

## ***All The Way to the Superior Court!***

A Tale of Hashgacha Pratis and A Chesed Shel Emes

By: M. Lowinger

On Sunday, December 11<sup>th</sup>, Dr. Brian Grobois decided to go hiking. The 54 year old doctor, who was a psychiatrist and lived with his family in New Rochelle, loved to hike. He was in Washington State at the time because of a simcha, and he planned to wrap up his trip with a vigorous walk on the scenic and picturesque trails of Mount Rainier.

But something went terribly wrong.

Dr. Grobois lost his way during the hike, eventually succumbing to hypothermia and losing his life. His passing is, of course, a tremendous tragedy. But it is also the beginning of a remarkable story of courage, perseverance, and a burning desire to be mekayem rotzon Hashem. The heroes of the story are the niftar's family, a [Chabad Rabbi in Tacoma](#), Chabad Headquarters in Crown Heights, a local attorney, Gary Torgow of Detroit amongst other noted askanim across the country, and an organization called [Chesed Shel Emes](#). The Doctor's passing, as unfortunate and heartbreaking as it was, served as a catalyst for a powerful and dramatic tale of hashgacha pratis and Kiddush Hashem.

### **The Tragedy**

By all accounts, Dr. Grobois was an experienced and cautious hiker with many years of experience. He had always dreamed of hiking on the awesome and majestic slopes of Mount Rainier, and now, he felt, he finally had his chance. So he bid his hosts goodbye and set off to what he expected to be a thrilling journey. Instead, it turned out to be his last.

When the doctor did not board his flight on Sunday evening, his family began to worry. They contacted his hosts in Washington and learned that he never returned from his Sunday hike. The authorities were called, and soon a massive search and rescue mission was put into motion. By Monday evening, helicopters were able to spot Grobois' motionless body on the mountain but the terrain was hazardous and the hour was late. The family was notified, and the mission to retrieve the body was put off until Tuesday morning.

Meanwhile, the grieving family had the presence of mind to contact Rabbi Zalman Heber, the Chabad Rabbi in Pierce County, Tacoma Washington. Rabbi Heber set up his home as the command center to deal with the authorities in releasing the doctor's body and his wife, Miriam, cared for their physical and emotional needs. The objective was to retrieve the niftar and bring him to k'vura as quickly and efficiently as possible. They had no idea at the time what a difficult and dramatic process this would turn out to be.

Two National Park rangers, Ken Worstell and Uwe (pronounced U-Vee) Nehring, were involved in the rescue mission. It was no easy feat to recover the body, because of the difficult terrain. But eventually the niftar was flown by an army Chinook helicopter to Madigan Army Hospital in Tacoma. Doctors determined that hypothermia was the likely cause of death and stated that, considering all the circumstances, an autopsy would probably not be necessary. But the Medical Examiner had other plans.

### **A Formidable Foe**

Dr. Thomas Clark, the Pierce County Medical Examiner insisted on performing an autopsy, despite the fact that the family members were obviously adamantly against it. According to Washington state law, the ME is permitted to perform autopsies, even against the will of the next of kin. Dr. Clark indicated that he would begin an autopsy first thing in the morning, ignoring the pleas and the reasonable objections of Rabbi Heber and the distraught family. By now, Rabbi Heber knew he had a big challenge on his hands.

Rabbi Heber understood that this situation needed professional expertise from those who were familiar with circumstances like this one. He also knew that, as American citizens, the niftar's family had certain rights and were legally able to go to court to defend those rights. So he called Rabbi Kasriel Sudak at Chabad Headquarters in Crown Heights who put him in touch immediately with Chesed Shel Emes. Rabbi Elchonon Zohn of the national association of Chevra Kadisha was also contacted. It was time to call in the heavy hitters.

The Medical Examiner insisted on performing the autopsy because Dr. Grobois was niftar on the property of the National Park Service, and he

claimed that that agency requires an autopsy on someone who passes away on their property. Chesed Shel Emes called in Rabbi Zvi Gluck who is their volunteer director of Government Relations to get involved. All-night strategy sessions were discussed. The battle was going to go all the way to court.

“By now, we knew we were up against a formidable foe,” says Rabbi Gluck of Chesed Shel Emes, “And because Chesed Shel Emes has had a lot of experience in this field, we knew that legal action will be required, so we asked Rabbi Heber to hire an attorney who was willing to take this case to court and fight the battle before a judge. We would coach him on how to handle these unusual circumstances.”

### **The Court Battle**

Rabbi Heber asked his friend, Barry Wallis, who is a local expert attorney, to get involved. “Our first move,” he says, “was to issue a Temporary Restraining Order (TRO) against the Medical examiner.” But time was clearly of the essence and every moment counted. When the Family and Rabbi Heber arrived at the Medical Examiner’s office on Wednesday morning, he told them he was ready to begin the autopsy immediately. All the pleading in the world wasn’t going to stop him.

Legal action had to be taken immediately. Rabbi Heber contacted attorney Wallis to come quickly before it's too late. Wallis came running with a Restraining Order to halt the Medical Examiner on his way in to the exam room to perform the autopsy. While the ME read the TRO, they worked swiftly in the other room to get all the proper signatures in place. By what can only be described as pure hashga-cha pratis, the TRO was enacted, and the family was able to buy some precious time.

The primary reasons for performing an autopsy on a body are to establish the cause of death, eliminate the possibility of foul play, or to protect the general public from a possible infectious disease. Neither of these factors was relevant in this case. But the Medical Examiner was relentless in pursuit of his goals. He called in his own attorneys and both sides were scheduled to appear before the court.

