

Jane Akre

Whistle-blowing Fox reporter

UPDATE > Fox rBGH

Since the verdict, which came down on August 18, 2000, and the jury, six-person jury, said that I had been discriminated against, retaliated against, for threatening to go to the Federal Communications Commission about a slanted news story. The jury was unanimous on that, they awarded me \$425,000, and I thought, oh this is nice. But of course, it goes into an escrow account until the appeal process is done. And immediately Fox filed appeals of that decision.

They did not want that stain on their reputation, and they even said in court, "We're going to get our good name back, your Honour." And they, they pursued an appeal and the basis of their appeal was that there is technically no law, rule or regulation against news distortion. It's a policy of the FCC but it's not a law, rule or regulation. You know, the implication is of course, you know, imagine, there's nothing constraining us from distorting the news, is essentially what they're saying.

And they had used that argument at least six different times before we went to trial. In motions, three different summary judgment motions, which is a motion to get the thing dismissed before you go to trial. In three different motions to try to avoid a trial, they also used that same argument. So once again, after the decision that went against them, they went to the appellate division and used the same argument, there's no law, rule or regulation against news distortion. And to be a violation of whistle-blower law it's got to be a law, you know. Our lawyers argued back and forth on that. Under Florida statute, we believe the news distortion policy is certainly a law that would fall under the whistle-blower law.

But, they finally found some judges who were sympathetic to them. A three-panel judge of the appellate division in the Tampa, Florida area finally agreed with that argument. They reversed the jury decision, they took away the award and they tacked on that Steve and I would both have to pay Fox's legal fee and costs amounting to, now what Fox says is \$1.7 million. This is unprecedented for whistle-blowers, of course, there will never be a whistle-blower who decides to come forward if they can be saddled with the legal fees of the other side. It's just, it's just a punch to anybody who wants to come forward and do the right thing.

And it also says very clearly to journalists that you cannot use the news distortion as a way to find protection from your employer. It's a very, very bad decision. Our lawyers say it is a very flawed decision legally but right now, we're just fighting to not have to pay the, you know, enormous amount that we're facing. We're coming up for a hearing in June before what we hope will be the same trial judge that presided over the five-week jury trial. We are hoping that he will see the insanity of this and make some decision in our favour.

Now even if he does, it's not over there because Fox has another opportunity to go back to the appellate court where they already found a remedy and say, "Your Honours, this is outrageous!" It's kind of like a ping-pong game, you can go back and forth so many times. At some point they exhaust their ability to appeal and I think they get the second bite of the apple.

But it's nowhere near done and at this point and we are in early, mid-2004. We filed this in '98 and the problems with Fox began in '97, so the old adage "justice delayed is justice denied" certainly applies here, I understand what that means. The court system is not set up for the little guy. It's set up for the, the victor will be the one with the deepest pockets, the one that can go on and on and on. And that's Fox.

Note

Having successfully appealed Fox's demand for \$1.8 million in court costs, Akre and Wilson are still on the hook for nearly \$200,000 – that's the amount Fox says it is owed for filing and fighting its appeals. The couple has sought another hearing. They are now preparing a petition to deny the Fox station its broadcast license for violation FCC rules against news distortion.

UPDATE > rBGH Suit: Cost/Benefit Analysis

From the point of view of getting the story out, was it worth it? Yes, certainly, the story got out and bovine growth hormone is a much bigger story today than it was in '97 and '96 when we first started looking at it. We're not the only ones of course, it's gotten a tremendous amount of coverage on the internet. There are consumer groups, there are food safety groups that are looking at this as well. And a lot of parents just simply don't want to serve hormone-laced milk to their children, artificially laced with hormones to their children.

From a personal point of view, it was a very easy decision to make at the time, because it just seemed like the right thing. I mean, our radar was good, our ethics were good, but it's a very hard decision to live with in the long run. So I don't like that question because in an ideal sense, of course you'd do it again. But in a practical sense...

UPDATE > Is rBGH Still In Use?

