

IN THE MAGISTERIAL DISTRICT OF NORTHAMPTON COUNTY,
PENNSYLVANIA
DISTRICT 1-1

DOCTOR STEPHEN J. BARRETT :

Plaintiff :

vs. :

RICHARD T. LaBARRE :

Defendant :

B E F O R E:

JOHN GOMBOSI, Magistrate, 416 East Fourth Street,
Bethlehem, Pennsylvania, on Wednesday, December 17, 1975,
commencing at 3:30 p.m.

A P P E A R A N C E S:

ROBERT A. FREEDBERG, ESQUIRE
Assistant District Attorney
District Attorney's Office
Northampton County Court House
Easton, Pennsylvania
For the Plaintiff

MESSRS. KILLIAN and GEPHART
BY: JOHN D. KILLIAN, ESQUIRE
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For the Defendant

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DOCTOR STEPHEN J. BARRETT :
Plaintiff :
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RICHARD T. LaBARRE :
Defendant :

I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Hugh S. Gallagher	4	10	22	
Harold Goldfarb	23	26		
Ronald Wasserman	29	35	43	46
Stephen J. Barrett	51	58		
Joseph B. Strauss	85	94		
Clark Rich	106	111	116	117
Monroe Schneier	118	123		
John Cavallo	126			
Bruce Joseph DeMartino	127	132		
Andrew Krupar	134			
Frank F. Tucci	139			

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THE COURT: Richard T. LaBarre,
1616 Eaton Avenue, Bethlehem, Pennsylvania.
You're charged with violating Section 4107 A-
Paragraph 5 of the Pennsylvania Crimes Code on the
note of one Doctor Stephen J. Barrett of 842 Hamilton
Mall, Allentown, Pennsylvania.

Now, does counsel for the defendant
wish to have the information read and then plead not
guilty or waive it?

MR. KILLIAN: We'll waive the reading
of the information and we would enter a plea of not
guilty.

THE COURT: Mr. Freedberg, are you
ready?

MR. FREEDBERG: We are, Your Honor,
yes.

Your Honor, I'd like to clarify one
thing at the outset. Is it my understanding that
there's no question that Doctor LaBarre is
responsible for these ads, that's not being
disputed?

MR. KILLIAN: No.

1 MR. FREEDBERG: With that in mind,
2 Doctor LaBarre, we'll not be requesting your
3 testimony for those reasons. You're free to leave
4 at any time.

5 MR. LaBARRE: Could I stay?

6 MR. FREEDBERG: You're welcome to stay
7 as far as I'm concerned.

8 THE COURT: Who's your first witness,
9 Mr. Freedberg?

10 MR. FREEDBERG: Doctor Gallagher.

11 THE COURT: Would you come up front
12 here, sir.

13

14

15 HUGH S. GALLAGHER, having been first
16 duly sworn, was examined and testified as
17 follows:

18

DIRECT EXAMINATION

19

20 THE COURT: State your name for the
record, your address and your occupation.

21

22 THE WITNESS: Hugh S. Gallagher, M. D.,
901 North 19th, Allentown, physician.

23

24 THE COURT: What is that 901 North 19th
Street, is that Allentown, sir?

25

THE WITNESS: That's correct.

1 THE COURT: Your witness.

2 BY MR. FREEDBERG:

3 Q Doctor Gallagher, did you graduate from
4 medical school?

5 A Yes.

6 Q Which medical school, and when did you
7 graduate, sir?

8 A University of Pennsylvania, 1961.

9 Q What degree did you receive?

10 A M. D.

11 Q Are you licensed to practice in the
12 Commonwealth of Pennsylvania?

13 A Yes.

14 Q How long have you been so licensed?

15 A Since 1961.

16 Q How long have you been in practice as an
17 M. D., sir?

18 A Since 1961.

19 Q Did you take a residency in any specialty?

20 A Yes.

21 Q And, what is that specialty, sir?

22 A Internal medicine, and also in the sub-
23 specialty of cardiovascular disease.

24 Q What is internal medicine, sir?

25 A Internal medicine is the diagnosis and the

1 treatment of ills not amenable to surgery.

2 Q What is cardiovascular disease, sir?

3 A Cardiovascular disease pertains to ailments
4 that affect the cardiovascular system of the body,
5 that is the heart and the blood vessels.

6 Q And, you maintain an office in Allentown.
7 Is that correct?

8 A Yes.

9 Q And, how long have you maintained that
10 office, sir?

11 A Since 1972.

12 Q Are you Board certified in any specialty,
13 sir?

14 A Yes, I'm certified by the American Board of
15 Internal Medicine and by the Subspecialty Board of
16 Cardiovascular Disease.

17 Q And, when were you so certified, sir?

18 A In internal medicine, in 1969, in
19 cardiovascular disease, in 1974.

20 Q Sir, I show you an ad which appeared in the
21 Bethlehem Globe on December 2nd, 1974, will you
22 review that ad please, sir.

23 A Do you mind if I mark it?

24 Q No, feel free to do so.

25 A You are alluding to this on the left-hand

1 side?

2 Q Yes.

3 You've reviewed that?

4 A Yes.

5 Q Sir, that contains a statement that chest
6 pains can be caused by nerve disturbance at Point 4.
7 Are chest pains ever caused by nerve disturbance at
8 Point 4?

9 A On unusual occasions.

10 Q Now, sir, can you tell me what other causes
11 are there for chest pains, particularly as referred to
12 in the ad as intense, fearful, constricting sensations?

13 A I think the first thing that comes to mind,
14 I think that is likely to worry a physician most, is
15 myocardial infarction, a heart attack, or perhaps
16 some lesser form of restriction of cardiac blood flow
17 due to obstructions in the coronary arteries, the
18 vessels that supply the heart muscles with blood.

19 Q Now, sir, I believe you said that it's
20 possible that such pains can result from nerve
21 disturbance, but that's not the principal cause, in
22 what percentage of the cases is it a cause?

23 A I have no idea. All I can say is that
24 chest distress caused by nerve disturbances are a
25 lesser cause than cardiac disease. And, I think more

1 to the point is the fact that they don't carry the
2 consequences of cardiac disease. I think intense,
3 fearful, constricting sensations in the chest are
4 potentially life threatening distresses --

5 Q Now, Doctor --

6 A -- if they're due to cardiac disease or
7 obstructions in the coronary arteries. On the other
8 hand, if these diseases are caused by nerve
9 disturbances at Point 4, they may represent an
10 annoyance, but are not life threatening.

11 Q Now, if it is life threatening, of the life
12 threatening variety, sir, is that treatable by
13 adjustment of misaligned or displaced vertebrae?

14 A No.

15 Q How would it be treatable?

16 A It would be treated by first of all assessing
17 whether or not any myocardial infarction had occurred,
18 that is a heart attack. And, if so, immediately
19 hospitalizing the patient and placing him in a
20 coronary care unit where monitoring can be carried
21 out because of immense danger of sudden death during
22 the first 48 to 72 hours of the process.

23 MR. KILLIAN: Would the Justice permit
24 me to make an objection to this line of inquiry at
25 this time?

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THE COURT: What's your objection?

MR. KILLIAN: My objection at the time is the fact that the witness began his testimony by admitting the validity, the truthfulness, of the first sentence of the ad that chest pains can be caused by nerve disturbance at Point 4. Now, if the witness admits that the ad is truthful, then there's no violation of the statute.

THE COURT: Well, by the same token, Counsel, you have a right to cross examine him on his testimony.

MR. KILLIAN: My objection is on the relevancy of the line of questioning where it's now getting into life threatening disorders.

THE COURT: Well, it's overruled at this time, your objection, sir.

MR. FREEDBERG: I would just respond if I may, Your Honor, that the statute provides not only that false statements are prohibited, but misleading statements, as a matter of fact. And, the crux of the testimony here is to describe intense, fearful, constricting sensations in the chest as things that are properly treated by chiropractors who are authorized to treat misaligned or displaced vertebrae is misleading. And, for that reason I

1 introduce this testimony, sir.

2 THE COURT: We will continue,
3 Mr. Freedberg.

4 BY MR. FREEDBERG:

5 Q May I have the ad back, sir.

6 Now, Doctor Gallagher, there is an ad
7 that appeared on December 16th, 1974, will you please
8 review that ad, it's a large ad on this page?

9 A Okay.

10 Q Doctor, in Item 2 of that ad it states a
11 nerve difficulty in this part of the spine can be the
12 cause of so-called -- and then it lists several items,
13 and among the items is goiter, g-o-i-t-e-r, what is
14 goiter?

15 A An enlargement of the thyroid gland.

16 Q Doctor, is goiter caused by a nerve
17 difficulty in the spine?

18 A No.

19 Q Is it treatable by adjustment of misaligned
20 or displaced vertebrae?

21 A No.

22 MR. FREEDBERG: Thank you, your witness.

23 CROSS EXAMINATION

24 BY MR. KILLIAN:

25 Q What's your full name, Doctor Gallagher?

1 A You can obtain it from the record, sir.

2 Q Do I have your initials correct, sir? U. S.
3 Are those your initials?

4 A No, they're not my initials.

5 Q What are your initials?

6 A H. S.

7 Q Have you ever studied chiropractic?

8 A No.

9 Q Have you ever done any research in
10 chiropractic?

11 A No.

12 Q Do you have any basis upon which to claim
13 any expertise in chiropractic?

14 A No.

15 Q Are you a member of the Lehigh Valley
16 Committee Against Health Fraud?

17 A No.

18 Q How long have you known Doctor Barrett?

19 A Perhaps two years.

20 Q You read the ad which was published on
21 December 2, 1974, which indicates that chest pains
22 can be caused by nerve disturbance at Point 4, you
23 agree with that statement, do you not?

24 A I agree with that statement, but not with
25 the following statement regarding the nature of the

1 pain.

2 Q You agree with the first sentence?

3 A That's correct.

4 Q Now, with regard to the second sentence
5 dealing with pain, is a chest pain accompanied by a
6 dull throbbing in some cases?

7 A I beg your pardon?

8 Q The second sentence says the pain may vary
9 from dull throbbing to an intense, fearful,
10 constricting sensation. Now, are you aware that
11 some chest pains are accompanied by a dull throbbing?

12 A You mean any kind of chest pain?

13 Q Any kind of chest pain.

14 A Certainly you're not referring to the kind
15 of chest pain that's caused by nerve disturbance at
16 quote Point 4 unquote.

17 Q That's my next question.

18 A I see.

19 Q Are there cases where there is a nerve
20 disturbance at Point 4 and there is a dull throbbing?

21 A Would you like me to state that in
22 percentage terms?

23 Q Answer yes or no.

24 A What was the question again?

25 Q Are there cases where there is a nerve

1 disturbance at Point 4 and the patient experiences a
2 dull throbbing?

3 A That's possible.

4 Q Have patients ever come to you with those
5 symptoms?

6 A Yes, I've had patients with dull throbbing
7 chest pains.

8 Q Now, have there been patients who have come
9 to you with an intense, fearful, constricting
10 sensation?

11 A Yes.

12 Q Now, is that what you term a threatening --
13 or a life threatening type of symptom?

14 A That symptom is due to myocardial infarction
15 and certainly is life threatening.

16 Q If it was due to myocardial infarction --

17 A As it commonly is.

18 Q As it commonly is. But, there are cases,
19 are there not, where that kind of symptom, that kind
20 of intense pain, is the result of a nerve disturbance
21 at Point 4?

22 A It's a moot point whether it is or whether
23 it isn't. The point to be made is whether the pain
24 might be the result of a myocardial infarction.
25 That's the thing to be thought of, not a nerve

1 disturbance, which is not life threatening.

2 Q If there was a nerve disturbance and the
3 patient had an intense, fearful, constricting
4 sensation, are there such cases?

5 A There may be occasional cases like that.

6 Q And, in those cases there is not a situation
7 of a myocardial involvement?

8 A That's correct.

9 Q When there is a myocardial infarction, if
10 that's the term you use, what caused it, what is the
11 cause of myocardial infarction?

12 A Obstruction of the blood supply of the heart
13 in one of the coronary arteries.

14 Q Could it be caused by nerve disturbances?

15 A In no case.

16 Q In no case. Have you researched that?

17 A Yes, I have researched that.

18 Q Do you have medical textual authority to
19 substantiate that point?

20 A Yes.

21 Q Would you suggest where I might find it?

22 A Hurst and Logue Textbook of Internal
23 Medicine.

24 Q Do you have a page reference?

25 A No, I don't.

1 Q Do the nerves supply the coronary arteries?

2 A The coronary arteries?

3 Q Are they connected in any way to the nervous
4 system?

5 A Yes, they are.

6 Q Now, if there is a disturbance in that nerve
7 supply, could that not have an effect upon the
8 coronary arteries?

9 A It's unlikely.

10 Q Do the nerves which feed the coronary
11 arteries arise at Point 4 on the diagram indicated in
12 the ad?

13 A I'll refer that question to Doctor Wasserman.

14 Q You cannot answer that?

15 A That's correct. In the first place, this
16 diagram is quite poor, and where exactly Point 4 is
17 on this diagram is not clear at all.

18 Q Is it possible for a person to have a
19 distortion in his spine which might impinge upon the
20 nerve supply to the coronary arteries?

21 A It's unlikely. And, even if it did occur,
22 it will not produce myocardial infarction.

23 Q But, if there was no myocardial infarction,
24 could an adjustment of the spine at that area relieve
25 the patient and eliminate the nerve disturbance?

1 A It wouldn't produce benefit as far as the
2 coronary circulation is concerned.

3 Q If the nerve supply was diminished and
4 thus -- and after an adjustment was improved, that
5 would not assist the patient?

6 A As a matter of fact, if the nerve supply
7 were diminished, the coronary blood flow would
8 probably be more rather than less.

9 Q In reference to the advertisement that
10 appeared on the 16th of December, 1974, you pointed
11 to the Item Number 2 which among other things
12 indicated that nerve difficulty in this part of the
13 spine can be the cause of goiter, and you indicated
14 that that's an enlargement of the thyroid gland. Is
15 that correct?

16 A That's correct.

17 Q On what basis do you testify that a goiter
18 is not caused by nerve difficulty in the spine?

19 A On information found in the usual common
20 medical textbooks.

21 Q Has it ever been determined that a goiter
22 resulted from a nerve difficulty?

23 A Not to my knowledge.

24 Q Is it possible that such might have been the
25 case without your knowledge?

1 A Anything is possible without my knowledge.

2 MR. FREEDBERG: I object for that
3 reason. Anything is possible, sir. It's what he
4 knows.

5 THE COURT: I agree with you.
6 Mr. Freedberg, your objection is sustained.

7 BY MR. KILLIAN:

8 Q If a goiter were the result of a nerve
9 difficulty in the portion of the spine referred to in
10 the diagram, is it your testimony that such condition
11 could not be adjusted by a chiropractic adjustment?

12 A That's correct.

13 Q Doctor Gallagher, are you familiar with the
14 volume known as Gray's Anatomy?

15 A Yes.

16 Q Are you familiar with the statement in
17 reference to the nervous system which appears on
18 Page 4 of the introduction of Gray's Anatomy of the
19 Human Body, which says quote in reference to the
20 nervous system its function is to control and
21 co-ordinate all the other organs and structures, and
22 to relate the individual to his environment, end of
23 quote. Are you familiar with that statement?

24 A I'm not familiar with that specific
25 statement, no. But, since you're quoting from

1 Gray's Anatomy, I have no reason to disagree with
2 it.

3 Q You have no reason to disagree with it?

4 A That's correct.

5 Q Doctor Gallagher, are you aware that it is
6 part of the training of a chiropractor?

7 A No, I'm not aware of whatever it is, of
8 what you're about to ask, since I'm not aware of
9 any of the training of a chiropractor.

10 Q You qualify yourself as an expert in
11 internal medicine. Is goiter a condition that's
12 dealt with in terms of internal medicine?

13 A That's correct, sir.

14 Q And, I'll ask you this, under the
15 qualification of your expertise, if a chiropractor
16 is trained in the principle that a nerve difficulty
17 in the portion of the body or spine referred to in
18 the diagram in the ad on 12/16/74 can be not in all
19 cases, but can be a cause of goiter, would you say
20 that?

21 A Sir, I've already pointed out that in my
22 opinion that cannot be a cause of goiter. I think
23 that probably answers the question.

24 Q I'll repeat my question. If it were part
25 of such a chiropractor's training that nerve

1 difficulty in that part of the spine can be a cause
2 of goiter, would you say that by advertising that
3 statement which he was trained and which he was
4 licensed by examination and understands would be a
5 statement made knowingly or recklessly --

6 MR. FREEDBERG: Objection. To begin
7 with the statute does not impose knowingly or
8 recklessly as a qualification.

9 Secondly, it's not what Doctor LaBarre
10 was taught by other chiropractors, it's what exists
11 as a fact. And, the man is here to testify as to his
12 expert opinion what medical fact is.

