

A Chiropractic Advocate's Battle for Respect

Steve Kelly, managing editor

*Slander,
Whose edge is sharper than the sword, whose
tongue
Outvenoms all the worms of Nile, whose
breath
Rides on the posting winds and doth belie
All corners of the world.*

-- Shakespeare, Cymbeline (1609-1610), act III, iv, 35

Lawsuit, a machine which you go into as a pig and come out as a sausage.

-- Ambrose Bierce (1842-1914), The Devil's Dictionary (1906)

David Garst, D.C., one of three chiropractic brothers in Roanoke, Virginia, (all Palmer graduates), describes himself as an "altruistic crusader," a "chiropractic activist," articulating the benefits of chiropractic to the media. As a former radio broadcaster himself, and having worked in television production at WOC-TV (owned by Palmer College), Dr. Garst knows the ins and outs of the broadcasting business and has made a personal commitment to get the word of chiropractic to the public.

When Judge Susan Getzendanner ruled against the AMA in the Wilk et al. suit on August 27, 1987, Dr. Garst was irked that the local paper, the Roanoke Times & World News, gave such skimpy coverage to the decision, just a few paragraphs pulled from the Associated Press wire service.

Dr. Garst wrote a letter to the editor of the Roanoke Times to remind readers of Judge Getzendanner's decision: that letter was printed. Next, Dr. Garst wrote to Forrest Landon, vice president of the Roanoke Times, expressing his displeasure of the paper's lack of coverage on chiropractic's important victory. Forrest Landon replied in a letter that when the Wilk suit was "finally resolved at the highest federal court level, we will have an opportunity to give our readers what even you would describe as a complete account." (Apparently "opportunity" was the key word here, for the paper never did give its readers a complete account of the suit when the U.S. Supreme Court refused to review the AMA's appeal.)

Next, Dr. Garst turned his attention to the air waves and convinced local radio host Gary Mintor of WFIR in Roanoke to allow him to discuss medicine's bias towards chiropractic.

In a second appearance on Gary Mintor's program (January 22, 1990), Dr. Garst's played a taped interview he conducted with Dr. Linus Pauling, the recipient of the 1954 Nobel prize in chemistry, and the 1962 Nobel Peace Prize. In the interview, Dr. Pauling discussed, among other topics, the resistance he has encountered from the medical community for his advocacy of multidoses of vitamin C, and the Mayo Clinic's attempts to discredit his work.

Dr. Garst was granted yet a third radio segment on Gary Mintor's show (February 8, 1990), which

included a telephone interview with James Drury (ACA's celebrity spokesman) discussing the AMA conspiracy against chiropractic. This third broadcast came only one day after the U.S. Court of Appeals affirmed Judge Getzendanner's ruling. At the time of the broadcast, Dr. Garst was unaware of the latest ruling. When he learned of the appellate court victory, he immediately asked the radio station's program director to air a fourth program on chiropractic that would include telephone interviews with Dr. Louis Sportelli and George McAndrews. The program was scheduled for February 18, 1990 and was even printed in the entertainment section of the Roanoke Times.

Enter WFIR station manager Terry Gibbons, whose father Jim owns WFIR and another local radio station: "I called the program director in and I called the gentleman that runs the show in (Gary Mintor) and I said forget it (the scheduled interview with Dr. Sportelli and George McAndrews). Hell no. You had him (Dr. Garst) on last week; you had him on the week before; I'm getting tired."

The scheduled radio interview with Dr. Sportelli, and George McAndrews was cancelled by the station. WFIR radio show host Gary Mintor told Dr. Garst the station manager had placed him on "probation" for scheduling too much chiropractic in a 30-day period. (Subsequently Gary Mintor was fired. He now has a weekend talk show on WSJS, a North Carolina radio station. Dr. Garst appeared as a guest on Mr. Mintor's new show in October 1991.)

Station manager Terry Gibbons was contacted by Barbara Bigham of the Chiropractic Journal to inquire why the Garst/Sportelli/McAndrews program was cancelled. In a recorded conversation with Ms. Bigham, Mr. Gibbons said of Dr. Garst: "I have known the young man previously, and he is not playing with a full deck and I don't want him on my property. ... Give me someone more qualified, someone who's not a quack, and I will put them on."

This quote appeared in an article in the May 1990 issue of the Chiropractic Journal. Dr. Garst was startled and humiliated. Dr. Garst was totally unaware of the contents of the recorded conversation. The Chiropractic Journal neither apprised him of the comments of Terry Gibbons nor that they were going to print them.

Dr. Garst sued the radio station for libel. The radio station countersued Dr. Garst. (The countersuit was later adjudicated "non-suited," in essence, disallowed.)

Dr. Garst chose the attorney for the Virginia Chiropractic Association to represent him, William G. Shields. In 1986, Mr. Shields defended George Chirkinian, D.C., of Richmond, Virginia in a slander case when an insurance adjuster from Liberty Mutual Insurance Co., told a workers' compensation claimant over the phone that Dr. Chirkinian was a quack and not a physician. The jury awarded Dr. Chirkinian \$100,000 for slander. Dr. Chirkinian's main concern was the labeling of chiropractors as not being physicians. Judge Melvin Hughes Jr., told the jurors that the doctor could recover damages if they found insult, humiliation, embarrassment or harm to his reputation had resulted.

The precedent setting Virginia case of Dr. Chirkinian gave Dr. Garst hope of a successful resolution of his suit. Dr. Sportelli and Mr. McAndrews both gave depositions in the Garst case.

Robert Ziogas, the attorney for Terry Gibbons and WFIR, contended that Mr. Gibbons comments were "protected and didn't rise to the level of being defamatory." Mr. Ziogas said Gibbons was only expressing an opinion and "was not an assertion of fact."

Roanoke Circuit Judge Clifford Weckstein agreed, dismissing the \$5 million lawsuit on December 9, 1991. Judge Weckstein ruled that Mr. Gibbons' comments were protected opinion.

Mr. Shields has filed an appeal with the Virginia Supreme Court.

While Dr. Garst has received many letters of support from around the country, he notes the frustration he feels at the lack of support in his own "back yard." He feels that colleagues have turned their backs on his case.

Dr. Garst says he will continue to promote chiropractic win or lose the appeal. He contends that if such slander is condoned by the courts, it will be like declaring an "open season" on chiropractic bashing. He adds, "Every DC has a stake in my law suit."

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