I mean, this was supposed to be heralded as a wonderful new product. And it would have widespread dissemination and all the third world countries and all the major industrialized nations would buy this, and it would make Monsanto a pile of money. It didn't happen that way, it didn't happen that way.

It was banned in the European Union, of course banned in Canada, banned in Japan, banned in all of the industrialized nations. And you had a few third world countries buying it, and now the production in the United States has been cut by 50 per cent. So this has not been the rousing success that Monsanto had hoped for.

And it's probably time to revisit that issue and find out exactly what's going on behind the scenes and why the FDA is getting involved in the 50 per cent cutback in production by Monsanto. There's something going on there and again, the consumer is the last to know. And it's just up to reporters to find out what's going on, and to consumer groups and food safety groups. We can't rely on our government to be telling us this stuff, apparently.

STRATEGIES FOR CHANGE > Fighting GMOs

Labelling has met with limited success in the States although there are an awful lot of grassroots groups that are saying, once we label, that is essentially the death of genetically modified organisms. And there was an attempt in Oregon called Measure 27 to label GMOs and, it was amazing. I actually got out to Oregon and watched it. It was certainly a grassroots citizens group and they had limited budget, they had somewhat of a budget. They did some advertising, they did a lot of public speaking. A lot of grassroots folks were very organized and did a really good job to inform the public.

Then a consortium of biotech companies came in and there was just no limit on the amount of money they spent on advertising. The scare tactics that they used, scaring people that they were going to have to pay 30 per cent more on the grocery store shelves if labelling goes into effect. Scaring people about the grassroots folk who were trying to keep consumers informed. Ultimately, that multimillion dollar campaign won out against the grassroots campaign, and that's the way it's done.

Other than that, that's as far as the labelling issue has gone, but that was the seed, that was the genesis and it's not going to stop. And we now have areas of the country where they're not allowing genetically modified organisms in. This has just got to be done on the grassroots because that's the only way it's going to be effective. Citizens are going to make it happen. It's not going to happen on the part of the biotech companies and it's not going to happen from our government.

... You know, people are easily scared and a lot of people are on very tight budgets and it's tough to think that it's going to cost you more. I always, I always come back to thinking that an informed consumer is going to do the right thing. I mean, they even had Sir Paul McCartney coming out and doing an ad for them, and that's pretty powerful stuff. And, they were defeated. I wish I had some kind of words of advice. Unless you have a multimillion dollar campaign, it's very, very tough.

STRATEGIES FOR CHANGE > Radar Up!

What scares me is that we know that Monsanto monitors the traffic that goes on on the internet. They have hired out companies that will do that, and when a certain topic comes up, they can hone in on it, on the internet. So, this is being tracked. That makes me very, very nervous. The internet is of course a free marketplace for things to go back and forth, but it's also sort of a school room for Monsanto to learn about what's going on and they are learning, you know they're learning about what's going on.

... We're going to see more corporate spies out there. More people who are alleged to be part of a grassroots movement that are actually monitoring what's going on on behalf of a corporation. I think we're going to see more of that. It's, people just need to have their radar up and their eyes open and be very, very savvy, I think.

STRATEGIES FOR CHANGE > Choose Organic

You shouldn't have to wage war before you go to the grocery store. It shouldn't be an unpleasant experience. How am I going to wade through this? How am I going to keep the crap out of my grocery cart? How am I going to feed something to my kid that is wholesome and close to natural? And doesn't have a lot of added ingredients, and doesn't have trans-fats, and doesn't have genetically modified ingredients in it, and doesn't have hormones in it. I mean, going to the grocery store, you know, for me is like angst, I just, I hate it. It shouldn't be that tough for the average consumer to buy wholesome nutritious food made by mother nature that you feed your kids to sustain them and nurture them and help them grow. It should be a very easy process.

And people vote every time they make a purchase in the grocery store, they are voting what they want their food to be. And they're sending a very clear message, if I buy something organic then the non-organic producer is hearing about that. They're hearing about it at the grocery store, which tracks my purchases. It's getting back to the grocery store. More people buy it, they will stock it. You build it, they will come.