13 Certainly, if somebody told him the
14 moon was made of green cheese and he put that in his
15 ad that doesn't make it true, or doesn't take it out
16 of the category of making a false statement.

17 THE COURT: He testified already. You
18 asked him that question. And, he said it could not
19 have happened.

20 MR. KILLIAN: I have asked him a
21 hypothetical question as to whether or not if this
22 were the training of a chiropractor, and this was the
23 subject upon which he was licensed by the
24 Commonwealth of Pennsylvania, and if he did
25 advertise that statement, would it be an

1 advertisement made knowingly or recklessly
2 deceptive.

3 And, I have reference to the defense
4 provided in this statute Section 4107 that provides
5 that defense.

6 THE COURT: I don't see that
7 Doctor Gallagher couldn't answer that yes or no.
8 I don't see any problem with that.

9 BY MR. KILLIAN:

10 A I'd be happy to answer it as best I can.

11 I'm not qualified to pass on what
12 Doctor LaBarre or anybody else does. What their
13 subjective impressions are about what they do or
14 that what they do is knowing or reckless, that's a
15 matter for the Court to decide. I think that's one
16 of the reasons we're here.

17 Q It wouldn't obviously be a case of knowing
18 or reckless deception if a person stated a fact which
19 he was trained in school to believe.

20 MR. FREEDBERG: Objection. That's a
21 legal matter.

22 THE COURT: He doesn't have any
23 knowledge, Counsel, of Doctor LaBarre's training in
24 that field. He has no knowledge of that.

25 BY MR. KILLIAN:

1 Q Doctor Gallagher, would you refer again to
2 the ad of December 16, 1974. Would you look just
3 above the statement you read a moment ago to this
4 portion of the advertisement, the last sentence,
5 which says in fact every function taking place in
6 your body is under the control of the nervous system,
7 often called the master system of the human body, do
8 you agree with that statement?

9 A I don't know what Doctor means by that
10 statement. I think he would have to explain what he
11 means by that statement before I could agree or
12 disagree.

13 Q Well, does it mislead you?

14 A How can I say since I don't know what it
15 means?

16 Q What is the difference between that statement
17 and the statement I quoted from Gray's Anatomy?

18 A Read the statement that you quoted from
19 Gray's Anatomy to me. Never mind, don't bother
20 reading it.

21 I don't know what that statement means.
22 I don't know what Doctor LaBarre's implications were
23 when he made the statement. And, on that basis
24 there's not going to be any way that I can tell you
25 what the difference is from the statement not knowing

1 what it means.

2 Q There's no way you can say that's false?

3 A That's correct.

4 Q Is there any way you can say it's misleading?

5 A Since his meaning is unclear --

6 Q Is there any way you can say it's misleading?

7 A There's no way I can say anything about it.

8 Q Is there any way you can say it's deceptive?

9 A There's no way I can say anything.

10 Q That's a statement that Doctor charges as a
11 violation of this statement. That happens to be one
12 of the statements that Doctor LaBarre says.

13 THE COURT: He says that he doesn't
14 know anything about that statement.

15 MR. FREEDBERG: I have a question, if I
16 may.

17 REDIRECT EXAMINATION

18 BY MR. FREEDBERG:

19 Q Sir, with regard to those individuals who
20 experience intense, fearful, constricting pain and
21 that pain is in fact caused by a myocardial infarction,
22 what's the effect of delay?

23 A Half the deaths of myocardial infarction
24 occur before the patient reaches the hospital. Delay
25 has an excellent chance of being fatal.

1 MR. FREEDBERG: Thank you, nothing
2 further.

3 (Witness excused.)

4 THE COURT: Who's your next witness?

5 MR. FREEDBERG: Doctor Goldfarb.

6
7
8 HAROLD GOLDFARB, having been first
9 duly sworn, was examined and testified as follows:

10 DIRECT EXAMINATION

11 THE COURT: Doctor --

12 THE WITNESS: My name is Harold Goldfarb.

13 BY MR. FREEDBERG:

14 Q Doctor, where do you maintain an office?

15 A 101 South 17th Street, Allentown,
16 Pennsylvania.

17 THE COURT: Your occupation?

18 THE WITNESS: Physician.

19 BY MR. FREEDBERG:

20 Q Doctor Goldfarb, did you graduate from
21 medical school?

22 A Yes, sir.

23 Q Where and when, and what degree did you
24 receive?

25 A Tufts Medical School, 1961, in Boston,

1 Massachusetts.

2 Q And, you received the M. D. degree. Is that
3 correct?

4 A Yes, sir.

5 Q And, how long have you been in private
6 practice, sir?

7 A I've been in private practice for almost
8 eight years.

9 Q And, are you licensed to practice in the
10 Commonwealth of Pennsylvania?

11 A Yes, sir.

12 Q You have a specialty, sir?

13 A Yes, sir.

14 Q What is it?

15 A Ophthalmology.

16 Q What is ophthalmology?

17 A Ophthalmology is the practice of medicine
18 as concerned with diseases of the eye.

19 Q And, did you take special training to
20 qualify as an ophthalmologist?

21 A Yes, I did, sir.

22 Q Would you tell us what that consisted of.

23 A I spent a year in general surgery first.

24 And, then took a six month postgraduate course, as is
25 generally required, at the Hartford Medical School, a

1 postgraduate course in ophthalmology. And, spent
2 three years at Manhattan Eye, Ear and Throat Hospital
3 in New York City.

4 And, then had a fellowship grant from
5 Heed Ophthalmology Foundation of Ophthalmic Diseases.
6 And, then I was Chief of Ophthalmology for two years
7 in the United States Army at Fort Bragg, North
8 Carolina.

9 Q Doctor, now I ask you to refer to an ad
10 appearing September 27, 1975 in the Bethlehem Globe,
11 would you read that first.

12 A January 27, '75.

13 MR. KILLIAN: What date, please?

14 MR. FREEDBERG: January 27th, '75.

15 BY MR. FREEDBERG:

16 A This is the ad that says danger signals,
17 blurred vision.

18 Q Doctor, what are the causes of blurred
19 vision?

20 A The causes of blurred vision can be many.
21 The most common cause would be a retractive error,
22 that is a need for glasses or a change in glasses.
23 That's probably the most common. There can be
24 inflammations in the eyes, there can be glaucoma,
25 detached retinas, diabetes, tumors, hysteria, that

1 would probably sum up most of them.

2 Q Doctor, is blurred vision a condition
3 treatable by adjustment of misaligned or displaced
4 vertebrae?

5 A No, sir.

6 Q May I have your answer to that?

7 A No, sir.

8 MR. FREEDBERG: Thank you, your witness.

9 CROSS EXAMINATION

10 BY MR. KILLIAN:

11 Q Are there any cases to your knowledge where
12 blurred vision resulted from a misaligned or displaced
13 vertebrae?

14 A Practically never.

15 Q Well, then I take it your answer to my
16 question is that there are cases where blurred vision
17 did result from misaligned or displaced vertebrae?

18 A In a very round about way. If a person has a
19 broken spine, he might be in so much pain that he
20 wouldn't be seeing well. But, that's a distortion of
21 what the ad attempts to say.

22 Q Are there cases to your knowledge where
23 misaligned or displaced vertebrae caused blurred
24 vision?

25 A No, sir.

1 Q None. You know of none?

2 A No.

3 Q I'm going to read from a text for a moment.

4 A If you're talking about the cervical
5 sympathetic ganglia, it's possible that there would
6 be minimal blurring such as to be insignificant in
7 terms of a patient with blurred vision seeking care.

8 Q Let me read from a text. And, I'd like to
9 have your comment.

10 I'm reading from the Cervical Syndrome,
11 Third Edition by Ruth Jackson, M. D., are you familiar
12 with this text?

13 A I've heard of it.

14 Q Do you have any reason to question this text?

15 MR. FREEDBERG: Objection.

16 THE COURT: What's your objection, sir?

17 MR. FREEDBERG: Well, he said he's
18 heard of it. He didn't say he's acquainted with it.

19 THE COURT: Sustained, Mr. Freedberg.

20 BY MR. KILLIAN:

21 Q I'll read from Page 141. Eye symptoms are
22 frequent following trauma to the neck and in the
23 presence of degenerative changes about the cervical
24 joints. Blurring of the vision is a common complaint.
25 And, the patient may state that he has had his eyes

1 checked and his glasses changed without noticeable
2 improvement. The blurring occurs intermittently, and
3 may be relieved by changing the position of the neck.

4 Now, do you have any reason to disagree
5 with that statement?

6 A Yes, I do, sir.

7 I get approximately eight to ten
8 medical journals a month. I get two cassettes a
9 month from the Medical Audio Digest Foundation in
10 California. As I drove to this hearing, I listened
11 to it.

12 I go to several national meetings a
13 year. This has not been brought up. I see
14 approximately 7,500 patients a year. This is not in
15 the realm of my experience nor the experience of
16 others.

17 I'm not familiar with the person who
18 wrote the book. I've heard of it. I won't pass on
19 what she says. I would say that I disagree with it.
20 And, I think a person with blurred vision in view of
21 the potential damage that could occur would be
22 misadvised to follow that advertisement.

23 Q Are you in any way familiar with cases where
24 chiropractors have adjusted patients who complained
25 of blurred vision, and their vision cleared up?

1 A No, I'm not, sir.

2 MR. KILLIAN: That's all.

3 MR. FREEDBERG: I have nothing further
4 of this witness. Thank you.

5 (Witness excused.)

6 MR. FREEDBERG: Doctor Wasserman.

7

8

9 RONALD WASSERMAN, having been first
10 duly sworn, was examined and testified as follows:

11 DIRECT EXAMINATION

12 THE WITNESS: I'm Ronald Wasserman.

13 THE COURT: And, your address, sir?

14 THE WITNESS: 1033. It is Hamilton
15 Street, Allentown, Pennsylvania.

16 THE COURT: And, your occupation, sir?

17 THE WITNESS: A physician.

18 THE COURT: Your witness.

19 MR. FREEDBERG: Thank you.

20 BY MR. FREEDBERG:

21 Q Doctor Wasserman, you're a graduate of a
22 medical school. Is that correct?

23 A Right.

24 Q Which one is that?

25 A The University of Pittsburgh in 1969.

1 Q And, you received an M. D. degree. Is that
2 correct?

3 A Yes, sir.

4 Q Are you licensed to practice medicine in the
5 Commonwealth of Pennsylvania?

6 A Yes, sir.

7 Q And, how long have you been in practice,
8 sir?

9 A Since 1969.

10 Q Do you have a specialty, sir?

11 A Yes, it is neurology.

12 Q You're a neurologist. Is that correct?

13 A Yes, sir.

14 Q And, how long have you been a neurologist?

15 A For one and a half years.

16 Q Did you take any special training to qualify
17 as a neurologist?

18 A Right. I did two years of internal medicine,
19 and three years of neurology.

20 Q And, where did you do the neurology work?

21 A At the University of Virginia in
22 Charlottesville, Virginia.

23 Q And, where did you do the internal medicine
24 work, sir?

25 A It was Atlanta, Georgia at the Grady Hospital.

1 Q Doctor, I would ask that you review an ad of
2 Doctor LaBarre's which appeared on November 25th, 1974
3 in the Bethlehem Globe Times, would you please review
4 that ad. Perhaps if you look at that copy, that's
5 this ad.

6 Have you had a chance to review that ad
7 of November 25th, sir?

8 A Yes.

9 Q Sir, with regard to Item Number 2 in that ad,
10 it says a slight slipping of a vertebrae causing
11 pressure on nerves may be the cause of among other
12 things bursitis, what is bursitis?

13 A Bursitis is an inflammation of the joint and
14 the joint capsule.

15 Q Now, Doctor, does a slight slipping of
16 vertebrae causing pressure on nerves cause bursitis?

17 A No.

18 Q What does cause bursitis?

19 A Well, I'm not a rheumatologist, but calcium
20 deposits in the joint could cause irritation. But,
21 you could have bacterial infection in the joint also
22 which can lead to bursitis, or some old injury can
23 also lead to bursitis.

24 Q Sir, in Item Number 3 of that ad it says
25 pressure on nerves could cause among other things hay

1 fever, allergies and bronchitis. First of all, what
2 is hay fever?

3 A It is a reaction to a pollen, and you get a
4 response by the lymphocytes causing hay fever. I'm
5 really, again, not an expert in allergy.

6 Q But, you know what it is as a result of your
7 internal medicine training?

8 A Right.

9 Q Now, sir, what is bronchitis?

10 A That is an irritation of the main stem
11 branches, bronchitis in the lungs.

12 Q Sir, does pressure on nerves cause hay fever,
13 allergies or bronchitis in your professional opinion?

14 A No.

15 Q Continuing on with that ad, Number 5 says
16 stomach and liver troubles, enlargement of the spleen,
17 may be caused by vertebrae slipping and causing nerve
18 pressure. Is that true, sir?

19 A Stomach and liver problems, that conceivably
20 can be. It would be very rare in that that's in the
21 thoracic area. To have a slipped vertebrae in that
22 area is very rare. But, the enlargement of the spleen
23 I've really never heard of. To my knowledge it can't
24 do that.

25 Q Now, sir, with regard to the statement in

1 there that many gall bladder problems and shingles
2 may be caused by pressure. Is that correct from a
3 medical standpoint, sir?

4 A Shingles is caused by a virus, herpes zoster,
5 and it is not caused by a slipped disc.

6 The problem here is even if I cut the
7 nerve, you're not going to get rid of the herpes,
8 you're going to get rid of the pain. And, the
9 problem with herpes is that sometimes if they are not
10 treated, you can end up with a bacterial infection.
11 And, especially if it does involve the first division
12 of the fifth nerve you can lose the sight of your eye
13 as a result of the secondary infection.

14 Q Sir, I ask you to look at an ad dated
15 January 27, 1975, would you please review that ad.

16 Doctor, there is a statement in there,
17 Number 3. In listing the eight danger signals, it
18 lists numbness, pain or tingling in the arms or hands,
19 do you see that?

20 A Yes.

21 Q Now, sir, are those symptoms the kind of
22 symptoms that can be treated by correcting misaligned
23 or displaced vertebrae?

24 A They actually are, yes. There's a possibility.

25 Q How would you evaluate that possibility, how

1 many instances, what percentage of the cases where
2 those symptoms emerge is that treatable by those
3 methods?

4 A By what methods?

5 Q By manipulating or adjusting misaligned or
6 displaced vertebrae.

7 A If you're talking about doing it without
8 surgical intervention, I would think it is very rare.
9 I mean I can't --

10 Quote we just gave a conference on
11 cervical spondylosis, and the rheumatologist spoke
12 on that. And, he mentioned manipulation, and this
13 is sort of a quote from him saying it. He only
14 mentioned it so that it wouldn't be done. And, the
15 main reason for that is that there are lots of things
16 that can cause that, and the most common is
17 spondylosis.

18 Q What is spondylosis?

19 A There is degeneration of the intervertebral
20 discs, and also osteophytes through which the nerves
21 go, and by manipulating that or moving that, the only
22 thing that I can think of is that you would be
23 injuring the nerve more.

24 Q Doctor, we have already had testimony as to
25 an ad on December 2nd, 1974. I'll ask you just to

1 review it briefly. Now, it states there, Doctor,
2 chest pains can be caused by nerve disturbance at
3 Point 4. The pain may vary from dull throbbing to
4 an intense, fearful, constricting sensation.

5 Now, confining yourself to the intense,
6 fearful, constricting sensation, from your experience
7 what percentage of the cases where that symptom
8 occurs is it due to nerve disturbance at Point 4?

9 A That would be a very rare case where the
10 people who have a nerve injury in that area would be
11 complaining of radiating pain around their chest in a
12 very localized manner. In order to have it all over
13 your chest, you'd have to have multiple roots involved
14 at multiple segments.

15 MR. FREEDBERG: Thank you, your witness.

16 CROSS EXAMINATION

17 BY MR. KILLIAN:

18 Q Doctor Wasserman, I'd like to read to you a
19 sentence or two from the book, The Cervical Syndrome,
20 Third Edition by Ruth Jackson, M. D., are you familiar
21 with that text?

22 A Yes, very familiar.

23 Q On Page 169 the book states quote one should
24 keep in mind that adhesive capsulitis of the shoulder
25 and calcareous deposits in the tendons of the shoulder

1 cuff are often associated with cervical spine
2 disorders. Now, do you have any reason to disagree
3 with that statement?

4 A No.

5 Q Does that indicate that a slipping of the
6 vertebrae causing pressure on the nerves can be the
7 cause of bursitis?

8 A That statement doesn't say that. To me it
9 means that they may occur together. If you have
10 arthritis in a joint you may have it also in your
11 neck, that's all.

