

California Appeals Court BLUDGEONS Quackbusters...

Opinion by Consumer Advocate Tim Bolen

April 23, 2003

A California Appeals Court, yesterday, April 22, 2003, bludgeoned the National Council Against Health Fraud (NCAHF), and their whole argument about what constitutes good and bad health care. The quackbuster's operating theme, the argument they use against alternative proponents, came under a major American Court's scrutiny. The Court, basically, in their decision, said the the quackbuster's arguments were hogwash, and they had no business meddling in California's system.

The Court also declared that top quackbusters Stephen Barrett (quackwatch.com), and Wallace Sampson MD (Scientific Review of Alternative and Aberrant Medicine) *"were found to be biased and unworthy of credibility."*

The quackbusters lost in a PUBLISHED case. The quackbuster premise failed. Not some of it, not most of it - but all of it. The "quackbuster" measuring stick for how to evaluate health care has been completely discredited. Official quackbuster credibility is now ZERO.

In a minute I'm going to give you a link to the Appeals Court decision. But first let me give you a road map.

Here's what happened...

The quackbuster's flagship, the self-proclaimed National Council Against Health Fraud (NCAHF) decided, one day, to sue about 43 *"Alternative Medicine proponents"* in California, basically claiming that all of them were engaging in health fraud *"because what they were doing wasn't scientifically proven."*

Their argument was that *"the defendant has to PROVE their products work, or it's health fraud."*

California was the wrong place for them to try this stunt. Here, health freedom bills tend to pass through the legislature UNANIMOUSLY. We like to be healthy. It's our life style.

The very first case that came to trial was called NCAHF vs, King Bio (a manufacturer of about 50 homeopathic products). The NCAHF lost badly. Los Angeles Superior Court Judge Haley Fromholz wrote a long decision, virtually battering the quackbusters for wasting the court's time with their silly case. The quackbusters had accused King Bio of false advertising. At issue was the credibility of the NCAHF's witnesses, Stephen Barrett, and Wallace Sampson MD. The Judge thrashed their arguments. You can read the Judge's words in this original case decision by clicking [here](#). You can find out who King Bio is by going to their website www.kingbio.com

The NCAHF appealed. And, boy did it cost them. You need to read the decision. It is written in plain language, not legalese, and is clearly understandable. Read the footnotes also. Pass this around to anyone under attack by the quackbusters. Their attorneys will love this precedent setting case.

To me one of the more important statements is the last footnote in the Appeals Court's decision, for it attacks the whole quackbuster operation. It says, *"The trial court concluded NCAHF failed to prove a false or misleading statement. King Bio's expert testified the products were safe and effective. The products were included in the Homeopathic Pharmacopoeia and complied with FDA guidelines."*

NCAHF presented no evidence that King Bio's products were not safe and effective, relying instead on a general attack on homeopathy, made by witnesses who had no knowledge of, or experience with, King Bio's products, and who were found to be biased and unworthy of credibility."

But more occurred. "At trial, NCAHF proceeded on the theory that there is no scientific basis for the advertised efficacy of King Bio's products. NCAHF performed no tests to determine the efficacy of King Bio's products and presented no anecdotal evidence. NCAHF instead argued that King Bio's products were drugs, and the scientific community required representations regarding the efficacy of drugs to be supported by acceptable scientific evidence. NCAHF asserted that the burden of proof should be shifted to King Bio to prove its products' efficacy. On appeal, NCAHF acknowledges that, under current California law, a false advertising plaintiff bears the burden of proving the defendant's advertising claim is false or misleading. NCAHF contends, however, that we should shift the burden of proof to the defendant to facilitate the campaign against health fraud. NCAHF argues that federal law shifts the burden to the defendant in false advertising actions."

In response to the NCAHF's demands, the Court said: "We conclude there is no basis in California law to shift the burden of proof to a defendant in a representative false advertising and unlawful competition action. We conclude further that the Legislature has indicated an intent to place the burden of proof on the plaintiff in such cases. Finally, we conclude federal authority is not apposite."

What this means to the North American Health Freedom Movement...

This is a PUBLISHED case. It is PRECEDENT setting. It can (and should) be used in any case in the US where quackbusters are involved. The quackbusters have been court tested - and they lost. Their whole argument against alternative medicine has been thrown in the trash. Their credibility is zero.

The case was handled, on our side, by famous California litigator, Carlos Negrete. You can read his comments on the case at www.healthfreedomlaw.com.

You can read the whole case decision by clicking [here](#).

What I want to know is *"Who funded the quackbuster's lawsuits?"*

My advice to you: If you are the subject of derogatory remarks on top quackbuster Stephen Barrett's website www.quackwatch.com, or Robert Baratz's website www.nachf.org, you might want to consider showing this newsletter, and the court decision papers to your attorney. This might be a good time for your attorney to send them a letter pointing out their new legal problems - and demanding removal of the information from their website within 24 hours... Your attorney might want to ask for compensation...

Stay tuned...

Tim Bolen - Consumer Advocate

This "Millions of Health Freedom Fighters - Newsletter" is about the battle between "Health and Medicine" on Planet Earth. Tim Bolen is an op/ed writer with extensive knowledge of the activities of a subversive organization calling itself the "quackbusters," and that organization's attempts to suppress, and discredit, any, and all health modalities that compete with the allopathic (MD) paradigm for consumer health dollars. The focus of the newsletter is on the ongoing activities, battles, politics, and the victories won by members of the "Health Freedom Movement" against the "quackbusters" It details "who the quackbusters are, what they are, where they are operating, when they appear, and how they operate - and how easy it is to beat them..."

For background information on the "Battle between Health and Medicine" go to: http://www.savedrclark.net/by_whom2.htm. A copy of THIS newsletter, and older ones, are viewable at the website <http://www.quackpotwatch.org/default.htm>.

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