

## We Get Letters & E-Mail

### NASA SCOLDS CHIROPRACTIC JOURNAL FOR ARTICLE; AUTHOR RESPONDS

*Editor's note: A recent article published in The Chiropractic Journal led to letters from NASA to journal publisher Dr. Terry Rondberg and letters to DC from Dr. Patrick Gentempo Jr. and David Marcarian, the latter of whom authored the original article. All three letters are reprinted in their entirety as follows.*

#### Setting the Record Straight

Dear Editor:

While you may not have read it, there was an article in *The Chiropractic Journal* that made some sensational, yet demonstrably false statements about me, the Chiropractic Leadership Alliance and NASA. And while it is CLA's policy to take the high road, it is necessary, for the good of our profession, to clearly set the record straight. While this type of behavior is certainly not new, this particular article has prompted a very strong letter from the legal counsel of NASA, a federal agency that was previously very friendly towards our profession.

As you will read below, NASA has demanded of the publisher of *The Chiropractic Journal* that these false statements be corrected. Our organization joined NASA in writing a letter asking for retractions. Unfortunately, on July 24, CLA received a letter from the publisher informing us that he and his publication "cannot comply with your demand to issue retractions." The August issue of the publication also fails to make the corrections NASA's legal council has required.

To set the record straight and support NASA's legal counsel with the corrections they requested, I am asking that you publish their letter in full for the profession to read. While I appreciate that this is not an issue you published anything about, I am asking that you assist in providing NASA the corrections they have asked for in an effort to demonstrate that our profession does believe in responsible journalism.

As a personal sentiment, please allow me to express that CLA has been working tirelessly to raise the success levels of chiropractors and positively impact the esteem of chiropractic in the mindset of the consumer. We worked for years to build a positive image of chiropractic in the eyes of one of the world's most popular government agencies, NASA. This was good for every chiropractor, everywhere. It saddens me that actions based on a senseless agenda translate into corruption of positive influences for chiropractic. I envision a day when our great profession can transcend such behavior.

*Patrick Gentempo Jr., DC*  
*CEO, Chiropractic Leadership Alliance*

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#### NASA Clarifies Its Position

Dear Dr. Rondberg:

We have been made aware of the article, "CLA Claims Scrutinized for Fraud" by David Marcarian as featured in the July 2009 issue of *The Chiropractic Journal* and your accompanying editorial statement. It appears that several items are in need of clarification.

First, the assertion that the National Aeronautics and Space Administration (NASA) has made any determination or finding with regard to fraud in the course of its review of the spinoff status of the Chiropractic Leadership Alliance's (CLA) Insight Subluxation Station (Insight) is false.

To date, the NASA Office of General Counsel has been unable to corroborate the claim that the Insight meets the technical requirements for designation as a NASA spinoff based on the information provided by CLA. If we receive additional corroborating information, we are prepared to reopen this matter and take action as appropriate, up to and including reinstating the spinoff designation for the Insight. NASA has made no statements regarding the nature or character of the CLA product itself nor has NASA otherwise characterized CLA or its claim.

Any assertion that NASA's review of the spinoff status of the Insight was triggered by a "U.S. Senate investigation" is false. NASA reviewed the spinoff status of the Insight in response to a constituent inquiry received by the office of Senator Maria Cantwell. NASA routinely responds to such inquiries as requested by the Congress. It is disingenuous to refer to such inquiries as "U.S. Senate investigations." In fact, the constituent inquiry in this case was initiated by David Marcarian. We request that you clarify that our letter to Senator Cantwell's office was prepared in response to a letter written by Mr. Marcarian and not a response to a direct inquiry from the Senator herself. We provided the attached response to Senator Frank Lautenberg in response to a similar inquiry initiated by CLA.

Any suggestion that the NASA Office of General Counsel or the NASA Office of the Inspector General has made any determination that CLA engaged in unlawful or criminal activity is false. The review initiated by the Office of General Counsel revealed that the CLA spinoff claim was inadequately vetted by the responsible NASA organization before its initial publication; however, we are unaware of any evidence suggesting wrongdoing or unethical behavior on the part of CLA.

The U.S. Space Foundation is not bound by NASA's determination regarding spinoff status. NASA fully supports the mission of the USSF and appreciates its years-long support for the Agency and the Space Technology Hall of Fame. However, the USSF is an independent 501(c)(3) organization and is responsible for its decision to grant or withhold designation as a Certified Space Technology. NASA's review of the CLA matter has no bearing on USSF's discretion to provide certification.