12 Q You don't see any cause in effect there?

13 A No, I don't.

14 Q I would like your comment on one other
15 paragraph. The final paragraph of the book on
16 Page 305 is quote the importance of cervical
17 investigation in any patient with head, neck, chest,
18 shoulder and arm pain cannot be over-emphasized. The
19 usual diagnosis of arthritis, bursitis, neuritis,
20 muscular rheumatism, fibrositis, fasciitis,
21 tendinitis, pseudo-angina, migraine, et cetera,
22 should not be made until cervical nerve root
23 irritation has been ruled out entirely, if that is
24 possible. Do you have any comment on that paragraph,
25 do you agree with it?

1 A If you could read it one more time for me,
2 do you mind?

3 Q Do you agree with that statement,
4 Doctor Wasserman?

5 A Yes, I do.

6 Q Pardon me?

7 A Yes, I do.

8 Q Doesn't that statement indicate that those
9 conditions can be the result of misaligned and
10 displaced vertebrae?

11 A That depends on what conditions you're
12 speaking about. That's very vague. It's an overall
13 statement about the whole book. And, neck pain,
14 chest pain can be caused by nerve root irritation.

15 Q The specific reference is made to bursitis.

16 A It says in there that you shouldn't think
17 someone has bursitis.

18 Wait a minute. The statement is that
19 you shouldn't make the diagnosis of bursitis without
20 investigating a possible nerve root problem. It
21 doesn't say that bursitis is caused by a nerve root
22 problem.

23 It says that if you think someone has
24 bursitis, you should investigate the cervical area.
25 So, it isn't a cause and effect. I mean, if you want

1 to stick with bursitis, to think that it is a nerve
2 problem, and to treat someone for that.

3 And, I have been sent patients who
4 people thought had a nerve root problem in that area.
5 And, I've went over them and felt that it was
6 bursitis instead, and sent them to a rheumatologist.

7 I think a delay in time is a dangerous
8 thing.

9 Q Such a patient did have bursitis and there
10 was a dislocated vertebrae, would not the adjustment
11 of that vertebrae assist the patient in recovering
12 from the bursitis?

13 A No.

14 Q Not to your knowledge?

15 A Not to my knowledge.

16 Q Do you understand that chiropractors disagree
17 with you on that point?

18 A No.

19 Q You don't?

20 A No.

21 Q I would like to read, Doctor Wasserman, from
22 the book of Chiropractic Diagnosis by James N. Firth,
23 Doctor of Chiropractic.

24 MR. FREEDBERG: What year was it
25 published, sir?

1 MR. KILLIAN: 1948.

2 BY MR. KILLIAN:

3 Q This is at Page 557. The caption on the top
4 is zoster, can you identify that term?

5 A Yes, I can.

6 Q What is it?

7 A It's a virus.

8 Q Is it called shingles?

9 A Yes, it is.

10 Q The page reads definition, an acute
11 inflammatory disease of the cutaneous nerves
12 characterized by a unilateral eruption of groups of
13 vesicles situated upon a reddened base and found along
14 the course of the affected nerve. It is also called
15 herpes zoster and shingles. Do you have anything to
16 say about that statement, is that a valid definition?

17 A Yes.

18 Q Now, it states pathology, the structural
19 changes are those of simple inflammation involving
20 the substance of a cutaneous nerve with its posterior
21 ganglion and the papillary layer of the corium. Do
22 you have any comment on that statement?

23 A No, it's a true statement.

24 Q Now, there's a paragraph entitled symptoms.
25 The first stage is that of neuritis lasting for a few

1 days or several weeks and marked by slight or severe
2 pains. These premonitory pains are followed by the
3 appearance of an eruption consisting of groups of
4 small papules, which soon develop into tense vesicles.
5 These vesicles vary in size from a pinhead to a split
6 pea or larger and always have a red base. The
7 vesicles may become turbid, dry up, disappear, and be
8 followed by other groups of vesicles. Mild cases
9 usually terminate in a week or ten days, while severe
10 cases may last weeks or months, during which the
11 lesions are attended by severe burning and stinging
12 pain. The most common location is one or two
13 intercostal nerves from the spine to the sternum,
14 but it may affect nerves of the head and extremities.
15 It is not uncommon to find the eruption following the
16 course of the supraorbital branch of the trifacial
17 nerve. The number of vesicles vary from two to
18 hundreds in a group, and they may coalesce, forming
19 blebs. It differs from herpes simplex in that it is
20 usually unilateral, its vesicles do not break to form
21 crusts, and it is always accompanied by pain of a
22 neuralgic character radiating along the course of the
23 affected nerve. The prognosis is always favorable
24 under adjustments. Do you have anything to say about
25 that paragraph?

1 A What does it mean by favorable under
2 adjustments?

3 Q Up until the last sentence, do you have any
4 comment to make about the paragraph I've just read
5 entitled symptoms?

6 A No, I don't.

7 Q The last paragraph I'll read again. The
8 prognosis is always favorable under adjustments, do
9 you agree with that?

10 A No, I don't.

11 Q Do you know what a subluxation is?

12 A Yes, I do.

13 Q What is it?

14 A It's a slipping of one bone on another.

15 Q Is it a term that is a medical term?

16 A It is.

17 Q Do you know that the adjustment of the spine
18 by a chiropractor can relieve a patient of a
19 subluxation?

20 A I really don't know in all honesty what a
21 chiropractor does.

22 Q You have never studied chiropractic?

23 A No, I haven't.

24 But, I do know herpes zoster is a viral
25 infection which often leaves a postneuralgic type of

1 pain which is very hard to get rid of. Often you
2 can't get rid of it and have to cut the nerve with
3 medical means. And, if there would be a chiropractic
4 way to stop that pain, I'd surely like to know about
5 it.

6 Q Are you aware of cases where that kind of
7 pain has been stopped by chiropractic adjustment?

8 A No, I'm not.

9 Q Then you cannot say that chiropractic
10 adjustments do not relieve a patient of that.

11 MR. FREEDBERG: Objection. That doesn't
12 follow.

13 THE COURT: What's your objection?

14 MR. FREEDBERG: You said he's not aware
15 of any situation where it relieved it.

16 THE COURT: In other words, you're
17 saying that he answered the question?

18 MR. FREEDBERG: Yes.

19 THE COURT: Sustained.

20 BY MR. KILLIAN:

21 Q Doctor Wasserman, are you a member of the
22 Lehigh County Health Fraud Committee, or an organiza-
23 tion of that name associated with Doctor Barrett?

24 A No, I don't even know if he's associated
25 with that committee at all.

1 Q How long have you known Doctor Barrett?

2 A About a year, but just in a passing way.

3 MR. KILLIAN: That's all.

4 REDIRECT EXAMINATION

5 BY MR. FREEDBERG: .

6 Q Doctor, I asked you about several items
7 referring to an ad including bursitis and shingles
8 and certain other things.

9 If I were to tell you that under the
10 statute of the Commonwealth of Pennsylvania
11 chiropractors are limited to adjustment of such
12 misaligned or displaced vertebrae and other
13 articulations that they find, do you have an opinion
14 as to whether -- given the fact that that's what
15 chiropractors legally can do, whether their services
16 would be beneficial or curative of those who have
17 those disabilities?

18 MR. KILLIAN: I object to the question.

19 THE COURT: What's your objection,
20 Counsel?

21 MR. KILLIAN: The witness has previously
22 given testimony that he is not aware of the nature of
23 chiropractic and what chiropractors do. I don't
24 think he's qualified to answer the question which
25 relates to the purposes which chiropractors are

1 licensed.

2 THE COURT: I agree with you, Counsel.
3 Sustained. That's what he testified to.

4 MR. FREEDBERG: As part of my question
5 I stated that the law is that chiropractors in
6 Pennsylvania may perform the adjustment of misaligned
7 or displaced vertebrae and other articulations. That
8 was part of my question. I said assuming that's so.
9 And, I'm prepared to prove that it's so. I have a
10 copy of the law regarding licensing of chiropractors
11 here.

12 Assuming that's so, I'm asking whether
13 a chiropractor is able to treat in a beneficial way
14 the items we've previously discussed.

15 THE COURT: He testified, Mr. Freedberg,
16 that he had no knowledge of chiropractic.

17 MR. FREEDBERG: I'm asking him to assume
18 that the statute is the law of Pennsylvania, which it
19 is. That's part of the question.

20 Assuming that this law is as I've read
21 it, and in fact it is. I have the citation here.
22 Assuming that's what chiropractors are legally allowed
23 to do, are those services beneficial for the items
24 we've discussed?

25 THE COURT: I don't see anything wrong

1 with that question.

2 MR. KILLIAN: I don't think he's
3 competent to answer that question, Judge.

4 THE WITNESS: Are you talking about
5 herpes zoster, the things we've discussed?

6 MR. FREEDBERG: Yes, the things we've
7 discussed.

8 THE COURT: He questioned counsel.

9 What I'm trying to say, Mr. Freedberg,
10 is when the counsel for the defendant questioned
11 Doctor Wasserman, he said he had no knowledge of
12 chiropractic.

13 MR. FREEDBERG: What I did in my
14 question was advised him what the statute provides as
15 to what chiropractors are able to do.

16 With that information I'm asking him
17 what his professional opinion is as to the nature of
18 the services a chiropractor can perform with regard
19 to those specifics.

20 THE COURT: Well, if you rephrase that
21 question now and the original question, which you
22 didn't, I'll sustain that objection by counsel. Go
23 ahead.

24 MR. FREEDBERG: I'd be happy to rephrase
25 that question.

1 BY MR. FREEDBERG:

2 Q Assuming that the law of Pennsylvania is
3 such that chiropractors are limited to the adjustment
4 of misaligned or displaced vertebrae and other
5 articulations, assume that's so.

6 Now, with regard to that, given the
7 nature of the items referred to previously in the ad,
8 can a chiropractor perform beneficial services for
9 those illnesses, bursitis, herpes zoster and the
10 others we've mentioned, by adjustment of misaligned
11 or displaced vertebrae and other articulations?

12 A In my testimony before I think I answered
13 that by saying no.

14 MR. KILLIAN: I have a question for the
15 witness.

16 RECROSS EXAMINATION

17 BY MR. KILLIAN:

18 Q Doctor Wasserman, the definition of
19 chiropractic needs to be read in full so that you can
20 properly answer the question.

21 Chiropractic should mean a limited
22 sequence of the healing arts dealing with the
23 relationship between the articulations of the
24 vertebral column as well as other articulations, and
25 the nervous system and the role of these relationships,

1 and the restoration and maintenance of health. It
2 shall include chiropractic diagnosis, a system of
3 locating misaligned or displaced vertebrae of the
4 human spine and other articulations, the examination
5 preparatory to and the adjustment of such misaligned
6 or displaced vertebrae and other articulations. The
7 function of patient care is for the restoration and
8 maintenance of health and the use of scientific
9 instruments of analysis as taught in the approved
10 school and college of chiropractic without the use of
11 either drugs or surgery. The term chiropractic
12 should not include the treatment of fractures or
13 major dislocations.

14 Now, Doctor Wasserman, if a chiropractor
15 limits his services to the locating and the adjusting
16 by hand of misaligned or displaced vertebrae of the
17 human spine, will it result in the restoration and
18 maintenance of health?

19 A It depends on what the patient's problem is.

20 Let's say the patient has a numbness or
21 tingling in his arms due to a cervical disorder,
22 spinal tumor or blood clot in that area. By a moving
23 of the neck, you can make it very much worse.

24 And, to illustrate that I recently saw
25 a man who had a sudden onset of pain under his arm and

1 then into his neck. And, within about five minutes
2 he could hardly move his legs. And, if he moved his
3 neck, his legs would get very stiff and they would go
4 out, which is a reflex.

5 Had he been manipulated or his neck
6 moved, there would have been a lot of permanent
7 damage. As it was, he was seen quickly, and was
8 operated upon. Had there been a delay of even a day,
9 the results may have been --

10 Q Suppose there was just a simple subluxation
11 of the spine, and the patient was ill. He had stomach
12 cramps, he had headaches, he had insomnia, he had
13 pains in the neck or he was nervous or dizzy, or he
14 complained of various other disorders and, as a result
15 of a manipulation by the chiropractor, his general
16 state of health was restored. Hasn't the chiropractor
17 been a benefit to that patient?

18 A It depends what you mean by a subluxation.

19 MR. FREEDBERG: I object to the question.
20 There's no way of showing that's so.

21 He testified one would not follow the
22 other. He's previously testified to that.

23 THE COURT: He can answer that yes or no,
24 Mr. Freedberg.

25 MR. FREEDBERG: He's asking him if he

1 got better, did he get better?

2 THE WITNESS: It depends on the size of
3 the subluxation. If it's minimal and nothing is done,
4 he may get well. If it's from a car accident, which
5 is severe, the suggestion would be to operate. I
6 don't touch the neck.

7 BY MR. KILLIAN:

8 Q When I asked you that last question, you gave
9 me an example of a very unusual situation, that of a
10 person with a tumor on the spine. And, you showed the
11 disastrous consequences to that patient of manipulation.

12 A I said if someone moved his neck, or if he
13 moved his neck, it would accomplish nothing.

14 Q Any kind of manipulation, voluntary,
15 involuntary, or what have you.

16 Aren't there cases that arise every day
17 where patients are wrongfully diagnosed, given the
18 wrong medication, and they die or have other ill
19 consequences as a result?

20 A Of what?

21 Q Are you familiar with people who have been
22 treated for ulcers for years, and then it turned out
23 they had cancer and died?

24 A They may have had the ulcer for years, and
25 all of a sudden had a cancer.

1 There are people who have a chronic
2 illness, and then die from a brain hemorrhage. And,
3 you can't say they died because the ulcer was
4 misdiagnosed.

5 Q You can't always tell why they die?

6 A If they die from a brain hemorrhage. But,
7 they may have had ulcers also.

8 Q Are you familiar with any statistics with
9 regard to the number of deaths caused annually by
10 prescribed medication?

11 MR. FREEDBERG: Objection, relevancy.

12 THE COURT: Mr. Wasserman didn't testify.

13 MR. KILLIAN: I gave examples with
14 regard to the consequences of the wrongful diagnosis
15 or the wrongful care of a patient. And, I'm now
16 getting into the area of the wrongful care of a
17 patient with prescribed medicine.

18 MR. FREEDBERG: My response, sir, is
19 that the question is whether these ads violate the
20 statute, whether they're misleading.

21 Whether in fact there are M. D.s who
22 make errors is not relevant to the consideration
23 before the Board.

24 THE COURT: I don't know what counsel
25 for the defendant is leading up to.

1 MR. KILLIAN: I have no further questions.

2 MR. FREEDBERG: Thank you.

3 (Witness excused.)

4 MR. FREEDBERG: Doctor Barrett.

5

6

7 STEPHEN J. BARRETT, having been first

8 duly sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 THE COURT: State your name.

11 THE WITNESS: Doctor Stephen J. Barrett.

12 I'm a psychiatrist.

13 THE COURT: All right, Mr. Freedberg.

14 BY MR. FREEDBERG:

15 Q Doctor, where did you go to school, and what

16 degrees did you receive?

17 A I went to Columbia University College of

18 Physicians and Surgeons, received my medical M. D.

19 degree in 1958.

20 Q And, are you licensed to practice in the

21 Commonwealth of Pennsylvania, sir?

22 A Yes.

23 Q And, how long have you been so licensed?

24 A I think since 1958.

25 Q You say you have a specialty of psychiatry?

1 A Yes.

2 Q What training did you have that qualifies you
3 for that specialty?

4 A I've three years of residency training in
5 psychiatry at Temple University Hospital.

6 Q You are, of course, an M. D. Is that correct?

7 A Yes.

8 Q Is that a prerequisite to being a
9 psychiatrist?

10 A Yes.

11 Q Sir, I show you an ad dated --

12 MR. KILLIAN: Justice, I'd like to raise
13 a question with regard to the qualification of this
14 witness to give any testimony of a medical nature.
15 He does not practice medicine.

16 Now, if he wants to limit his testimony
17 to diseases of the mind, I might not have an objection.
18 If he's going to give testimony relative to the field
19 of medicine, I do not think he qualifies as an expert.
20 He may have a medical degree. I don't believe he's
21 ever practiced medicine. And, I don't believe he
22 qualifies as an expert to give testimony in this
23 proceeding.

24 MR. FREEDBERG: The weight of his
25 testimony is for the fact finder. I think the

1 admissibility established is by virtue of the fact
2 that he does have a medical doctor's degree, and he's
3 licensed to practice in the Commonwealth.

4 THE COURT: That would be sufficient.

5 BY MR. FREEDBERG:

6 Q And, sir, referring to an ad which appeared
7 in the Bethlehem Globe on April 14th, 1975, do you
8 have a copy of that ad?

9 A Yes.

10 Q Would you review that ad.

11 A Yes.

12 Q Doctor, let me ask a preliminary question.
13 You are involved with the Lehigh Valley Committee
14 Against Health Fraud?

15 A That's right.

16 Q And, what is your capacity?

17 A I'm Chairman of the Board of Directors.

18 Q And, in the course of your work there, sir,
19 have you become acquainted with the training that
20 chiropractors receive at colleges of chiropractic and
21 universities of chiropractic?