Chesed Shel Emes used every possible means available to bolster their case. Rabbi Heber got Attorney General Rob McKenna and other local elected

officials to apply pressure. Rabbi A.D. Motzen, an expert in these cases from Agudath Israel, got personally involved. So did renowned attorney Nat Lewin and his daughter, Aliza as well as experienced attorneys Mark Kurzman and John Meningolo all of whom worked through the night to prepare legal briefs for Attorney Wallis to present in court. Attorney Wallis was coached by every leading attorney in this field, and thoroughly briefed on countless legal precedents in similar cases. Rabbi Reuven Fink of Young Israel of New Rochelle, where Dr. Grobois was a member, and many other members of that community were also very instrumental in the success of the mission.

No stone was left unturned in building a case. Rabbi Mayer Berger of Chesed Shel Emes contacted the National Parks Services in Washington DC, explained the entire story to the presiding superintendent, and was told that in this case an autopsy could definitely be waived. Two of the Park Rangers involved in retrieving the body were put in touch with Rabbi Gluck and readily agreed to assist in any way possible. Rabbi Heber somehow managed to acquire the medical records immediately, although it is a process which usually takes five to ten business days at best. The hashgacha pratit in every aspect of the process was amazing. Remarkably, everything fell into place.

On Thursday afternoon, a local judge listened to both sides of the case and ruled in favor of the family. That should have been the end of that, but the ME and his lawyers immediately entered a motion to appeal. Time was of the essence, as all were anxious to bring the niftar to k'vura as quickly as possible. All the attorneys on the case cancelled all of their scheduled appointments for Thursday and Friday, as well as scheduled court appearances, and dedicated the entire day and night to prepare the court motions, Rabbi Heber, and the Niftar's family. Thus did the entire group find themselves once again in court, at nine a.m. on Friday morning. This time they were standing in front of the Superior Court of the State of Washington.

The Medical Examiner's attorney tried to show that there was compelling interest in performing an autopsy. But the Grobois family's case was very solid and well prepared. Testimony from the Park Rangers, from Mrs. Grobois, and from Rabbi Heber was heard. They presented a clear cut and reasonably sound case. Finally, b'chasdei Hashem, the Supreme Court of the State of Washington ruled in favor of the family. The body was ordered

to be released on Friday at 3:00 PM, right before Shabbos.

Our story is far from over. As they say, the satan never rests. Upon leaving the courtroom, the ME's attorney commented that he will appeal this case again and take it, if necessary, all the way to the United States Supreme Court. By now the ME's obsession with this family's personal tragedy was becoming absurd. Political pressure was placed upon the highest echelons of Washington state government. The following elected officials were very instrumental in solving his issue, NYS Assemblyman Phil Goldfeder, Congresswoman Nita Lowey and Senator Charles Schumer of New York. Senators Pat Murray and Maria Cantwell of Washington, as well as other elected officials, personally intervened. They called Governor Christine Gregoire of Washington, asking her to step in on behalf of the Grobois family, whose rights were clearly being violated. The Governor's office strongly intervened. They called the ME and got him to walk away from the case.

On Sunday, the niftar and his very relieved family were on their way to Eretz Yisroel for a proper and b'kovodik k'vurah. A special thanks goes to the Seattle Chevra Kadisha for their assistance in helping to expedite the paperwork and death certificate and facilitating the transport to New York. Also, a special thanks has to be given to Shomrei Haddas Chapels of Boro Park, Brooklyn, who went out of their way to facilitate the transport, and made sure that the whole process would go seamlessly. Can we begin to imagine the immeasurable zechus'im of this dedicated wife and children? Can we begin to imagine the unfathomable mitzvah of chesed shel emes that was performed by dozens of yidden on their behalf? It had been a very arduous and challenging journey. But in the end justice prevailed.

### **Epilogue:**

Several days after the remarkable events of this story, Rabbi Zvi Gluck received a phone call from Uwe Nehring, the Park Ranger who testified on the family's behalf. He was in tears and very emotional, and asked Rabbi Gluck for a few moments of his time, and here's what he said:

*“You might not believe what I'm going to tell you now, but I still have to share it with you. Last Tuesday night after I recovered the body of Dr. Grobois I had a dream. I dreamed that I was in Israel, attending a Jewish funeral, and I'm telling you, I was never in Israel, and never at a Jewish*

*funeral, but here's what I saw, Men were on one side, women on the other. And in the center was a body on a bench. They were eulogizing the person, and suddenly I heard them starting to thank people. And guess what? I heard them thanking me!"*

*"It's weird, you know? When I helped bring the body up from the mountain, I was just doing my job. And I had nothing to do with his Jewish burial"*

*"But when you reached out to me on Thursday to come and testify in court, it clicked. I felt that it was a clear and direct sensational message sent from heaven, and that's why I felt I needed to act."*

As it turns out, Mr. Nehring's wife is Jewish, and so are his children. He has already gotten in touch with Rabbi Heber, and they discussed having the family over for a Shabbos and teaching the children about their Jewish heritage. One good deed clearly leads to another.

Meanwhile, Chabad of Pierce County and Attorney Wallis are working to make significant changes in the laws of the state of Washington, so that no other family will have to endure the kind of worry and anxiety that the Grobois family experienced last week.

"This was the goal of the Lubavitcher Rebbe Zt"l," says Rabbi Heber, "when he sent out shluchim to the far flung corners of the world. Wherever a Jew finds himself, there will always be a Chabad center nearby ready to assist in any way possible."

And as for the volunteers of Chesed Shel Emes, they are grateful to Hakodosh Boruch Hu that this unusual and dramatic case was successfully resolved. For over twenty five years they have been dedicated to helping families in their time of bereavement and grief in any way they can. Says Rabbi Berger, "We will stop at nothing and use every resource available to ensure that a meis in klal yisroel is brought to proper k'vura."