

chain while being taunted with homophobic slurs. Ibid. Many purportedly expressed anger and struggled to break through the human chain to seize the two oranges. Ibid.

A different group exercise entailed blindfolding participants while counselors dribbled basketballs and made anti-gay slurs. Ibid. Downing also conducted group cuddling sessions with counselors and their younger clients in an effort to reduce or eliminate same-sex attraction. Id. at ¶ 60.

As part of its conversion therapy counseling, JONAH told plaintiffs that homosexuality is loathsome and that homosexuals are more susceptible to loneliness, suicidal thoughts, and contracting HIV/AIDS. Id. at ¶ 61.

JONAH typically charged plaintiffs \$100 for each individual session, and \$60 for each group session. Id. at ¶ 43. The cost of these services could and did exceed \$10,000, per year depending on the individual. Id. at ¶ 11.

Plaintiffs' legal claim is that JONAH engaged in "unconscionable commercial practice, deception, fraud, false pretense, false promise, and misrepresentation[]" by claiming that homosexuality is a mental disorder and, in the face of empirical evidence to the contrary, that same-sex attractions can be reduced or eliminated through therapy. Id. at ¶¶ 38-40. Additionally, they contend that JONAH advised them that if conversion therapy

A. Joseph Berger, M.D.

Dr. Berger is a psychiatrist currently working in private practice in Toronto, Canada. He is a past assistant professor of psychiatry at the University of Toronto, as well as a past president of the Ontario Branch of the American Psychiatric Association. He has written articles on various subjects, including an article discussing psychotherapeutic treatment of male homosexuality, published in the American Journal of Psychotherapy and in the NARTH¹ Annual Conference Papers about bias. He guest-lectured at Bar-Ilan University in Israel on psychotherapy with homosexual patients and at various Israeli hospitals reviewing recent scientific studies on homosexuality. Dr. Berger bases his testimony on, in addition to discovery materials, articles by two of defendants' experts, Drs. Nicolosi and Phelan, as well as articles by R.L. Spitzer in the Archives of Sexual Behavior and a book titled Homosexuality: A Psychoanalytic Study, published by Basic Books.

B. Mr. Christopher Doyle

Mr. Doyle has been a licensed clinical professional counselor in the state of Maryland for one year. He is the director of the

¹ NARTH -- an acronym for National Association for Research and Therapy of Homosexuality -- was co-founded by Dr. Nicolosi (another of JONAH's proffered experts) and has less than 1,000 members, including non-mental health professionals such as counselors, teachers, and pastors.

N.J. Super. 522, 527 (App. Div. 1987), general acceptance "does not depend on unanimous or universal agreement within the scientific community." State v. Tate, 102 N.J. 64, 83 (1986); see also Windmere, supra, 105 N.J. at 379 ("There will always be some detractors to any scientific theory."). The existence of a minority of conversion therapy proponents does not and cannot negate the fact that the DSM and its exclusion of homosexuality are generally accepted in the mental health field. Furthermore, a group of a few closely associated experts cannot incestuously validate one another as a means of establishing the reliability of their shared theories. See id. at 380-82 (holding that general acceptance had not been established where all experts were affiliated with unique "principle place of research" such that development of relevant device appeared to be "sole source industry").⁴

Each of JONAH's experts proffers the opinion that homosexuality either is a disorder or is not a normal variation of human sexuality. Because the generally accepted scientific theory is that homosexuality is not a mental disorder and not abnormal, these opinions are inadmissible.

C.

⁴ Although not necessary to this decision, one cannot fail but notice that several of the JONAH experts' reports are riddled with methodological errors that also render their opinions inadmissible; these include the refusal to consider studies that do not support their views, and the plagiarism of another JONAH expert's prior work without independent research or analysis.