22 A To some extent.

23 Q Are you aware, sir, whether they take
24 training in pharmacology, that is a course in drugs
25 and the use of drugs?

1 A As far as I know they take little or none.
2 They're not licensed to prescribe drugs.

3 Q Doctor, will you refer to an ad of
4 February 17th, 1975?

5 A Okay.

6 Q Now, sir, that ad contains a statement that
7 nerve difficulty in the spine can cause goiter, sir,
8 do you have an opinion as a medical doctor?

9 MR. KILLIAN: Excuse me. I object on
10 the ground that he is asking for a medical opinion.
11 And, furthermore, I thought we were dealing with the
12 ad for April 14, 1975. And, I don't believe that's
13 the ad.

14 MR. FREEDBERG: Mr. Killian, I moved on
15 after asking the question about training in
16 pharmacology.

17 MR. KILLIAN: You're on what ad now?

18 MR. FREEDBERG: February 17, 1975,
19 Item Number 2. A nerve difficulty in this part of
20 the spine can be the cause of among other things
21 goiter.

22 MR. KILLIAN: I object on the ground he
23 is not qualified. And, by the counsel's own
24 admission, he's not here to testify on medical facts.

25 MR. FREEDBERG: I think I said he is

1 here as a witness. The weight of his testimony is
2 for the fact finder. The admissibility, I think, is
3 clearly established by virtue of the fact that he is
4 licensed to practice medicine, and he has a medical
5 degree.

6 MR. KILLIAN: Mr. Freedberg, you still
7 haven't said that he's offered as an expert. And,
8 that's what you have to offer him as to get this
9 testimony.

10 MR. FREEDBERG: I am offering him as an
11 expert. I thought that was clear.

12 THE COURT: Your objection is overruled.
13 I said at that time when Mr. Freedberg
14 stated about him being a licensed practitioner and
15 M. D. in the Commonwealth of Pennsylvania that that
16 was sufficient.

17 MR. FREEDBERG: That was my under-
18 standing, Your Honor.

19 BY MR. FREEDBERG:

20 Q With that in mind, sir, a nerve difficulty
21 in this part of the spine can be the cause of goiter
22 the ad says. Sir, is that correct from a medical
23 standpoint?

24 A No, that's false.

25 Q In what way is it false, what causes goiter?

1 A There are a variety of thyroid diseases.
2 I'm not an expert on every one.

3 Some are caused by inflammation, some
4 are caused by allergy to one's own thyroid tissue.
5 Some are caused by hormonal imbalance as well as by
6 a dietary deficiency.

7 There is some swelling of the neck that
8 is due to benign tumors and cancer of the thyroid as
9 well causing goiter. There are probably others, but
10 those are the ones I can think of offhand.

11 Q Sir, would you review the definition of
12 chiropractic as provided in the statute of the
13 Commonwealth.

14 A Right.

15 Q Given that definition, sir, is the condition
16 of goiter treatable by any of the methods set forth
17 in that definition of chiropractic?

18 A I don't believe so.

19 Q Now, sir, with regard to the statement in
20 the same ad that a slight pinching of nerves at this
21 point, and it indicates the point, can cause ear
22 problems, abnormal blood pressure, colds, hay fever,
23 sinus, probably some types of arthritis, glandular
24 problems, from a medical standpoint, sir, is that
25 statement correct?

1 A There are at least some of these conditions
2 that cannot be caused by a slight pinching of nerves.
3 I am not an expert on the relative percentages. If
4 something would be caused by nerve difficulty, I
5 couldn't break it down as to what the percentage is.

6 Q Which of those items cannot be caused by
7 nerve difficulty, sir?

8 A Abnormal blood pressure. That's nerve
9 difficulty at that point.

10 Q I'm sorry.

11 A Nerve difficulty at that point. We're
12 talking about Number 1.

13 Q How about claudication, sir?

*from memory
7 error*

14 A Abnormal blood pressure, colds, hay fever,
15 sinus, probably some types of arthritis and glandular
16 trouble.

17 Q You say they're not caused by nerve pressure.
18 Is that correct?

19 A That's right, they're not.

20 Q There's a statement there that stomach and
21 liver trouble, and pleurisy can be caused by pressure
22 at a certain point of the spine. Is that correct from
23 a medical standpoint, sir?

24 A That is false.

25 Q There's another statement there that nerve

1 pressure at this point, referring to a particular
2 point, can cause gall bladder problems and shingles.
3 Is that correct from a medical standpoint?

4 A That's false.

5 Q Thank you.

6 MR. FREEDBERG: Your witness.

7 CROSS EXAMINATION

8 BY MR. KILLIAN:

9 Q Doctor Barrett, have you ever practiced
10 medicine?

11 A Do you mean have I ever treated patients
12 with medical problems?

13 Q Have you ever hung out your shingle and
14 practiced medicine?

15 A Have I ever had an office in which I
16 practiced medicine, no. However, I've treated many
17 medical patients up until recently.

18 Q What do you treat them for?

19 A Well, to begin with, the largest number of
20 medical patients that I treated was during my intern-
21 ship at Highland Park Hospital. I had either full or
22 partial charge of treatment of probably several
23 thousand patients.

24 Q For what period of time, and when?

25 A This was for a year from July of 1957

1 through June of 1958.

2 Following that time during my residency
3 in psychiatry there were times when I worked in the
4 emergency room at Temple University Hospital, there
5 having the full responsibility of patient care for
6 those people who came in, that is to be the first one
7 who saw them.

8 Following that I was in the service,
9 the Air Force, where again I took a turn of duty in
10 the emergency room treating medical or whatever
11 problems came in.

12 Since 1967 I have been a physician at
13 Allentown State Hospital on a part-time basis. And,
14 during various parts of that time, I have been
15 responsible for the management of as many as 150 to
16 200 patients who lived at the hospital. And, during
17 various periods of time, I was responsible for the
18 primary medical care of those patients, that is I was
19 the first doctor that saw them. And, those that I
20 felt I could handle, I did, and those that I did not,
21 I would refer.

22 Q Did you ever treat anybody who had abnormal
23 blood pressure?

24 A Yes.

25 Q A cold?

- 1 A Yes.
- 2 Q Hay fever?
- 3 A Yes.
- 4 Q Sinus trouble?
- 5 A Yes.
- 6 Q Glandular trouble?
- 7 A No. Generally, I would -- after making the
8 diagnosis, they would be referred to specialists.
- 9 Q Pleurisy?
- 10 A Pleurisy generally one would treat. I've
11 seen patients with pleurisy. One would treat the
12 underlying disease if there was an infection.
- 13 Q Gall bladder?
- 14 A Generally, those people would be referred to
15 specialists.
- 16 Q Shingles?
- 17 A The only cases of shingles I saw were many
18 years ago. And, at that time I don't recall whether
19 there was treatment, much in the way of treatment at
20 that time, or whether I referred them to specialists.
21 I don't recall.
- 22 Q Gall bladder?
- 23 A We covered that.
- 24 Q Neuritis?
- 25 A I don't believe I testified to neuritis.

1 Q Bursitis?

2 A I believe that most cases of bursitis would
3 be referred to specialists.

4 Q Bronchitis?

5 A Yes, I treated many people with bronchitis.

6 Q Goiter?

7 A Generally, that would be referred to
8 specialists.

9 Q Now, in any of those cases did any of those
10 patients have a subluxated vertebrae?

11 A I don't believe so.

12 Q Did you check?

13 A No.

14 Q How do you know they didn't?

15 A Because there's no way. It's anatomically
16 impossible that a subluxated vertebrae would cause
17 those difficulties. And, I want to clarify that by
18 saying that chiropractors and medical doctors don't
19 use the word subluxation the same way, Number 1.

20 Number 2, chiropractors themselves do
21 not agree on what is meant by subluxation. So that
22 when people talk about a subluxation it has to lead
23 to confusion.

24 Q How do you know about chiropractors?

25 A For the past six years I have read

1 extensively in chiropractic journals, talked to
2 chiropractors, corresponded with chiropractors,
3 debated with chiropractors, read a few chiropractic
4 textbooks and so on.

5 Q Have you had any chiropractic training?

6 A No, I have not.

7 Q Have you been to a chiropractic school?

8 A No, I have not.

9 Q You do not know that in any case you ever
10 treated as a physician the patient might have had a
11 misaligned or displaced vertebrae?

12 A I'm sorry, would you repeat that?

13 Q I take it that you don't know whether -- in
14 any case of a patient you ever treated the patient
15 had a displaced or misaligned vertebrae?

16 A I think you're asking me is there a
17 possibility that some patient I treated had a
18 misaligned --

19 Q I asked you do you know whether any patient
20 you ever treated had such condition.

21 A I'm sorry, I don't understand the question.

22 Q Can you answer the question?

23 A Not if I don't understand it, no.

24 Q Did you ever determine that a single patient
25 you were treating had a displaced or misaligned

1 vertebrae?

2 A Did I ever determine that, no. I said I
3 never found one that did.

4 Q You never found one that did?

5 A That's right.

6 Q Is it possible that they all did?

7 A That everyone of them, no.

8 Q Why not?

9 A Because I don't think that vertebrae,
10 displaced vertebrae, are that common.

11 Q You don't think. You don't think, do you,
12 you don't think that they are that common a condition?

13 A I know that they're not.

14 Q Please tell me on what basis you know that.

15 A On the basis of my medical training.

16 Q Your medical training. 'Have you ever done
17 research on that subject?

18 A Any research, no.

19 Q Have you ever read any research studies on
20 that subject?

21 A Which subject?

22 Q On the subject of the frequency of displaced
23 or misaligned vertebrae in human beings.

24 A I have read some. I have read textbooks
25 that speak on that, yes.

1 Q By whom?

2 A I don't know at this point.

3 Q Medical doctors or chiropractic doctors?

4 A Both.

5 Q Do the chiropractic doctors state the
6 frequency of misaligned and displaced vertebrae?

7 A They vary.

8 Q They vary?

9 A Yes.

10 Q Do medical doctors state the frequency of
11 misaligned or displaced vertebrae?

12 A Not exactly.

13 What I'm responding to is the fact that
14 there are many, many different kinds of diseases that
15 are described in many, many different textbooks, and
16 that misaligned -- the vertebrae that are out of
17 place are mentioned in some, but it's not if you take
18 diseases, people as a whole or people as a group, or
19 diseases, you know the broad spectrum of diseases,
20 vertebrae out of place occurs in a very small
21 percentage of patients.

22 Q Hasn't the legislature of Pennsylvania
23 determined that there must be some frequency of
24 misaligned or displaced vertebrae in order to license
25 chiropractors to locate such misalignments or

1 displacements?

2 MR. FREEDBERG: Objection.

3 THE WITNESS: I'd like to answer that.

4 MR. FREEDBERG: I'll withdraw that
5 objection.

6 BY MR. KILLIAN:

7 A No.

8 Q The legislature has not made that
9 determination?

10 A No.

11 Q Why have they included in the definition of
12 chiropractic, which was read by the District Attorney,
13 the statement that includes chiropractic diagnosis a
14 system of locating misaligned or displaced vertebrae
15 of the human spine and other articulations, and the
16 adjustment of such misaligned or displaced vertebrae.

17 Hasn't the legislature recognized that
18 this is a human condition, and licensed professionally
19 trained people to perform that service?

20 A The legislature has passed a law. But, the
21 passage of a law does not establish medical fact.
22 It does not establish anatomical fact.

23 Q Does it establish chiropractic fact?

24 A It's political fact.

25 Q Does it establish chiropractic fact?

1 MR. FREEDBERG: I object. I don't know
2 what chiropractic fact is.

3 MR. KILLIAN: The witness claims a --

4 MR. FREEDBERG: I'm going to renew my
5 objection.

6 MR. KILLIAN: Let him answer the
7 question.

8 THE COURT: He can answer it yes or no.
9 He said he read a couple textbooks on
10 chiropractic, and let's have it.

11 BY MR. KILLIAN:

12 A Has it established chiropractic fact?

13 Q Doctor Barrett, let me rephrase the question.
14 Is it a basic concept of chiropractic that human
15 beings suffer from misaligned or displaced vertebrae?

16 A It is a basic concept. However,
17 chiropractors themselves do not agree as to the
18 extent of such difficulty.

19 Q But, all chiropractors agree, do they not,
20 that people suffer from misaligned or displaced
21 vertebrae, don't they agree on that?

22 A That that is a cause of disease?

23 Q I didn't say that.

24 Don't all chiropractors agree, every
25 single last one of them, that human beings suffer

1 from misaligned or displaced vertebrae?

2 A I'm not sure about that. Most of them do.

3 Q Have you any knowledge of a single

4 chiropractor who disagrees with that?

5 A I have talked to chiropractors who feel

6 that's a very minor matter.

7 Q What are they licensed to do if not locate

8 and adjust misaligned or displaced vertebrae?

9 A Well, what they are licensed to do is not
10 necessarily what they do do and or what they can do.

11 It's a very confusing kind of a
12 situation where a law has been passed that simply
13 does not conform to scientific knowledge.

14 I can give you another example, when
15 Medicare was legislated, when chiropracting was
16 included in Medicare.

17 Q Is chiropractic included in Medicare?

18 A To some extent.

19 Q Is it recognized by Medicaid also?

20 A Can I finish my example?

21 Q Go ahead.

22 A They said that payment can be made for
23 subluxations proved to exist on X-ray.

24 And, yet the Dean of the Palmer College
25 sent me a letter saying that chiropractors don't

1 claim they can see sublaxations on an X-ray.

2 But, the law says that they will be
3 paid if the X-ray proves that it exists. Just an
4 example of how laws don't conform to scientific
5 knowledge.

6 Q Is it your testimony, Doctor Barrett, that
7 X-rays cannot show a sublaxation?

8 A No.

9 Q Then I take it X-rays can show a sublaxation?

10 A We're getting into difficulty because the
11 word sublaxation is defined by different people in
12 different ways. And, chiropractors themselves don't
13 agree on what a sublaxation is.

14 Q And, you don't agree with the chiropractors?

15 A About what?

16 Q About what is a sublaxation.

17 A I just said.

18 Q Have you stated on a public platform that
19 there's no such thing as a sublaxation?

20 A I don't know. And, if I did, I think it
21 would have to be discussed in the context in which it
22 was said. I don't think I said it that way.

23 Q I show you a diagram from Page 24 of the
24 book, The Cervical Syndrome, Third Edition, by
25 Ruth Jackson, and ask you isn't that an X-ray of a

1 subluxation?

2 A I'm not qualified to read X-ray, sir.

3 Q That's the third time in this hearing you
4 said you're not an expert in something of a medical
5 nature.

6 You mention in your testimony a number
7 of times the word treat, do chiropractors treat
8 patients?

9 A Yes, they treat some patients.

10 Q How do they treat them?

11 A I think that what they do has some
12 similarity to basically two groups of therapists.

13 The first is faith healers who give
14 people the feeling that they have the power to treat,
15 and say something about their power. And, then this
16 can affect a small percentage of the people that come
17 to them.

18 Q And, that's treatment?

19 A For those who do not have, primarily those
20 who do not have organic disease, that is a form of
21 treatment similar to hypnosis.

22 Q You're saying that chiropractors use this
23 form?

24 A What they do is similar to faith healing.

25 Q How else do they treat patients?

1 MR. FREEDBERG: Your Honor, I've
2 refrained from objecting to give some scope to the
3 cross examination, but this has no bearing on the
4 charge that's been filed.

5 THE COURT: But, Mr. Freedberg, to be
6 honest about this thing, it was Doctor Barrett who
7 brought up about faith healing.

8 MR. FREEDBERG: He asked the counsel.

9 THE COURT: He asked him the question,
10 Mr. Freedberg, about the word treating of patients.

11 MR. FREEDBERG: Right. And, I say
12 that's not relevant. And, the question is are the
13 ads misleading.

14 If Mr. Killian will confine his
15 examination to the scope of my direct which was
16 encompassed by the ads. But, I think he's wandering
17 far afield.

18 THE COURT: I believe it wasn't on your
19 examination, Mr. Freedberg. But, Doctor Barrett
20 volunteered to give him an answer on that question as
21 far as treating a patient. Now, we'll get that
22 answer then, and we'll go on.

23 BY MR. KILLIAN:

24 Q Doctor Barrett, you were asked on direct
25 examination by Mr. Freedberg whether goiter is

1 treatable by the practice of chiropractic within the
2 definition under the statute.

3 And, I'm asking you do chiropractors
4 treat anybody. And, your first answer is yes, in
5 two cases. One, the case of activity that is similar
6 to faith healing, and the second is what we were
7 coming to.

8 A That's the mechanism of the treatment.

9 The second general way in which they
10 treat some people is by using their hands. And, some
11 of them use machines to massage or stretch certain
12 parts of the body.

