LETTER TO THE EDITOR

The editors respond to Dr Paustenbach

In his response to Egilman, Dr Paustenbach takes the American Journal of Industrial Medicine (AJIM) to task on a number of issues. As the Coeditors-in-Chief of the journal at the time, we use this opportunity to respond.

By way of providing background for readers, in 2016 Egilman and Monarrez submitted an analysis of the extent to which use of a more restrictive set of asbestos exposure assignment rules in a published study had reduced the number of eligible individuals in a reanalysis of the association of brake work and mesothelioma. The study had been authored by Kelsh et al working for a private research company. The Egilman and Monarrez study was published in this journal after external peer review.3

Besides insight into the consequences of differing exposure assessments, the editor of record (RE) believed that Egilman and Monarrez’s argument about a particular type of conflict of interest presented by the Kelsh et al. paper was relevant to the journal’s audience. Specifically, concern was raised over the contracting of scientists in this instance by product defense attorneys (outside counsel) for automobile companies, to conduct specific research and write manuscripts, generate letters to the editor, and prepare for court testimony, all performed as “attorney work product” (uploaded as Supporting Information 2, ajim22686-sup-0002-SuppData-S2.pdf).3

Egilman and Monarrez’s charge was that this type of close association between researchers and attorneys resulted in “corporate corruption” of the scientific literature.3 They further argued that the authors’ conflict-of-interest declarations in publications were insufficient, as they omitted the role of attorneys in the research contracting process. Such an arrangement, they argued, not only gave the outside attorneys a role in publication as funders, but brought the contracting process. Such an arrangement, they argued, not only gave insufficient, as they omitted the role of attorneys in the research material.4,5 The fact that the original analysis by Kelsh et al2 had been well set out by United States District Court Judge Weinstein.9

The Journal also does not question the legitimacy of arm’s-length industry-funded research, although along with many journals, it recognizes the perils inherent in such relationships between industry and authors. In this regard, the Journal abides by the policy of the International Committee of Medical Journal Editors (ICMJE) that authors declare “[s]ources of support for the work, including sponsor names along with explanations of the role of those sources if any in study design; collection, analysis, and interpretation of data; writing of the report; the decision to submit the report for publication; or a statement declaring that the supporting source had no such involvement”.10

The exchange in this Journal sheds light on an issue that extends beyond conflict of interest. The question that arises in the published exchange is whether research that is undertaken as part of a package of services, all under the rubric of "litigation support"—which included preparation as expert witness, assisting attorneys on cross-examination, coordinating among experts and counsel, presenting at professional meetings, preparing and submitting manuscripts for publication,7 all for the purposes of defending a party under litigation—can be considered as a legitimate exercise in science. Does it meet the hallmark of the scientific enterprise: to seek, in an unbiased manner, using revisions. The author was asked to reference documentary evidence for contentious statements, with such evidence uploaded as supplementary materials if they were otherwise unavailable in the public domain. A number of these materials had come to light only in legal proceedings.

Dr Paustenbach’s statement1 that peer review would have prevented Dr Egilman’s response from being published rests on some highly restrictive conditions, viz that the person(s) criticized in the matter be invited to review, and that reviewers be expert in both the applicable epidemiology and the full corpus of relevant court materials. The first condition confuses the role of reviewer with the very different role of respondent. Dr Paustenbach has instead been given full right of reply, and his submission was extended the same editorial process as was applied to that of Dr Egilman. We do not believe that the further requirement that a peer reviewer must have “good command of as many as 20,000 pages of associated depositions”1 is realistic nor necessary.

Identification of conflicts of interest can be a challenging task, not easily settled by either broad reporting requirements nor by very specific instructions. Notably, this exchange in the Journal is not about the funding of research by industry nor about expert witness testimony by scientists. The important role of expert witnesses “to assist (judges and juries) as the finders of facts” in tort litigation has been well set out by United States District Court Judge Weinstein.9

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accepted scientific method, to answer a question or set of questions with an open mind, that is, without predetermined answers? This exchange offers the reader contending views on this question.

Finally, Dr Paustenbach’s view\(^1\) is that a science journal should not have given Dr Egilman a platform nor mixed science with information obtained in litigation. On the contrary, we believe that the Journal has fulfilled its legitimate role by permitting important and germane questions to be raised; by allowing the contending parties to have their say, even an extended say; and acknowledging that the practice of science takes place in a social context, including the legal arena, and is enhanced by open and frank public discussion.

DISCLOSURE BY EDITOR OF RECORD

John D. Meyer declares that he has no conflict of interest in the review and publication decision regarding this article.

AUTHOR CONTRIBUTIONS

The letter was jointly written and the final version approved by both authors.

DECLARATIONS (AUTHORS)

RE declares no conflict of interest. SM provides medical reports and testimony in asbestos tort litigation.

ORCID

Rodney Ehrlich MBChB, FCPHM(SA), PhD\(^1\)

Steven Markowitz MD, DrPH\(^2\)

\(^1\)School of Public Health and Family Medicine, University of Cape Town, Cape Town, South Africa

\(^2\)Queens College, City University of New York, New York, New York

Correspondence

Rodney Ehrlich, School of Public Health and Family Medicine, University of Cape Town, Observatory, Cape Town 7925, South Africa.

Email: rodney.ehrlich@uct.ac.za

REFERENCES