As a central element of its statutory mission under the National Aeronautics and Space Act, 42 U.S.C. SS2451 et seq., NASA is tasked with providing for "the widest practicable and appropriate dissemination of information concerning its activities and the results thereof." The *Spinoff* publication furthers that statutory mission by featuring successfully commercialized NASA technology. Because NASA's publications, including *Spinoff*, are disseminated in order to communicate the results of NASA's activities, the Agency has an affirmative obligation to correct the record when we become aware of factual errors. In this case, the error was our own.

You state that you have been working closely with Mr. Marcarian on this issue, but *The Chiropractic Journal* failed to contact NASA to confirm or clarify the allegations made in the piece. Given the above clarification of NASA's position, we expect *The Chiropractic Journal* to correct Mr. Marcarian's article with regard to the misrepresentations of NASA's position as set forth above and we expect this to resolve any contention that NASA's actions give credence to the allegations of wrongdoing on the part of CLA with regard to the NASA spinoff matter. The continued entanglement of the Agency in this business dispute has required the unwarranted commitment of

taxpayer resources that could clearly be used doing the work of the American people. We, therefore, request that *The Chiropractic Journal* and Mr. Marcarian refrain from referencing NASA's actions in this matter in an attempt to leverage your competitive position.

Courtney B. Graham

Associate General Counsel for Commercial and Intellectual Property Law (Acting)

NASA Office of General Counsel

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Time to Face the Facts

Dear Editor:

In response to your report about the [above] letter from Courtney Graham from NASA General Counsel's Office regarding CLA's Insight Subluxation Station, it is important to recognize that her letter completely contradicts the official position of NASA Headquarters, which oversees the General Counsel's office.

It's natural that the General Counsel's Office wants to protect itself; it is in the same position as CLA in this matter - it was publicly alerted to CLA's "implied endorsement" by NASA via the NASA *Spinoff* publication almost a year ago, and failed to act on the false claims being made.

They have little choice but to support CLA even though the actual evidence contradicts almost everything stated in Ms. Graham's letter. In her letter, she says that "NASA has made no statements regarding the nature or character of the CLA product itself nor has NASA otherwise characterized CLA or its claim." Yet, there is a letter from NASA Headquarters, now a matter of public record ([Click here to read the NASA letter](#)), that clearly refers to the nature and character of the CLA product. It is impossible for Ms. Graham - or anyone else - to deny that this letter from NASA Headquarters exists. And since the General Counsel's Office works for and under NASA Headquarters, NASA Headquarters' public statement overrides anything coming from the General Counsel's office.

The document from NASA Headquarters ... contains the following statement: "[T]he NASA Office of General Counsel (OCG) conducted a thorough evaluation of the claims made by the CLA of a partnership connection between Agency research and their Insight Subluxation Station: NASA has been unable to adequately corroborate those claims, and as a result, will no longer recognize the Insight Subluxation Station as a Spinoff (a product developed as a result of NASA research). In light of this, NASA has taken immediate measures to post an errata on the *Spinoff* website."

Is this statement from NASA headquarters not clear enough? Do you know how difficult it is to have a published claim in a NASA publication removed? NASA Headquarters further states in the same letter "[T]his is the first known instance in the history of the NASA Spinoff, with over 1,600 documented spinoffs, in which this unfortunate situation has occurred."

Further, those who do not believe there was a U.S. Senate investigation can simply read the *USA Today* article titled "Probes at NASA Plummet Under Its Current IG."

The bottom line is that CLA no longer is recognized by NASA Headquarters as a NASA-derived product. Period. The official position of NASA Headquarters is a matter of public record, and was the result of a year and a half of "investigating." Yet, the CLA and many doctors who use its products are continuing to use claims in their advertisements and websites that contain false and misleading statements about non-existent connections to NASA. These claims are being scrutinized by state boards and the doctors could face severe penalties. Personally, I think it's more important

to protect these doctors and their licenses than to protect CLA's income.

Furthermore, if this makes the national news (and you know how the media looks for anti-chiropractic stories), it will be extremely damaging to chiropractic. Yet we sit back and defend those who misrepresent the truth.

The bottom line:

- NASA headquarters did in fact remove any implied endorsement of the Insight Subluxation Station, definitively stating that the Insight does not meet the criteria as a NASA spinoff.
- The actual published research described in the *Spinoff* publication is available and contains absolutely no reference to anyone even remotely associated with CLA.
- In my opinion, the smoke and mirrors award goes to the Space Foundation: They are NOT NASA but do an excellent job of appearing as such. Do not be confused: The Space Foundation endorses everything from mattresses to the Insight Subluxation Station for a fee. If you don't see the NASA logo, it simply isn't NASA. Read its website and you can see that they are simply looking for cash in exchange for endorsements.
- It is the job of the Office of Inspector General or a judge - not the NASA General Counsel - to determine whether or not fraud was committed. If Ms. Graham prefers I use the term "false advertising," that's fine with me. But, can she explain why "false advertising" falls under the "consumer fraud act" if it is not, in fact, a form of fraud?