13 Q Do they use their hands to adjust displaced
14 or misaligned vertebrae of the spine?

15 A I would say generally not. They think they
16 do, but they don't.

17 Q Yet the definition of chiropractic is the
18 system of locating misaligned or displaced vertebrae
19 of the human spine and other articulations, and the
20 adjustment of such misaligned or displaced vertebrae.

21 A That's one definition.

22 Q That's the only definition, isn't it?

23 A No.

24 Q What's the rest?

25 A There are many.

1 MR. FREEDBERG: I object on relevancy.

2 THE COURT: We're not here to question
3 chiropracting.

4 MR. KILLIAN: Judge Gombosi, there's
5 only one definition, and that's the definition of the
6 statute.

7 BY MR. KILLIAN:

8 Q Are you referring to some other definition?

9 THE COURT: Proceed with that, Counsel.
10 Mr. Freedberg brought up about the
11 statute of chiropractic, so let's answer that
12 question.

13 MR. FREEDBERG: May I interrupt for
14 just a moment.

15 May I have a brief recess to make a
16 phone call? Mr. Killian, would you object to that?

17 MR. KILLIAN: I would not.

18 THE COURT: Well, now it could be if
19 counsel isn't going to take too long with
20 Doctor Barrett maybe we could avoid this continuance.

21 It's perfectly all right with me. I
22 have no objection.

23 BY MR. KILLIAN:

24 Q Doctor Barrett, you testified at the end of
25 your direct examination as to a number of conditions.

1 You were asked whether these conditions
2 can be caused by nerve difficulty. And, the list
3 included abnormal blood pressure, colds, hay fever,
4 sinus trouble, glandular trouble, pleurisy, gall
5 bladder, shingles, you testified that it is not true
6 that those conditions can be caused by nerve
7 difficulty.

8 A At that particular point, yes.

9 Q At what point?

10 A The point on the diagram.

11 Q Are they caused by nerve difficulty at
12 some other point on the spine?

13 A Could I have that list again?

14 Q Are you referring to the ad of 2, 1975, is
15 that the ad we're talking about?

16 A Yes, I guess.

17 Q Now, the first is abnormal blood pressure.

18 A Can that be caused by nerve difficulty at
19 that point, no. At what other point, I'm not sure.

20 Q How do you know it isn't at that point?

21 A I don't believe it for one thing. I
22 discussed this with Doctor Wasserman.

23 Q Is Doctor Wasserman the source of your
24 information?

25 A Not entirely.

1 Q What else is the source of your information?

2 A I also discussed it by correspondence with
3 Doctor David Tilly in Allentown.

4 Q And, who is he?

5 A He's a neurosurgeon.

6 Q And, they told you that abnormal blood
7 pressure cannot result from nerve difficulty at that
8 point on the spine?

9 A Yes, sir.

10 Q Did they explain at what point on the spine
11 such nerve difficulty might cause abnormal blood
12 pressure?

13 A No, we didn't go into that.

14 Q Did they indicate to you that nerve
15 difficulty can cause abnormal blood pressure?

16 A Nerve difficulty is not a specific term.

17 Q A subluxation of the vertebrae causing a
18 pinching of the nerve which causes abnormal blood
19 pressure, have they told you that's possible?

20 A First of all, subluxation is not a specific
21 term as used by chiropractors.

22 Secondly, if a subluxation were to
23 cause -- I'm sure if a nerve were to be pinched by a
24 bone, a chiropractor couldn't do anything to relieve
25 it.

1 Q Are you familiar with Rene Cailliets' book
2 on neck and arm pain?

3 A No.

4 Q He's an M. D. And, he has written a book,
5 one whole chapter of which deals with subluxation,
6 are you familiar with that text?

7 A No.

8 Q Are you familiar with the material on
9 subluxation that appears beginning at Page 95 of the
10 text, The Cervical Syndrome, Third Edition, by
11 Ruth Jackson?

12 A No.

13 Q I don't want to take the time of the Justice
14 to read this.

15 THE COURT: Go ahead.

16 BY MR. KILLIAN:

17 Q But, there is material there that establishes
18 the existence of subluxation.

19 What about colds and hay fever, is your
20 testimony the same that nerve difficulty at the point
21 of the chart shown on the diagram in the advertisement
22 cannot result in colds and hay fever?

23 A Colds are caused by germs which are a
24 mixture of one or more viruses. There are a number
25 of different viruses which can cause colds, and they

1 are not related to nerve difficulty.

2 Q What viruses?

3 A Viruses that cause colds.

4 Q What are they?

5 A I couldn't tell you.

6 Q Well, how do you know that viruses cause
7 colds?

8 A I learned that in medical school.

9 Q What about hay fever, what causes hay fever?

10 A Hay fever is an allergy.

11 Q What causes an allergy?

12 A What causes the symptoms is that a reaction
13 takes place which leads to the release of histamine
14 which is a chemical that irritates tissues, and that
15 causes swelling. And, when it takes place in the
16 nose or eyes, it causes swelling, itching and so on.
17 And, these are the symptoms of hay fever.

18 Q Is it possible that that chemical is not
19 being released by the human body because of a nerve
20 involvement, because of a displaced or misaligned
21 vertebrae?

22 A Are you saying that it is possible that the
23 chemical is not being released?

24 Q Why?

25 A I said it is being released.

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Q Is the fact that it's being released the thing that causes the hay fever?

A We're talking about the mechanism of hay fever. The word cause is not in the sense that you're using it, not at all.

Q I don't have hay fever, why don't I have hay fever?

A I wouldn't know.

Q Do you know why the person who does have hay fever has it?

A I have hay fever.

Q Do you know why you have it?

A No.

Q Could it be that you have it because of misaligned or displaced vertebrae?

A No.

Q Suppose a chiropractor adjusted a patient who had hay fever, and after his adjustment, the hay fever cleared up, would you say that the hay fever was caused by a misaligned or displaced vertebrae?

A Not only would I not say that, but I would say there's no evidence from that case that pertains to the question. There's no evidence that what the chiropractor did is necessarily related to the patient losing his symptoms.

1 Q Could that be?

2 A No, it could not be.

3 Q Never?

4 A Never. Wait a minute. I don't think that's
5 the way, I spoke too quickly. I don't think that's
6 the way that is considered to be.

7 Scientific fact is stated in order to
8 determine whether a treatment can have an effect on a
9 disease one must take many patients, run experiments
10 designed in a certain way, and then you can begin to
11 see whether a certain kind of treatment leads to the
12 end of certain symptoms or certain diseases.

13 That's not enough. One must also
14 understand the mechanism, the anatomy and the
15 physiology, and put it all together when you begin to
16 develop an idea of what goes on in those treatments.

17 Q Just so I understand you, you're charging
18 that this ad of February 17, 1975 is false because
19 it states in one part that hay fever can be caused
20 by pinching of the nerves?

21 A That's correct.

22 Q Now, if it happened in one case would that
23 be a true statement?

24 A That would be a misleading statement.

25 Q Why?

1 A Because if it happens the ordinary readers
2 would take from this -- and, as a psychiatrist, I
3 deal in communication.

4 The ordinary reader would think that
5 if something were caused by something it would be at
6 least a reasonably common cause, not one in a billion.

7 Q Do you know the statistics, or is it a fact
8 that you don't know the percentages of the cause of
9 these various conditions?

10 A If you're talking about whether a pinched
11 nerve can cause hay fever, I would say that to my
12 knowledge there have been no cases where pinched
13 nerves cause hay fever.

14 Q Never?

15 A Never. To my knowledge there have been none.

16 Q If I run through the rest of the list, would
17 your testimony be generally the same?

18 A I would say generally that of the ones that
19 I've mentioned in the complaint. My testimony would
20 be generally the same that the statement would be
21 false because it, to my knowledge, has never
22 happened. It's misleading because it seldom
23 happens. And, the ordinary reader would take from
24 this that it's a commonplace thing.

25 Q With your history of observation of

1 chiropractic and your long series of attacks on
2 chiropractors, would you say that you are an ordinary
3 reader?

4 A I am both an ordinary and an unusual reader,
5 yes. I'm sorry, I'll change that. I'm not an
6 ordinary reader. That's correct.

7 Q When it comes to chiropractors?

8 A When it comes to anything I'm probably not
9 an ordinary reader. I read fast, and things like
10 that.

11 Q I'm reading now from a chiropractic text
12 called Chiropractic Diagnosis by James N. Firth,
13 published in 1948, Page 292 under the subject of hay
14 fever.

15 And, after defining hay fever, the
16 author states adjustment, interference with nerve
17 function at any cervical or upper dorsal vertebral
18 foramen may be the primary cause of hay fever.
19 Middle and lower dorsal adjustment which tend to
20 normalize the chemistry of the body should be
21 included. Do you agree with that?

22 A No.

23 MR. KILLIAN: That's all.

24 MR. FREEDBERG: Nothing further. The
25 Commonwealth rests.

1 (Witness excused.)

2 MR. KILLIAN: Judge Gombosi, I would
3 like to demur. I'd like to ask that the charges be
4 dismissed.

5 The Commonwealth had the burden of
6 proving that these ads were false and misleading.
7 They have not proved that point. I believe they
8 have to put on the stand a chiropractor to testify
9 that these are false and misleading. A medical
10 doctor or medical doctors saying this is false and
11 misleading is not competent testimony to prove it.
12 No member of the public has been put on the stand to
13 show that they were misled, that they can testify
14 that the documents are false and misleading.

15 You have medical people saying the
16 chiropractors are making false claims. And, I'm
17 going to, if I have to, put testimony on the stand
18 to show that the chiropractors say these are true
19 claims. That's what you have here, a dispute between
20 professions as to legitimate claims of their
21 professions. And, they have a right to believe it,
22 they've been taught it. They have a right to express
23 it. That's what our Constitution guarantees.

24 I don't think the Commonwealth by the
25 testimony of four or five medical doctors can prove

1 extensively in chiropractic journals, talked to
2 chiropractors, corresponded with chiropractors,
3 debated with chiropractors, read a few chiropractic
4 textbooks and so on.

5 Q Have you had any chiropractic training?

6 A No, I have not.

7 Q Have you been to a chiropractic school?

8 A No, I have not.

9 Q You do not know that in any case you ever
10 treated as a physician the patient might have had a
11 misaligned or displaced vertebrae?

12 A I'm sorry, would you repeat that?

13 Q I take it that you don't know whether -- in
14 any case of a patient you ever treated the patient
15 had a displaced or misaligned vertebrae?

16 A I think you're asking me is there a
17 possibility that some patient I treated had a
18 misaligned --

19 Q I asked you do you know whether any patient
20 you ever treated had such condition.

21 A I'm sorry, I don't understand the question.

22 Q Can you answer the question?

23 A Not if I don't understand it, no.

24 Q Did you ever determine that a single patient
25 you were treating had a displaced or misaligned

1 vertebrae?

2 A Did I ever determine that, no. I said I
3 never found one that did.

4 Q You never found one that did?

5 A That's right.

6 Q Is it possible that they all did?

7 A That everyone of them, no.

8 Q Why not?

9 A Because I don't think that vertebrae,
10 displaced vertebrae, are that common.

11 Q You don't think. You don't think, do you,
12 you don't think that they are that common a condition?

13 A I know that they're not.

14 Q Please tell me on what basis you know that.

15 A On the basis of my medical training.

16 Q Your medical training. Have you ever done
17 research on that subject?

18 A Any research, no.

19 Q Have you ever read any research studies on
20 that subject?

21 A Which subject?

22 Q On the subject of the frequency of displaced
23 or misaligned vertebrae in human beings.

24 A I have read some. I have read textbooks
25 that speak on that, yes.

1 Q By whom?

2 A I don't know at this point.

3 Q Medical doctors or chiropractic doctors?

4 A Both.

5 Q Do the chiropractic doctors state the
6 frequency of misaligned and displaced vertebrae?

7 A They vary.

8 Q They vary?

9 A Yes.

10 Q Do medical doctors state the frequency of
11 misaligned or displaced vertebrae?

12 A Not exactly.

13 What I'm responding to is the fact that
14 there are many, many different kinds of diseases that
15 are described in many, many different textbooks, and
16 that misaligned -- the vertebrae that are out of
17 place are mentioned in some, but it's not if you take
18 diseases, people as a whole or people as a group, or
19 diseases, you know the broad spectrum of diseases,
20 vertebrae out of place occurs in a very small
21 percentage of patients.

22 Q Hasn't the legislature of Pennsylvania
23 determined that there must be some frequency of
24 misaligned or displaced vertebrae in order to license
25 chiropractors to locate such misalignments or

1 displacements?

2 MR. FREEDBERG: Objection.

3 THE WITNESS: I'd like to answer that.

4 MR. FREEDBERG: I'll withdraw that
5 objection.

6 BY MR. KILLIAN:

7 A No.

8 Q The legislature has not made that
9 determination?

10 A No.

11 Q Why have they included in the definition of
12 chiropractic, which was read by the District Attorney,
13 the statement that includes chiropractic diagnosis a
14 system of locating misaligned or displaced vertebrae
15 of the human spine and other articulations, and the
16 adjustment of such misaligned or displaced vertebrae.

17 Hasn't the legislature recognized that
18 this is a human condition, and licensed professionally
19 trained people to perform that service?

20 A The legislature has passed a law. But, the
21 passage of a law does not establish medical fact.
22 It does not establish anatomical fact.

23 Q Does it establish chiropractic fact?

24 A It's political fact.

25 Q Does it establish chiropractic fact?

1 MR. FREEDBERG: I object. I don't know
2 what chiropractic fact is.

3 MR. KILLIAN: The witness claims a --

4 MR. FREEDBERG: I'm going to renew my
5 objection.

6 MR. KILLIAN: Let him answer the
7 question.

8 THE COURT: He can answer it yes or no.
9 He said he read a couple textbooks on
10 chiropractic, and let's have it.

11 BY MR. KILLIAN:

12 A Has it established chiropractic fact?

13 Q Doctor Barrett, let me rephrase the question.
14 Is it a basic concept of chiropractic that human
15 beings suffer from misaligned or displaced vertebrae?

16 A It is a basic concept. However,
17 chiropractors themselves do not agree as to the
18 extent of such difficulty.

19 Q But, all chiropractors agree, do they not,
20 that people suffer from misaligned or displaced
21 vertebrae, don't they agree on that?

22 A That that is a cause of disease?

23 Q I didn't say that.

24 Don't all chiropractors agree, every
25 single last one of them, that human beings suffer

1 from misaligned or displaced vertebrae?

2 A I'm not sure about that. Most of them do.

3 Q Have you any knowledge of a single

4 chiropractor who disagrees with that?

5 A I have talked to chiropractors who feel

6 that's a very minor matter.

7 Q What are they licensed to do if not locate

8 and adjust misaligned or displaced vertebrae?

9 A Well, what they are licensed to do is not
10 necessarily what they do do and or what they can do.

11 It's a very confusing kind of a
12 situation where a law has been passed that simply
13 does not conform to scientific knowledge.

14 I can give you another example, when
15 Medicare was legislated, when chiropracting was
16 included in Medicare.

17 Q Is chiropractic included in Medicare?

18 A To some extent.

19 Q Is it recognized by Medicaid also?

20 A Can I finish my example?

21 Q Go ahead.

22 A They said that payment can be made for
23 subluxations proved to exist on X-ray.

24 And, yet the Dean of the Palmer College
25 sent me a letter saying that chiropractors don't

1 A We review those submitted by our organization,
2 and we approve or disapprove those ads.

3 Q Do you have a seal of approval?

4 A Yes, we do.

5 Q And, do all of the ads of Doctor LaBarre
6 bear the seal of approval of the Life Fellowship?

7 A I believe they do.

8 Q All or most of them?

9 A Yes, I don't believe I saw one that didn't.

10 Q They all bear the seal, do they not?

11 A To my knowledge, yes.

12 Q Do you work with the Bureau of Consumer
13 Protection of the State Department of Justice with
14 regard to reviewing advertisements?

15 A Yes, we do. We have worked with them in the
16 past, and we are working with them now.

17 Q Do you deal in fact with Joel Weissberg,
18 the Director of that Bureau?

19 A Yes, we do. We met with him a few months
20 back in submitting ads to him for approval.

21 Q And, does he call upon the State Board of
22 Chiropractic Examiners in reviewing advertisements?

23 A Yes, he does. And, they also review
24 advertisements independent of him.

25 Q Now, this State Board of Chiropractic

1 Examiners, is that the Board that licenses all
2 chiropractors in Pennsylvania?

3 A Yes, sir.

4 Q And, you say they review advertisements?

5 A Yes, they do.

6 Q Do they occasionally find advertisements
7 which they feel are not correct or proper and should
8 not be used by chiropractors?

9 A Occasionally they do.

10 Q Has the State Board of Chiropractic
11 Examiners ever examined the advertisements that
12 Doctor LaBarre has used which have been made the
13 subject of this proceeding?

