

Dynamic Chiropractic Wins Lawsuit

COURT MAY SANCTION RONDBERG AND ATTORNEY

Dynamic Chiropractic Staff

The original lawsuit was filed on July 16, 1993 in Maricopa County (Arizona) Superior Court against James Badge, DC, chairman of the Arizona Chiropractic Licensing Board, Donald M. Petersen Jr., editor/publisher of Dynamic Chiropractic, and the Motion Palpation Institute (MPI). In his complaint, Dr. Terry Rondberg claimed violation of his civil rights, interference of contractual/business relations, defamation, fraud and intentional infliction of emotional distress. A claim of invasion of privacy was later tacked on.

The lawsuit stemmed from, among other issues, Dr. Rondberg's claim that the defendants had conspired to release information pertaining to Dr. Rondberg's involvement in the AzScam political scandal that rocked Arizona in 1991.¹ In particular, Dr. Rondberg claimed that Dr. Badge had given Dynamic Chiropractic a copy of the affidavit and agreement which Dr. Rondberg signed with the Maricopa County attorney's office. The affidavit contained Dr. Rondberg's admission that he had given permission for his name to be used illegally on campaign contributions. The agreement required Dr. Rondberg to pay \$9,840 to the Maricopa County Anti-Racketeering Revolving Fund.

Dr. Rondberg filed the lawsuit despite admitting he had "inadvertently crossed the line" (November 1991, Chiropractic Journal), was named in an Arizona newspaper article² on the subject, and was featured in a nationally marketed book detailing the AzScam incident.³ The suit requested damages in excess of nine million plus court costs and attorneys' fees.

During the course of the litigation, Dr. Rondberg refused to produce financial documentation to support those claims. In a letter, Mr. Dennis Wilenchik (Dr. Rondberg's attorney) admitted that the damages were "general and/or nominal" rather than financial.

The defendants filed motions for summary judgment contending that the lawsuit had no factual evidence to support it. On February 14, 1995, Judge Frank T. Galati handed down his decision "denying plaintiff's motion for summary judgment and granting defendant Badge's motion for summary judgment... and granting defendant Petersen's and Motion Palpation Institutes, Inc.'s motion for summary judgment..." The lawsuit was over, Dr. Badge, Mr. Petersen, and MPI had prevailed. The judge had found in their favor on all counts.

But there was more to Judge Galati's decision:

"The court further finds that the record cited and the arguments presented make at least a prima facie case for the appropriateness of the imposition of sanctions against plaintiff (Dr. Rondberg), his council (Mr. Wilenchik) or both. It appears to the court that several, if not all, of the plaintiff's claims may be groundless or may have been brought without adequate investigation."

A sanctions hearing was set for March 24, 1995. There, the judge will decide whether monetary sanctions will be applied and whether Dr. Rondberg, Mr. Wilenchik or both will have to pay.

This current ruling comes just 21 days after the Arizona Court of Appeals found that the Arizona Chiropractic Licensing Board had the right to take action against Dr. Rondberg for his AzScam involvement. Mr. Wilenchik represented Dr. Rondberg on that case, and is also his attorney in a lawsuit against malpractice insurance carrier Frank B. Hall. The Hall case is expected to go to trial this summer.

Each of the parties had comments about the outcome of the suit:

James Badge, DC, former chair of the Arizona Board of Chiropractic Examiners: "Over the years I have been the target of criticism by Terry Rondberg and his newspaper. I have not publicly reacted to that criticism with the exception of protecting the Arizona Board of Chiropractic Examiners against misinformation when it was reported.

"Judge Frank Galati of the Arizona Superior Court dismissed in total the suit filed against me for the alleged misconduct when I was chairman of the board. It reinforces my trust in our legal system when one individual cannot continue with irresponsible accusations without eventually having them exposed as such. I continue to be impressed by the judgment of our courts and I am pleased that this is now behind me."

Arizona Assistant Attorney General Lisa Daniel (representing Dr. Badge): "I am pleased with the outcome."

Donald M. Petersen Jr., editor/publisher of Dynamic Chiropractic: "We were very confident that this was a groundless lawsuit. Nothing printed by Dynamic Chiropractic was ever shown to be incorrect or untrue. The court has confirmed the high journalistic ethics and consistent accuracy of our publication."

James Henderson, representing MPI: "The lawsuit filed by Dr. Rondberg against Dr. James Badge, Donald Petersen Jr., and Motion Palpation Institute, publisher of Dynamic Chiropractic has now been resolved against Dr. Rondberg. That lawsuit alleged certain publications in Dynamic Chiropractic were false and libelous as to Dr. Rondberg and invaded his privacy. Defendants Petersen and MPI have believed from the outset that the lawsuit was wholly without merit. The judge has now agreed it is without merit and has ruled in favor of all defendants.

"The judge held an affidavit and agreement which Dr. Rondberg gave the county attorney, relating to permitting use of his name on what proved to be illegal campaign contributions, were public records. He held the Dynamic Chiropractic articles of which Rondberg complained were true and that there was no invasion of his privacy."

We asked Dr. Rondberg to comment, unfortunately he instead submitted a two and one-half page statement which is longer than this article. Dr. Rondberg prohibited Dynamic Chiropractic from quoting from his statement, insisting instead that it be printed "in its entirety, without editing." Interested readers are encouraged to contact Dr. Rondberg directly to obtain this information.

Dr. Rondberg's attorney, Dennis Wilenchik, did not respond to our request for comment.

References

1. "Arizona legislators indicted in sting operation," Dynamic Chiropractic, March 15, 1991.
2. Lobbyist greased special bill's path -- chiropractors got way on insurance payments," Arizona Republic, February 18, 1991.
3. What's In It For Me? -- How an Ex-Wiseguy Exposed the Greed, Jealousy, and Lust that Drive Arizona Politics. Joseph Stedino, Harper Collins Publishers, 1992

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