Perhaps the most bizarre aspect to this issue is that I was asked by faculty at two major chiropractic colleges to investigate the NASA claims made by CLA. They feared making false claims to patients regarding the CLA product in their clinics, as they were aware of the damage this would do. I personally was shocked at what I found as I, too, believed no company would create such false and unsupportable claims. But now that the truth is out, no one wants to hear it.

In our profession, we too often act like a fraternity where we fear reprimanding a frat brother who has committed a crime even though it could damage or destroy the fraternity completely. Too many of our leaders are more concerned with short-term financial gain than with long-term credibility. If they feel revealing the truth would lead to a loss of income tomorrow - even though a show of integrity would help the profession gain significantly in the long-term - they'll willingly engage in a conspiracy of silence. That's exactly what's happened with the people who originally asked that I discover the truth about CLA: they have turned their back on the information out of fear of losing income. For them, subluxation appears to be spelled with a capital \$.

We live in a data-driven society and the data show clearly that NASA Headquarters state the truth. We have a choice. We can face the facts and discipline our own fraternity brother, or we can try to explain the cover up on the nightly news. How we choose says a lot about our own integrity and the future of this profession.

*David Marcarian, MA*  
*President, Myovision*

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National Aeronautics and  
Space Administration  
**Headquarters**  
Washington, DC 20546-0001



April 3, 2009

Reply to Attn of: OLIA  
OLA/2009-00049:TB:eel

The Honorable Maria Cantwell  
United States Senator  
Washington, DC 20510

Dear Senator Cantwell:

Thank you for your inquiry on behalf of Mr. David Marcarian, regarding an article published in the NASA 2007 *Spinoff* publication referencing the Chiropractic Leadership Alliance (CLA) and their Insight Subluxation Station.

The NASA *Spinoff* is published annually to highlight the implementation of NASA-developed technologies and "know-how" in commercial products. For more than 40 years, the Agency has nurtured partnerships with the private sector to facilitate the transfer of NASA-developed technology to the private sector. Since 1976, NASA has profiled more than 1,600 of the most compelling of these technologies in its *Spinoff* publication, annually highlighting the best and brightest of partnerships and innovations.

Before *Spinoff* articles are published, NASA conducts a vetting process to validate the partnership between the company and the NASA Center that conducted the core research. The Agency also makes every effort to ensure that our validation process for *Spinoff* is fair and sound, and we rarely encounter an inaccurate claim.

In response to Mr. Marcarian's inquiry, the NASA Office of General Counsel (OGC) conducted a thorough evaluation of the claims by the CLA of a partnership connection between Agency research and their Insight Subluxation Station. NASA has been unable to adequately corroborate those claims, and, as a result, will no longer recognize the Insight Subluxation Station as a *Spinoff*. In light of this, NASA has taken immediate measures to post an errata on the *Spinoff* website and strengthen the validation process conducted by the Agency Centers to validate claims of *Spinoff* technologies. In addition, the NASA Office of Inspector General (OIG) is in the process of reviewing this matter and identifying the actions, if any, the OIG should take.

As stated in the *Spinoff* publication, "Spinoff developments highlighted in this publication are based on information provided by individual and private industry users of NASA-originated aerospace technology who acknowledge that such technology contributed wholly or in part to development of the product or process described. NASA cannot accept responsibility or liability for the misinterpretation or misrepresentation of the enclosed information provided by these third party users. Publication herein does not constitute NASA endorsement of the product or process, nor confirmation of manufacturers' performance claims related to any particular spinoff development."

To our knowledge, this is the first known instance in the history of the NASA *Spinoff*, with over 1,600 documented spinoffs, in which this unfortunate situation has occurred. The CLA spinoff was vetted before publication of NASA *Spinoff*, highlighting the need for increased diligence by NASA in the *Spinoff* vetting and validation process.

We appreciate your interest in this matter and trust this information will enable you to adequately respond to your constituent's inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary D. Kerwin". The signature is fluid and cursive, with a large, stylized "M" and "K".

Mary D. Kerwin  
Assistant Administrator  
for Legislative and Intergovernmental Affairs (Acting)

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*Note:* If you cannot view / read this image, [click here](#) to open a larger version in PDF format.

SEPTEMBER 2009