14 MR. FREEDBERG: Objection unless he
15 knows from his own knowledge.

16 BY MR. KILLIAN:

17 A To my knowledge, they haven't.

18 Q Have you in fact yourself advertised with
19 the same ads Doctor LaBarre had used, changing the
20 name and address?

21 A Some of them I have, yes.

22 Q Some of them. Isn't it a fact that these
23 advertisements are commonly used by chiropractors
24 not only throughout Pennsylvania but in fact
25 throughout the United States?

A Yes, sir.

Q The question has arisen in this proceeding
3 whether chiropractors treat, do you treat anyone?

4 A No, I do not.

5 Q What do you do?

6 A I examine the spine to determine whether
7 there are misaligned or displaced vertebrae that
8 would be interfering with the health of the
9 individual, and correct those displaced or misaligned
10 vertebrae.

11 Q Do occasionally patients complain to you of
12 various conditions and symptoms some of which may
13 have been diagnosed immediately by other doctors,
14 do patients complain to you of symptoms?

15 A Yes, sir.

16 Q And, as a result of your adjustment of
17 displaced or misaligned vertebrae, do these conditions
18 which they've complained about clear up?

19 A The patients tell me they do.

20 Q You have with you, do you not, a packet of
21 advertisements?

22 A Yes, sir. These are the advertisements that
23 have been approved by the Chiropractic Life Fellowship
24 of Pennsylvania.

25 Q Now, is this illustrative of the kind of

1 advertisements that your Committee approves?

2 A Yes.

3 Q Are any of those advertisements in that
4 particular packet the same advertisements which have
5 been adopted for use by Doctor LaBarre?

6 A All of them are except one.

7 Q In other words, in that packet all but one
8 are advertisements that Doctor LaBarre has used?

9 A Yes.

10 Q And, these advertisements are circulated by
11 your Committee and by the Life Fellowship to all
12 chiropractors who belong to your association?

13 A Yes, they are.

14 Q And, made available to all of them?

15 A Yes, they are.

16 Q Do you know the number or percentage of the
17 members of your Fellowship who use these advertise-
18 ments?

19 A I don't.

20 Q Would you say most of them?

21 A I have no idea.

22 Q You have no way of knowing. But, as a
23 service to your members, you as Chairman of that
24 Committee and the other members review and prepare
25 advertisements, and make them available to your

1 members?

2 A Yes, we do that for the primary purpose of
3 making sure that the chiropractors through error do
4 not put into the newspaper advertising or any
5 statements that would be construed as false or
6 misleading.

7 Q Now, if any of those advertisements were
8 placed in the newspaper, the ones Doctor LaBarre has
9 used, would you say that such an advertisement was
10 knowingly or recklessly deceptive?

11 MR. FREEDBERG: Objection, it's a legal
12 conclusion. He can testify to facts but not a legal
13 conclusion, that's for the jury.

14 MR. KILLIAN: He can testify to his
15 standards and to his viewpoint with regard to those
16 advertisements, and whether they are deceptive.

17 MR. FREEDBERG: Well, you didn't ask
18 him that, sir.

19 THE COURT: That's correct, Mr. Killian.

20 MR. KILLIAN: I'll change my question.

21 BY MR. KILLIAN:

22 Q Doctor Strauss, do you regard those
23 advertisements used by Doctor LaBarre as in any way
24 deceptive?

25 MR. FREEDBERG: Objection. I object to

1 that because I believe it goes to the ultimate
2 conclusion for a jury. There are other things he
3 can testify to, obviously, but this is the ultimate
4 issue. He's not allowed to exercise an opinion on
5 the ultimate issue.

6 THE COURT: Your objection is sustained,
7 Mr. Freedberg.

8 BY MR. KILLIAN:

9 Q Doctor Strauss, is there anything in those
10 advertisements that's false?

11 MR. FREEDBERG: Objection.

12 MR. KILLIAN: I already asked him that
13 question and you had no objection earlier.

14 MR. FREEDBERG: If you already asked
15 him, why are you asking again?

16 MR. KILLIAN: You asked all of your
17 witnesses whether these statements were false.

18 MR. FREEDBERG: I asked from a medical
19 standpoint. If you want to ask from a chiropractic
20 standpoint --

21 THE COURT: There's nothing wrong with
22 that.

23 MR. KILLIAN: Fine.

24 BY MR. KILLIAN:

25 Q From a chiropractic standpoint, Doctor Strauss,

1 is there anything false about any of those
2 advertisements?

3 A Absolutely not.

4 Q Secondly, from a chiropractic standpoint,
5 is there anything misleading about any of those
6 advertisements?

7 A No, sir.

8 Q Likewise, from a chiropractic standpoint,
9 is there anything deceptive about those advertise-
10 ments?

11 A No, sir.

12 MR. KILLIAN: No questions.

13 CROSS EXAMINATION

14 BY MR. FREEDBERG:

15 Q Mr. Strauss, is that it?

16 MR. KILLIAN: Doctor Strauss.

17 BY MR. FREEDBERG:

18 Q I'm sorry. That was unintentional.

19 You're a graduate of Columbia Institute
20 of Chiropractic. Is that correct?

21 A Yes, sir.

22 Q And, is that in New York City?

23 A Yes.

24 Q Is that ^{affiliated} alias Columbia University in
25 New York City?

1 A No, it's not.

2 Q When did you graduate from there?

3 A In September of 1967.

4 Q What was your educational background prior
5 to graduating from that Columbia Institute?

6 A I attended Trenton Junior College.

7 Q Did you receive a degree from Trenton Junior
8 College?

9 A No, I did not.

10 Q You're a high school graduate. Is that
11 correct?

12 A Yes, sir.

13 Q Now, with regard to the Life Fellowship that
14 you mentioned, how many members are there in the Life
15 Fellowship?

16 A 126.

17 Q Is that a statewide organization or a
18 nationwide?

19 A Statewide.

20 Q And, how many chiropractors are there in the
21 Commonwealth of Pennsylvania, do you know, sir?

22 A I have no way of knowing exactly. Licenses
23 are just issued to them, and unless they renew -- I
24 would say somewhere in the neighborhood of a thousand.

25 Q Your organization is approximately 12

1 per cent. Is that correct?

2 A I'd have to get my computer out to determine
3 that, but I'd say that it's close.

4 Q Have you solicited other chiropractors to
5 join Life Fellowship?

6 A I don't understand your question.

7 Q Is the membership open to any chiropractors?

8 A Yes, it is.

9 Q And, do you have a campaign to obtain
10 members amongst the other chiropractors who haven't
11 joined?

12 A We don't have an active campaign out other
13 than personal contact.

14 Q How is your organization, Life Fellowship,
15 distinct, that's different, from those who do and
16 those who don't?

17 A They just don't belong.

18 Q What are the purposes of Life Fellowship?

19 A Number 1, to uphold and to stand for the
20 chiropractic principle. And, secondly, to make
21 chiropractic available to everyone in the Commonwealth
22 of Pennsylvania. And, thirdly and lastly, to serve
23 the interests of the chiropractic profession.

24 Q Are there other statewide chiropractic
25 organizations?

1 A There is one, yes, sir.

2 Q What is the name of that organization?

3 A The Pennsylvania Chiropractic Society.

4 Q And, how long a membership does that have?

5 A I have no idea.

6 Q Do you belong to that?

7 A I did at one time, I don't anymore.

8 Q How about the other members of Life Fellow-
9 ship, do they belong to the Pennsylvania Chiropractic
10 Society?

11 A I believe some of them do, and most of them
12 do not.

13 Q Why is that, sir?

14 A I really don't know. I can't speak for
15 them. I can only speak for myself why I don't.

16 Q Isn't it true that the Life Fellowship
17 represents a minority viewpoint amongst chiropractors?

18 MR. KILLIAN: I object to the question.

19 THE COURT: On what grounds?

20 MR. KILLIAN: I don't think it's
21 relevant to the proceeding.

22 MR. FREEDBERG: Well, he's introduced
23 him as an officer of a chiropractic organization.
24 If it's a small group as opposed to a larger group,
25 we have a right to know what the distinctions are.

1 THE COURT: Well, he couldn't tell you,
2 Mr. Freedberg, why others do not belong to the
3 Pennsylvania Chiropractic Society.

4 MR. FREEDBERG: I'll withdraw the
5 question. I think your ruling is correct, Your
6 Honor. Thank you.

7 BY MR. FREEDBERG:

8 Q Sir, you said that in your capacity as
9 Chairman of the Advertising Committee you pass on
10 ads that are submitted. Is that correct?

11 A Yes, sir.

12 Q And, how many ads have you rejected this
13 year?

14 A I don't know.

15 Q Have you rejected any?

16 A Yes, we have.

17 Q How many ads have been submitted to you this
18 year?

19 A I would say well over a hundred.

20 Q And, out of that hundred, can you give us a
21 percentage of those that you found not acceptable?

22 A Not acceptable from a chiropractic stand-
23 point?

24 Q That you did not approve for publication.

25 A I would say less than ten per cent.

1 Q Now, you referred to Mr. Joel Weissberg in
2 effect that you consulted with him, on how many
3 occasions have you consulted with him?

4 A On one occasion.

5 Q And, that was just a few months ago. Is
6 that correct?

7 A Yes, sir.

8 Q One of the ads refers to an intense,
9 fearful, constricting pain, are you acquainted with
10 that ad?

11 A Yes, I am.

12 Q Did you hear the testimony that that is
13 symptomatic of a myocardial infarction?

14 A Yes, I did.

15 Q Do you dispute that testimony?

16 A That's medical testimony, I don't dispute
17 it.

18 Q You agree with it?

19 A No, I don't relate myself to medical
20 testimony. I'm not a medical doctor.

21 Q Assuming that the doctors are correct that
22 intense, fearful, constricting pain is symptomatic
23 of a heart attack or myocardial infarction, do you
24 recognize a risk in an individual going to a
25 chiropractor who has those symptoms rather than going

1 to an emergency ward of a hospital?

2 A Would you repeat the question?

3 Q Yes. Assume somebody has intense, fearful,
4 constricting pain, and assume also that the doctors
5 are right when they say that indicates a heart
6 attack, do you see any risk to an individual who has
7 those symptoms in going to a chiropractor's office as
8 opposed to going to the emergency room of a hospital?

9 A A person wouldn't go to a chiropractor's
10 office for myocardial infarction.

11 Q No, he'd go for the symptoms. He wouldn't
12 know he had a myocardial infarction, isn't that
13 correct?

14 A The chiropractor wouldn't relate to the
15 symptoms. He would relate to misaligned or displaced
16 vertebrae.

17 Q Assume that an individual who reads this ad
18 has an intense, fearful, constricting pain in the
19 chest, would that individual go to Doctor LaBarre's
20 office, or should he go to the hospital if he doesn't
21 know what's causing it, the individual doesn't?

22 A Well, he should go to Doctor LaBarre's
23 office to have his spine checked to determine whether
24 there's a misaligned or displaced vertebrae.

25 Q Even if he may be having a heart attack at

1 the time, he should still go to Doctor LaBarre's
2 office?

3 A Well, Doctor LaBarre is in the business of
4 correcting misaligned and displaced vertebrae.

5 Q What if that's not what's causing the pain,
6 If he's having a heart attack, should the man go to
7 the Doctor's office or should he go to the hospital
8 and have the heart attack cared for?

9 A Doctor LaBarre would be able to determine
10 when that patient came in the office whether he had
11 misaligned or displaced vertebrae.

12 Q Did you hear the Doctor testify that time is
13 of the essence when one has a myocardial infarction
14 or a heart attack?

15 A Yes, I did.

16 Q Are you able to dispute that?

17 A Again, it's a medical question.

18 Q You're not able to dispute it then. Is that
19 correct?

20 A I'm not able to relate to it. I'm not able
21 to agree or dispute.

22 Q When someone has an intense, fearful,
23 constricting pain, your advice is get to your
24 chiropractor's office right away?

25 A My advice is for everyone to get to their

1 chiropractor's office whether they have a myocardial
2 whatever it is, or whether they don't have, to get to
3 their office.

4 Q Even though the person may be having a heart
5 attack, your advice is get to the chiropractor's
6 office?

7 A My advice is for everyone to get to a
8 chiropractor's office.

9 Q Even if they're having a heart attack?

10 A I don't know.

11 Q I'm asking you to assume that a person who's
12 having these symptoms and is having a heart attack,
13 it's your advice they should go to a chiropractor.

14 Is that correct?

15 A Everyone should go.

16 Q Under those circumstances?

17 A Under any circumstances.

18 Q Thank you. You've answered the question,
19 Doctor Strauss.

20 Now, which one, which ad did
21 Doctor LaBarre use which is not in the packet of
22 approved ads?

23 A The last ad.

24 Q Which one is that?

25 A The one relating to medicine and drugs.

1 Q Beware of overuse of drugs?

2 A Yes, sir.

3 Q Look at that ad, sir, what does that say
4 down there?

5 A Seal of approval, Life Fellowship of
6 Pennsylvania.

7 Q Does that have the seal of approval of the
8 Life Fellowship?

9 A Yes, it does.

10 Q But, it's not among the approved items you've
11 brought?

12 A It's not in this packet.

13 Q Are others not in the packet?

14 A Perhaps there are. I'm just aware of what
15 was in this packet.

16 Q I misunderstood what you were saying. I
17 thought you said all the approved were in that
18 packet.

19 A I said all but one.

20 Q Are illnesses that people experience caused
21 by disease?

22 A Illnesses that people experience?

23 Q Let's say, colds caused by germs and
24 bacteria, and this kind of thing.

25 A Well, the chiropractic premise maintains

1 that all diseases are caused by the inability of the
2 body to adapt and to function co-ordinated in its
3 environment.

4 Q Do you reject the contention that germs and
5 viruses have an effect on an individual's health?

6 A I maintain that the inability of the body to
7 adapt to its environment is the cause for sickness
8 and disease.

9 Q Do germs and viruses --

10 A They fall within the realm of the practice
11 of medicine. I can't answer that question.

12 Q Is it your position as a chiropractor
13 involved with health services --

14 A We're involved with the restoration and
15 maintenance of health.

16 Q Now, sir, is it your position that germs and
17 bacteria and viruses have no relationship to one's
18 health condition, ill health or good health?

19 A I just mentioned before that's not within
20 my realm.

21 Q So, you're not able to treat those things,
22 so you have no idea about that. Is that correct?

23 A I don't treat diseases.

24 Q Do you treat goiter, sir?

25 A I don't treat diseases. I correct

1 misaligned or displaced vertebrae.

2 Q Have you ever treated an individual who
3 presents the symptom of goiter?

4 A I don't treat anybody.

5 Q Have you ever adjusted an individual who
6 presented a symptom of goiter?

7 A Yes, sir.

8 Q And, on how many occasions?

9 A I would say -- I really can't say definitely.

10 Q What kind of goiter was it, sir?

11 A I don't really know being that the goiter
12 was diagnosed by a medical doctor. And, it doesn't
13 relate to what I do. It was not within my realm to
14 relate to that goiter whatsoever, merely to examine
15 that person's spine and determine where he had
16 misaligned or displaced vertebrae, what we call
17 chiropractic subluxations.

18 MR. FREEDBERG: I have nothing further.

19 MR. KILLIAN: No questions. You're
20 excused.

21 (Witness excused.)

22 MR. KILLIAN: Call Doctor Rich.

23
24
25 CLARK RICH, having been first duly

1 SWORN, was examined and testified as follows:

2 DIRECT EXAMINATION

3 THE COURT: State your name and
4 address for the record.

5 THE WITNESS: Clark Rich, R. D. 2,
6 Clearfield, Pennsylvania, in Clearfield County.

7 BY MR. KILLIAN:

8 Q Doctor Rich, you are a Doctor of
9 Chiropractic, where were you educated?

10 A Palmer College of Chiropractic in
11 Davenport, Iowa.

12 Q How long have you been practicing
13 chiropractic?

14 A Approximately 16 years.

15 Q And, you are licensed in the Commonwealth of
16 Pennsylvania as a chiropractor?

17 A Yes, sir.

18 Q What is your position with the Chiropractic
19 Life Fellowship of Pennsylvania?

20 A I am President.

21 Q And, how long have you been President?

22 A Approximately seven or eight years.

23 Q Are you also a representative or officer of
24 the International Chiropractors Association?

25 A I am the Senior State Representative to that

1 Association, yes.

2 Q From Pennsylvania?

3 A From Pennsylvania.

4 Q In the course of your work as President of
5 Life Fellowship, have you had contact with
6 Joel Weissberg of the Department of Justice, Bureau
7 of Consumer Protection, relative to the whole
8 subject of advertising by chiropractors?

9 A I have had over the years, yes, the past
10 probably three or four years.

11 Q And, what is the nature of your relationship
12 with Mr. Weissberg, what have you dealt with with
13 him?

14 A Our main concern was to go in and establish
15 an understanding with him as far as our sincerity
16 in the advertising we do. And, a co-operative
17 effort that we may co-operate with him to help rid
18 the profession of anything that he felt was
19 misleading advertising or deceptive advertising.
20 And, we got complete co-operation from him at that
21 time.

