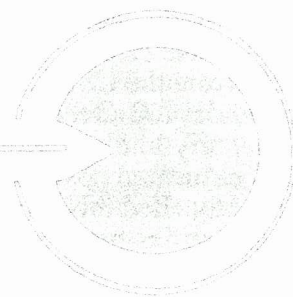


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NEWSLETTER



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APPEALS COURT REVERSES CIVIL SUIT JUDGEMENT AGAINST HUGGINS!

A momentous event has occurred in Colorado! A District Court, in an unanimous decision of three judges, has reversed the civil judgement against Hal A. Huggins, D.D.S! Dr. Huggins had been charged by a plaintiff with "negligent misrepresentation" for his publications and television appearances on the adverse health effects of mercury amalgam dental fillings. The plaintiff had claimed that the publications and television appearances had convinced her to have her mercury fillings removed, but that they were false. The jury for the lower court had ruled against Dr. Huggins in favor of the plaintiff. (Appeal from the District Court of El Paso County, Honorable Steven T. Pelican, Judge, No. 94CV2680).

In addressing the right of individuals to publicize information on issues of public concern, the Court stated: *"The expression of opinions upon matters of public concern is the core value protected by the First Amendment. To subject authors of such opinions to the risk of multiple claims for personal injuries, at least in those instances, as here, in which the opinions do not address or impugn any specific individual, based solely upon the majoritarian view that the opinion is 'false', would impose an intolerable burden upon the author of such opinions. And, the imposition of such a burden would have a ruinous and unjustifiable chilling effect upon free speech."* The Court, citing case law, concluded that no duty of care is owed by an author to a reader.

According to the Appeals Court, the tort of negligent misrepresentation is committed if a person "negligently gives false information" to another and that other, acting in reasonable reliance upon such information, takes action that results in that other person's physical harm. It is a tort based on negligence, not fraud.

In determining the validity of the controversy itself, the Court cited the 1993 United States Public Health Service CCEHRP document, which was placed in evidence at the trial: *"That report concluded that some portion of the mercury in an amalgam is absorbed by the body and that persons with dental amalgam had higher concentrations of mercury in various tissues....than those without amalgams. In addition, it concluded that a small proportion of individuals may manifest allergic reactions to these substances. However, that department could reach no definitive resolution upon the question whether a health hazard was created. The report determined, rather, that the department: Could not conclude with certainty whether or not the mercury in amalgam might pose a public health risk;.....the possibility that these materials could pose health risks cannot be ruled out."*

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