relationship will only be enhanced by a sincere apology for a medical mistake. “Bedside manner” is an important tool for any physician. As Dr. Woods says, “When a doctor’s interpersonal and communication skills are as good as his or her technical abilities, the results are good for everyone: better patient outcomes, more patient referrals, lower employee turnover, and better risk management.”

We congratulate the Woods family and Kent Hospital on sensibly resolving a contentious medical malpractice lawsuit. We sincerely hope that this resolution model becomes more prevalent in future medical-legal litigation resolution.

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