22 And, since then, of course, we have
23 co-operated with him in setting up an Advertising
24 Committee, which he was welcome to come. And, our
25 Committee did present him with several ads. And, as

1 I understand, he took those to the State Board of
2 Chiropractic Examiners to have them consider the
3 validity of the ads.

4 Q Have you reviewed the advertisements placed
5 in the newspaper by Doctor LaBarre?

6 A I have, yes.

7 Q Do you find anything in those advertisements
8 false?

9 A No.

10 Q Do you find anything in those advertisements
11 misleading?

12 A No, sir.

13 Q Do you find anything in those advertisements
14 deceptive?

15 A No, sir.

16 Q Do you agree with everything that's in those
17 advertisements?

18 A Yes, I do.

19 Q Have you yourself placed similar
20 advertisements in newspapers?

21 A Definitely.

22 Q I show you a packet of brochures, and ask
23 you are these brochures in your chiropractic clinic
24 made available to your patients and members of the
25 public?

1 A Yes, I do.

2 Q Now, would you read the titles of those
3 brochures?

4 A Bursitis in chiropractic, allergy in
5 chiropractic, bronchitis, hay fever, gall stones,
6 liver trouble, arthritis in chiropractic, sinusitis
7 in chiropractic, colds in chiropractic, goiter, skin
8 eruptions, heart trouble, colitis, constipation in
9 chiropractic, kidney trouble, eight danger signs in
10 chiropractic.

11 Q In other words, these deal with the various
12 subjects that are contained in the advertisements
13 submitted by Doctor LaBarre?

14 A Yes.

15 Q What is the tenure, the nature, the purpose
16 of the brochures which you've just indicated, what
17 is the use you make of these in your practice, what
18 is the purpose of having them?

19 A These are simply put on display. And, by
20 the way, these ads are made up and sold by the
21 Palmer College of Chiropractic. And, the ads are
22 made up and put on display for the patients to take
23 home, read them, further educate themselves on the
24 chiropractic viewpoint.

25 Q Now, overall there is a chiropractic

1 viewpoint running through all of these advertisements,
2 would you please state it.

3 A There is a chiropractic viewpoint running
4 through all the mentioned chiropractic subluxations.

5 Q What is it?

6 A That is a major premise of chiropractic.
7 And, that is misaligned and displaced vertebrae
8 subluxations do interfere with normal nerve supplying
9 to and from the brain over the nervous system. And,
10 that chiropractic adjustment, the locating and removing
11 of such vertebral subluxations, does better the
12 health of the patient.

13 Q Now, did you have in your experience
14 patients who have complained of the various
15 conditions that are considered in those brochures,
16 and that have been identified in the various
17 advertisements advertised by Doctor LaBarre, have
18 you had patients with those same symptoms?

19 A I've had patients come in and relate
20 probably most of those symptoms to me.

21 Q Were most of those symptoms determined by
22 medical doctors?

23 A Yes, sir.

24 Q And, did you in any way treat those symptoms?

25 A No.

1 Q What did you do with those patients?

2 A The same thing I do with any patient. Those
3 patients, their spines are analyzed to determine the
4 presence or absence of vertebral subluxations, and if
5 found, complete chiropractic adjustments are made to
6 remove those subluxations.

7 Q Do you remove subluxations of people who
8 come in and don't complain about anything?

9 A I do, yes.

10 Q And, the persons who complain about these
11 various subjects of colds, hay fever, gastroenteritis,
12 and what have you, do they tell you after you have
13 adjusted them that those conditions and symptoms have
14 cleared up?

15 A Yes, sir.

16 Q And, do you believe that it is the result of
17 your adjustments that those conditions have cleared
18 up?

19 A Yes.

20 Q This is the basic premise of chiropractic,
21 is it not?

22 A That is correct.

23 MR. KILLIAN: Cross examine.

24 CROSS EXAMINATION

25 BY MR. FREEDBERG:

1 Q Sir, an intense, fearful, constricting pain
2 in the chest has been identified by a heart
3 specialist as a symptom of myocardial infarction, a
4 heart attack, should a person who is experiencing a
5 heart attack go to a chiropractor?

6 A A person who has any condition should go to
7 a chiropractor.

8 Q The person who's having the heart attack
9 right then should he go to the chiropractor's office
10 or should he go to the hospital?

11 A I don't know how he can determine if he was
12 having a heart attack.

13 Q I'm asking you to assume that an
14 individual is having a heart attack, where should he
15 go?

16 A It would be proper for him to go to the
17 chiropractor or the hospital, whichever one he
18 chose.

19 Q Are you able to treat a person who's in the
20 process of having a heart attack?

21 A We're able to care for people by removing
22 vertebral subluxations.

23 Q Are you saying that an individual who is in the
24 throes of a heart attack can be treated -- or you can
25 perform your service so that this condition will

1 resolve itself by dealing with his vertebrae in the
2 middle of a heart attack?

3 A If the patient had a vertebral subluxation
4 whether he's having a heart attack or not.

5 Q Would it have the effect of relieving him
6 of the symptoms of having a heart attack, is that
7 your professional opinion?

8 A It would have the effect of reducing the
9 subluxation. What the symptom pattern may or may
10 not be, it's not my expertise.

11 Q Can you relieve an individual who is in the
12 throes of a heart attack by adjusting his vertebrae?

13 A I do not treat symptoms.

14 Q If a person came to you and had a heart
15 attack, is there anything you could do to relieve his
16 condition?

17 A If he had a vertebral subluxation I could
18 adjust his vertebral subluxation.

19 Q So, you can't say that you treat heart
20 attacks?

21 A I can't say I treat anything.

22 Q All diseases caused by misaligned vertebrae,
23 sir?

24 A I think that's a medical question.

25 Q Are any conditions of ill health caused by

1 misaligned vertebrae?

2 A Subluxation is a condition which can cause
3 all varieties of ill health, which is what
4 chiropractors deal with entirely.

5 Q If an individual came to you and presented
6 the symptom of intense, fearful, constricting pain in
7 the chest, would it be of any concern to you whether
8 he was in fact having a myocardial infarction?

9 A It would be of concern to me if he had a
10 vertebral subluxation.

11 Q Answer my question, sir.

12 Would it be of concern to you if he was
13 at that point having a heart attack?

14 A It would only be of concern to me if he had
15 a vertebral subluxation.

16 Q You would not be concerned if an individual
17 who came to you was having a heart attack other than
18 being concerned about his vertebrae at that point?

19 A I would be concerned with examining his
20 spine.

21 Q Do you have a heart condition, sir?

22 A Do I?

23 Q Yes.

24 A Not to my knowledge.

25 Q The Life Fellowship of which you are the

1 President, sir, what percentage of the chiropractors
2 in Pennsylvania belong to that?

3 A Not knowing exactly how many chiropractors
4 there are in Pennsylvania, I can't answer you
5 definitely. I would judge maybe probably 15, 20
6 per cent.

7 Q Why is it that not a majority have joined,
8 do you have any idea, do you represent a minority
9 viewpoint among chiropractors?

10 A No, I don't believe so.

11 Q Do you know that the individuals who haven't
12 joined haven't joined out of any disagreement with
13 you over principles of chiropractic?

14 A There may be some.

15 Q What are those principles that are in
16 dispute?

17 A I can only state what we stand for. We
18 stand for the principle of chiropractic. I believe
19 that basically the other chiropractic organizations
20 stand for the same.

21 Q I'm talking about the individual
22 chiropractor. Certainly, you've been President for
23 seven or eight years now. Is that correct?

24 A That's correct.

25 Q You've had plenty of contact with others who

1 are not members, and I assume you've asked them to
2 join your Life Fellowship, isn't that right?

3 A I don't ask anybody to join it, no.

4 Q Is there any means of soliciting membership?

5 A No, there's a viewpoint throughout the
6 state. In other words, we have correspondence going
7 into the state all the time maintaining our principal
8 viewpoint, and it would be up to the individual.

9 Q What is your principal viewpoint?

10 A What was stated in the testimony.

11 Q How does that differ from other chiropractors
12 in the state?

13 A I can't answer for the others. I can only
14 answer for myself.

15 Q Isn't it true that Life Fellowship represents
16 a minority amongst chiropractors?

17 A I don't believe so. I believe if asked the
18 majority of the chiropractors in Pennsylvania would
19 agree with the testimony.

20 Q How many times have you conferred with
21 Mr. Weissberg?

22 A Three different times that I can think of.

23 Q Thank you.

24 REDIRECT EXAMINATION

25 BY MR. KILLIAN:

1 Q Doctor Rich, do you have any way of knowing
2 whether a patient in your office is having a
3 myocardial infarction or a heart attack?

4 A I don't think we would have any more than a
5 general practitioner, a patient going to a general
6 practitioner anywhere, any type of a first entry
7 basis.

8 Q Isn't it true that you hear patients recite
9 all manner of symptoms and conditions, and you go
10 about your business regardless of what they say and
11 find misalignments, if any, and make adjustments,
12 isn't that what you do?

13 A That's right. It might be important to
14 note that the overwhelming number of patients
15 that come to the chiropractor's office have had vast
16 medical care previous to coming to the chiropractor.
17 And, all the symptoms that are being so loosely
18 thrown around are symptoms that have been tagged on
19 them by medical practitioners.

20 Q Doctor Rich, in 16 years of practicing have
21 any patients of yours ever died of chiropractic
22 adjustment?

23 A No.

24 RECROSS EXAMINATION

25 BY MR. FREEDBERG:

1 Q Do you know what an electrocardiogram is,
2 sir?

3 A I've heard of such a thing.

4 Q Do you know how it works?

5 A No.

6 Q Do you know what it does?

7 A Generally, no.

8 Q Do you know whether it would be of any
9 importance to an individual having a heart attack to
10 use that machine?

11 A I imagine medically it probably has a great
12 advantage to the medical practitioner.

13 Q But, you don't use that?

14 A Definitely not.

15 MR. KILLIAN: That's all. Thank you,
16 Doctor Rich.

17 (Witness excused.)

18

19

20 MONROE SCHNEIER, having been first
21 duly sworn, was examined and testified as follows:

22 DIRECT EXAMINATION

23 THE COURT: What is your name and
24 address?

25 THE WITNESS: Monroe Schneier,

1 219 Spring Street, Middletown, Pennsylvania.

2 BY MR. KILLIAN:

3 Q Doctor Schneier, are you a Doctor of
4 Chiropractic?

5 A I am.

6 Q How long have you been such?

7 A Close to 26 years.

8 Q What is your educational background?

9 A Well, I graduated from high school. I have
10 a Bachelor of Science degree in engineering.

11 Q From what school?

12 A Pennsylvania State University.

13 I had additional courses in chemistry
14 and biology. In addition to my training in
15 psychology I also have four years of chiropractic
16 college.

17 Q What school?

18 A Linn College of Chiropractic, now affiliated
19 with National Chiropractic College.

20 Q Do you hold a position with the Chiropractic
21 Life Fellowship of Pennsylvania?

22 A I do.

23 Q What is it?

24 A I'm the Executive Secretary.

25 Q Have you ever held a position with the

1 Pennsylvania Chiropractic Society?

2 A Yes, at one time. I was District President
3 and Chairman of the Board of District 5 of the
4 Pennsylvania Chiropractic Society.

5 Q Have you ever been a consultant to the
6 Pennsylvania Department of Welfare?

7 A I have. I was the first consultant with the
8 Pennsylvania Department of Welfare when chiropractors
9 were accepted into the Medicaid program.

10 Q Have you ever been a consultant to the
11 Pennsylvania Blue Shield?

12 A I was. I was called in as the first
13 chiropractic consultant when Blue Shield was setting
14 up the chiropractors' perimeters for chiropractic
15 inclusion in Medicare.

16 Q Does Congress by federal law recognize
17 chiropractic in both Medicaid and Medicare programs?

18 A It certainly does, in other fields too.
19 They pay for chiropractic education through the
20 GI Bill. And, now that the schools have been
21 recognized by HEW, the Department of Health,
22 Education and Welfare, the students going to those
23 schools can get state aid.

24 Q Do Doctors of Chiropractic obtain training
25 in subjects such as anatomy, physiology, pathology,

1 chemistry, bacteriology, diagnosis, neurology,
2 X-ray, psychiatry, obstetrics and gynecology?

3 A Yes. Not only do we have those courses,
4 but we also in many states take the same basic
5 science examination in proficiency in all of these
6 courses. Sitting there the same day, side by side,
7 with numbers so that we're not differentiated with
8 osteopaths and medical doctors who must take the
9 same basic science examination before being allowed
10 to take their boards. This does not apply in
11 Pennsylvania, but in other states. I know this
12 because I've taken such basic science examinations.

13 MR. FREEDBERG: I object to it. It
14 doesn't apply in Pennsylvania.

15 THE COURT: Objection sustained.

16 BY MR. KILLIAN:

17 Q Doctor Schneier, have you read the
18 advertisements that have been published by
19 Doctor LaBarre?

20 A I most certainly have.

21 Q Did you find anything in there false?

22 A No, sir.

23 Q Anything misleading?

24 A No, sir.

25 Q Anything deceptive?

1 A No, sir.

2 Q Do you treat patients?

3 A No, sir.

4 Q What do you do?

5 A Locate subluxations in the spine and adjust
6 them for the purpose of removing interference with
7 the normal expression of nerve impulses which,
8 according to Gray's Anatomy, controls the entire
9 body and its function with the sure knowledge that
10 the body is a self-healing mechanism, and that no
11 drug or no procedure ever healed anything, but that
12 the body heals itself.

13 Q Is the purpose of chiropractic adjustment
14 to enable the flow of nerve energy over the nervous
15 system to take care of the body?

16 A There is according to -- I think it's
17 Hal Burton's Physiology, a certain something, we in
18 chiropractic call it innate intelligence. It took
19 the two cells when the body was formed and created
20 in the space of 270 days, 280 days, a whole human
21 being. There is a certain something in the body
22 that knows that there are only supposed to be two
23 eyes and one nose, ten fingers.

24 And, this innate intelligence, which
25 Hal Burton calls a certain something and other

1 A Well, I'm not concerned with that type of
2 thing.

3 I know I have adjusted patients who
4 later on told me, who had those fearful, constricting
5 pains, later on told me that on subsequent checkups
6 that they had been found to have some scar tissue in
7 a nicely healed scarified area.

8 I cannot make this a causal statement.
9 But, I do know when you're talking about anything of
10 this type of thing you must realize that every organ
11 has a blood supply, and that what you call a
12 myocardial infarction is an area of lack of blood
13 supply to a part of the heart.

14 Every blood vessel in the body is under
15 the control of the nervous system. It is established
16 by medical and chiropractic texts alike that
17 distortions in the spine can alter the control of
18 those blood vessels called cardiovascular
19 constrictions.

20 It's not beyond my comprehension, and
21 it shouldn't be beyond any knowledgeable persons to
22 remove such irritation and to normalize the body
23 processes will normalize the function of even the
24 blood vessels to the heart, they're no different than
25 the blood vessels to your fingertips.

1 Q So that you feel in your opinion profession-
2 ally speaking that an individual who is experiencing
3 a myocardial infarction would do well to go to a
4 chiropractor?

5 A Anybody would do well.

6 Q Rather than a hospital emergency room?

7 A I never knew that hospitals cured anybody.

8 Q Answer my question.

9 You feel that a person should go to a
10 chiropractor rather than a hospital and seek the
11 attention of a medical doctor?

12 A I feel definitely the first portal of entry
13 of anybody should be a chiropractor's office.

14 Q Assuming, as one of the M. D.s testified,
15 that time is of the essence in treating a myocardial
16 infarction, individuals should still go to a
17 chiropractor for that?

18 A Anybody who has a subluxation should get it
19 adjusted first.

20 Q Thank you.

21 (Witness excused.)

22 MR. KILLIAN: Doctor Cavallo.

23
24
25 JOHN CAVALLO, having been first duly

1 sworn, was examined and testified as follows:

2 DIRECT EXAMINATION

3 THE COURT: What is your name and
4 address?

5 THE WITNESS: John Cavallo,
6 1000 Northampton Street, Easton.

7 BY MR. KILLIAN:

8 Q Doctor Cavallo, you are a licensed
9 chiropractor?

10 A Yes, I am.

11 Q How long have you been practicing?

12 A Since 1952.

13 Q Where do you practice?

14 A In Easton, Pennsylvania.

15 Q In Northampton County?

16 A Yes, I do.

17 Q Where were you educated?

18 A The Palmer College of Chiropractic.

19 Q If I were to ask you all of the questions
20 that I've asked the previous chiropractic physicians,
21 would you give similar answers?

22 A Exactly.

23 Q You have read the ads. You find nothing
24 false, misleading or deceptive?

25 A No.

1 Q You don't treat patients, but you adjust
2 subluxations?

3 A Exactly.

4 Q So, your testimony would be the same?

5 A Identical.

6 MR. KILLIAN: Cross examine.

7 MR. FREEDBERG: I have no questions for
8 this witness.

9 (Witness excused.)

10 MR. KILLIAN: I call Doctor DeMartino.

11

12

13

14

15

BRUCE JOSEPH DeMARTINO, having been
first duly sworn, was examined and testified as
follows:

16

DIRECT EXAMINATION

17

18

THE COURT: What is your name and
address?

19

20

THE WITNESS: Bruce Joseph DeMartino,
656 Main Street in Hellertown.

21

BY MR. KILLIAN:

22

23

Q Doctor DeMartino, are you a graduate of
Palmer Chiropractic College?

24

A Yes, I am.

25

Q When did you graduate?

1 A October of 1973.

2 Q You are licensed to practice in Pennsylvania?

3 A Yes, I am.

4 Q Where are you practicing?

5 A In Hellertown, Pennsylvania.

6 Q What county?

7 A Northampton County.

8 Q Have you run advertisements?

9 A Yes, I have.

10 Q Similar to Doctor LaBarre's?

11 A Some exact advertisements. Most similar,
12 yes.

13 Q Do you find anything false, misleading, or
14 deceptive about those advertisements?

15 A No, I don't.

16 Q If I ask the same questions that I've asked
17 the previous witnesses, would you agree?

18 A Yes, I would.

19 Q I show you here a catalogue or bulletin of
20 Palmer College of Chiropractic for 1974, '75,
21 particularly the curriculum for the four year program
22 showing the freshman, sophomore, junior and senior
23 years.

24 Would you briefly indicate the range by
25 reference to the subjects of the subject matters that

1 you covered in the course of your work that would have
2 to do with the background training that you would
3 receive?

4 MR. FREEDBERG: I'll stipulate to his
5 qualifications as a chiropractor.

6 MR. KILLIAN: I would like it in the
7 record as to what subjects the Doctor was trained in.

8 MR. FREEDBERG: As to his qualifications,
9 it's not a tackle on chiropractic here, it's a tackle
10 on his ads.

11 THE COURT: Mr. Freedberg, if Counsel
12 and Doctor LaBarre want to bring out his qualifications,
13 I have no objection. Since he's sworn, and he's been
14 brought here as a witness, let him give his background.

15 MR. KILLIAN: Thank you.

16 BY MR. KILLIAN:

17 A In the freshman year of study at Palmer
18 College of Chiropractic we study inorganic chemistry,
19 both lecture and practical applications.

20 We're introduced to the human biology.
21 We study the terminology of sciences so that we may
22 better understand the terminology. We study the
23 history of sciences so we can evaluate how these
24 results are brought about.

25 We study physiology. We begin the study

1 of physiology of the body. We are introduced to
2 chiropractic philosophy.

3 We study anatomy and embryology. By
4 anatomy we're speaking of the muscular skeletal
5 system.

6 Q How many hours did you study that?

7 A The study of anatomy of the muscular
8 skeletal system, 80 hours of lecture time and 40
9 hours of practical.

10 Q Are there similar courses in other years of
11 your schooling?

12 A Yes. In the freshman year we're introduced
13 to anatomy as it relates to chiropractic, basically
14 anatomy of the spine. We begin dissection work on
15 human cadavers and other animals. That's approximately
16 60 hours.

17 We begin the study of inorganic
18 chemistry, 1,000 hours of lecture and 20 hours of
19 practical. Physiology, pathology, basically the
20 spine. And, oncology and angiology and gynecology,
21 blood system, organs, glands. We study hygiene,
22 sanitary conditions, and we're introduced to
23 psychology.

24 That's the freshman year. That consists
25 of 1,340 hours. There's more. Neurology, I mentioned

1 already with anatomy and chiropractic. I mentioned
2 those already. One thousand three hundred and forty
3 hours total in the freshman year.

4 In the sophomore year we continued
5 studying inorganic chemistry, in the sophomore year,
6 40 hours of lecture time and 20 hours of practical
7 application.

8 We continued our study of chiropractic
9 technique, more neurology and pathology concerned
10 with the lung, liver, gall bladder. Pathology as
11 concerned with the younger people in pediatrics and
12 older people in gyniatrics.

13 We study renal and cardiovascular lung
14 physiology. This is 100 hours. We study tumor
15 pathology. We study symptomatology and diagnosis as
16 involved with the special sciences.

17 We do biochemistry laboratory work in
18 our sophomore year. We study bacteriology,
19 biochemistry, hematology and general chiropractic
20 philosophy a total of 960 hours.

21 In the third year we continue our study
22 of hygiene. We begin the study of instrumentation.
23 Neurology is continued. Biochemistry is continued.

24 We begin studying X-ray in our junior
25 year as well as clinical diagnosis. Chiropractic

1 technique is continued in the junior year.
2 Symptomatology and diagnosis concerned with digestive
3 disorders in the junior year. Physiology with
4 endocrinology, glandular study and nutrition in the
5 junior year.

6 We study gynecology and obstetrics 40
7 hours and renal disorders. And, we at this time
8 begin our work in practical application of
9 chiropractic at the student clinic located in the
10 college. That's a total of 1,080 hours for the
11 junior year.

12 In the senior year we study chiropractic
13 philosophy, clinical diagnosis, physical diagnosis,
14 pathology. The pathology is confined to pathology of
15 the spine.

16 We study psychiatry, business
17 administration, ethics, jurisprudence, tocology,
18 chiropractic technique. And, we continue with our
19 work in student learning. That's a total of 1,140
20 hours.

21 Q The total hours for the four year course is
22 how many?

23 A I don't know.

24 MR. KILLIAN: Cross examine.

25 CROSS EXAMINATION

1 BY MR. FREEDBERG:

2 Q Sir, if somebody came to you complaining of
3 blurred vision, would you examine the eye?

4 A I would examine the spine. I examine
5 everyone's spine.

6 Q If someone came to you complaining of goiter,
7 would you examine the goiter?

8 A I would examine their spine again.

9 Q If someone came to you complaining of
10 intense pain in the chest radiating down the left
11 arm, would you examine, or would you attempt to
12 examine, the heart by using an electrocardiogram
13 machine?

14 A I only check the spine for vertebral
15 subluxations.

16 Q Would you use a stethoscope to check the
17 heart pain at that point if somebody came to you with
18 their complaint?

19 A We don't use a stethoscope in checking the
20 pain. We only check the spine for subluxations.

21 Q You wouldn't use a stethoscope on the heart
22 if someone complained of pain in the chest and pain
23 radiating throughout the left side and down the arm,
24 and so forth?

25 A I would again only check their spine for

1 subluxations.

2 MR. FREEDBERG: I have nothing further.

3 MR. KILLIAN: That's all. Thank you.

4 (Witness excused.)

5

6

7 ANDREW KRUPAR, having been first duly
8 sworn, was examined and testified as follows:

9 DIRECT EXAMINATION

10 THE COURT: What is your name and
11 address?

12 THE WITNESS: Andrew Krupar, Greensburg,
13 Pennsylvania. 3003 Acacia Circle is the residence.
14 And, 327 West Pittsburgh Street is the office.

15 BY MR. KILLIAN:

16 Q Doctor Krupar, are you a Doctor of
17 Chiropractic?

18 A Yes, sir.

19 Q How long have you practiced?

20 A In the neighborhood of 25 years.

21 Q Have you been licensed by Pennsylvania?

22 A Yes, I am.

23 Q What is your educational background?

24 A Preprofessional was at Elizabethtown College.

25 A graduate of Greensburg High School, first graduate

1 of Palmer College. I did postgraduate work at Logan
2 College in St. Louis, and a national college in
3 Chicago. And, I also interned for a month at the
4 Toftness Chiropractic Clinic in Wisconsin.

5 Q Have you taken postgraduate work in
6 roentgenology?

7 A Yes, I have. I have just about enough hours
8 to qualify for certification. I just have to write
9 the exam.

10 Q Have you any memberships in chiropractic
11 associations?

12 A Yes, I have previously been a member of the
13 Pennsylvania Chiropractic Society. I was Vice-President
14 of the Westmoreland County Chiropractic Society. I
15 was a State Board member for '73 and '74.

16 Q You were a State Board member of what board?

17 A Of the State Board, Chiropractic Examining
18 Board.

19 Q Is this the State licensing body that
20 licenses all chiropractors in Pennsylvania?

21 A Yes, sir.

22 Q You were a member of that Board?

23 A In '73 and '74.

24 Q Two years?

25 A Yes, sir.

1 Q Now, as a member of that Board were you
2 concerned with advertisements of chiropractors?

3 A Yes, we were.

4 Q And, what was the matter and the point of
5 your concern?

6 A Well, advertisements we felt that were
7 ethical were sent into the Board of Examiners, and
8 the Chairman of the Board would review them. And,
9 the ones he thought were not ethical or, let's say,
10 adverse to our profession, we brought down to the
11 Board. And, then we voted on them. And, we'd send
12 out a letter, and ask them to cease and desist on
13 particular ads that were unethical.

14 Q Did the ads in question in this proceeding,
15 or similar ads, come before the Board while you were
16 a member?

17 A None of these ads ever came before the Board.

18 Q No question was ever raised about these ads? ←

19 A No, sir.

20 Q Have you used these ads?

21 A Yes, I have.

22 Q Have you reviewed these ads?

23 A I have.

24 Q Do you find anything in these ads that is
25 false, misleading, or deceptive?

1 A No, sir.

2 Q Is advertising legal in Pennsylvania by
3 chiropractors?

4 A Yes, it is legal.

5 Q Why do chiropractors advertise?

6 A There's a sick world out there, and the
7 people have to know how to get better through
8 chiropractic.

9 Q And, you believe that chiropractic will make
10 them better?

11 A Chiropractic adjustment really is a benefit
12 to the world of sick folks.

13 Q Do you make available brochures in your
14 office relative to the subject of health and
15 chiropractic?

16 A I sure do.

17 Q I hand you a packet of brochures, are these
18 all brochures from your office?

19 A They are.

20 Q Would you read the titles in order.

21 A Your health, your heart, relief from
22 arthritis, pinched nerve, constipation, protect your
23 kidneys, migraine headaches, nervousness, the ear,
24 stomach disorders, whiplash, epilepsy, relief from
25 colds, back trouble too. Leg pains, correct asthma,

1 sciatica, blood pressure, skin eruptions, shoulder
2 pains, nerve tension.

3 Q Now, what is the point of all of these
4 brochures from your point of view?

5 A To inform the public of the relief that they
6 may get from chiropractic adjustments.

7 Q Do you claim to cure any of those diseases
8 or illnesses?

9 A No, sir.

10 Q What do you claim you do?

11 A All we do is find the interference that the
12 nervous system produced by the subluxation. We adjust
13 them and let the body restore itself.

14 Q Have patients come to you complaining of those
15 symptoms covered by those brochures?

16 A Yes, they have.

17 Q And, have patients as a result of your
18 adjustments been relieved of those symptoms and
19 conditions?

20 A Yes, they have.

21 MR. KILLIAN: Cross examine.

22 MR. FREEDBERG: No questions. Thank you.

23 (Witness excused.)

24

25

1 FRANK F. TUCCI, having been first duly
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 THE COURT: What is your name and
5 address?

6 THE WITNESS: Frank F. Tucci,
7 609 Broad Avenue, Belle Vernon, Pennsylvania.

8 BY MR. KILLIAN:

9 Q Doctor Tucci, how long have you been a
10 Doctor of Chiropractic?

11 A 28 years.

12 Q What is your educational background?

13 A High school, one year at Waynesboro College
14 and the Palmer Chiropractic College.

15 Q Was it a four year program at Palmer?

16 A 3,500 hours. It was a three year program.

17 Q 3,500 hours at that time?

18 A Yes.

19 Q How long have you been practicing?

20 A 28 years.

21 Q Licensed in Pennsylvania?

22 A Yes.

23 Q Have you held any position with the
24 Pennsylvania Chiropractic Society?

25 A I was Director for six years during which

1 time I was one year President, two years Chairman of
2 the Board of Directors of the PCS.

3 Q Have you held, or do you hold, a position
4 with the Chiropractic Life Fellowship of Pennsylvania?

5 A I'm the Secretary.

6 Q If I asked you all the questions that have
7 been asked of the previous witnesses and doctors such
8 as Doctor Krupar and Doctor Schneier, would your
9 answer be the same?

10 A Yes, it would.

11 MR. KILLIAN: Cross examine.

12 MR. FREEDBERG: No questions.

13 (Witness excused.)

14 MR. KILLIAN: Your Honor, a very brief
15 summary.

16 It is the burden of the Commonwealth,
17 it seems to me, to prove to you that the advertisements
18 in question are first false or misleading. It is our
19 position and contention that what may be false to a
20 medical doctor may be truth to a chiropractor.

21 Clearly, the witnesses contend opposite
22 positions on these advertisements. The advertisements
23 do not pretend to be medical advertisements. They
24 are chiropractic advertisements, and as such they are
25 truthful according to chiropractic.

1 It is a defense under Section 4107 to
2 prosecution if the defendant proves by a preponderance
3 of the evidence that his conduct was not knowingly or
4 recklessly deceptive. We have tried to show in this
5 testimony by means of all of these chiropractors who
6 represent members of the State Board, officers of the
7 state societies, practitioners of many years, that
8 these statements are not knowingly or recklessly
9 deceptive. They are truthful according to
10 chiropractic. Certainly not intended in any way,
11 shape or form to be deceiving. It is, therefore, a
12 valid defense if these are not knowingly or recklessly
13 deceptive.

14 Therefore, we would request that the
15 charges be dismissed.

16 THE COURT: Mr. Freedberg.

17 MR. FREEDBERG: Your Honor, I've stated
18 my position at the time there was a demur entered.
19 Merely just to recapitulate it briefly. And, I'm sure
20 you recall it.

21 It's the contention of the Commonwealth,
22 and we believe we've demonstrated through the
23 testimony of four medical doctors that the problem
24 here is twofold. To begin with, there are false and
25 misleading statements in that certain illnesses and

1 conditions are attributed to spinal misadjustment or
2 disarranged vertebrae and nerve pinching. These
3 doctors have inevitably said to you that that's not
4 so.

5 The second area of misrepresentation is
6 the misrepresentation in the ads that a chiropractor
7 is able to aid in curing -- not curing, but in
8 relieving the individuals of the symptoms which they
9 experience whether it be a heart attack -- we've
10 heard the representation that a chiropractor by
11 adjusting the back would relieve an individual who's
12 having a heart attack. And, therefore, we say that
13 this is the second area of misrepresentation in these
14 ads. And, we believe we've established that through
15 the testimony of the four physicians. And, I call to
16 your attention that there are some notices in their
17 ads that are not general factors with regard to
18 recklessness.

19 What Attorney Killian is suggesting is
20 that he has a defense before a jury. This is a
21 preliminary hearing, and the question before you is
22 has the Commonwealth made out a prima facie case, is
23 there sufficient evidence here to permit a jury to
24 answer on this recklessness. I don't think it comes
25 into the picture in this regard.

1 Secondly, if recklessness is an issue,
2 Your Honor, there's testimony here that this man by
3 his representation would invite a person who is
4 experiencing the symptoms that indicate a heart
5 attack is under way to come to his office rather
6 than to go to a hospital. The doctors testify that
7 delay can be fatal. If that's not reckless, I can't
8 imagine what is.

9 I would ask that the matter be referred
10 to the jury for disposition.

11 MR. KILLIAN: I have one further word.
12 And, that is that the statute states that it is a
13 defense to prosecution under this Section if you
14 establish by the preponderance of the evidence that
15 the conduct was not knowingly or recklessly deceptive.

16 The statute doesn't mean this is a jury
17 question. It means that it's up to the Justice to
18 determine whether or not there's a defense to
19 prosecution.

20 THE COURT: Well, Mr. Freedberg, and
21 Mr. Killian, after I heard both sides of the testimony
22 I somewhat agree with the summation Mr. Freedberg
23 says about this isn't a jury trial, this is a
24 preliminary hearing. And, here today there's no
25 question about it from both sides. There's no

1 question about the credibility of the Commonwealth's
2 or Doctor Barrett's witnesses, and by the same token,
3 Doctor LaBarre's.

4 And, for this reason then I'm going to
5 find a prima facie case and let the jury decide once
6 and for all whether it's false or misleading at the
7 jury trial if it goes past the grand jury. And, the
8 same bail will continue, which is nominal bail of
9 one dollar.

10 (Concluded.)

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I, CHERYL A. FARNER, a Shorthand Reporter and Notary Public in the State of Pennsylvania, certify that the foregoing is a true and accurate transcript of the magistrate hearing re Doctor Stephen J. Barrett vs. Richard T. LaBarre, at the place and on the date hereinbefore set forth.

I further certify that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this hearing is taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in the action.

Cheryl A. Farner
A Notary Public in the State of Pennsylvania