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EXPERT REPORT OF CHARLES A. GALLAGHER, PH.D

**KEITA VANTERPOOL v. FEDERATION OF CHIROPRACTIC LICENSING BOARDS;
CAROL WINKLER; AND KARLOS BOGHOSIAN**

Civil Action No. 22-cv-01208-CNS-NRN

Assignment, Qualifications and Materials Reviewed

I have been retained by the attorney for the plaintiff, Keita Vanterpool, in a race discrimination lawsuit against the Federation of Chiropractic Licensing Boards (FCLB); Carol Winkler and Karlos Boghosian. Plaintiffs' counsel requested that I analyze the materials related to this case and determine whether social science scholarship in my area of expertise can be used to understand the role that race played, if any, in Dr. Vanterpool's suspension from the Board by defendants Winkler, Boghosian and the Federation of Chiropractic Licensing Board.

I have testified as an expert witness in federal cases involving the role race may have played in the treatment of racial minorities in various institutions and by government actors. My rate of pay for consultation as an expert witness in this matter is \$300 per hour. No portion of these fees was or is dependent on the nature of my findings or on the outcome of the case.

As to my qualifications, I am a tenured full professor and until June 1, 2021 was Chair of the Department of Sociology and Criminal Justice at La Salle University for 13 years. Prior to that I was a tenured associate professor of sociology at Georgia State University in Atlanta, Georgia. I have taught classes on U.S race relations at both the graduate level (Georgia State

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University) and undergraduate level (La Salle University, Colorado College and Temple University). I have been a professor for over 25 years. In that time, I have edited 12 books or journals, published 16 academic book chapters, authored 7 peer-reviewed journal articles, had my articles reprinted 13 times in other edited books, serve on 4 editorial boards, and have given 33 invited talks in the United States, six in the UK when I was a visiting Fulbright Scholar, presented over 50 professional talks in the United States and been interviewed about matters of race over 100 times in the media. My race and ethnicity reader, *Rethinking the Color Line: Readings in Race and Ethnicity* (Sage), is now in its 7th edition (2022) and is one of the most widely used university race readers in the United States. I have served as reviewer for the National Science Foundation and the Fulbright U.S. Scholar's Program. I have received numerous awards for my research and teaching. I have been elected to several offices in the American Sociological Society.

My analysis in this case is based in part on the deposition of plaintiff Carol Winkler, the complaint, an amended complaint, and various exhibits provided by Dr. Vanterpool's attorney. I have also relied on upon secondary data sources on race relations found in academic sources found in academic journals articles and books on race, racism, racial attitudes, prejudice and discrimination, occupational segregation, demographic trends in the field of chiropractic healing, systemic racism, Black women in leadership roles, racial stereotypes of Black women (the "angry Black woman) and race and perceptions of threat. Taken together, the use of primary and secondary sources allows for the collection and analysis of as much data as possible to provide a detailed, objective, and valid explanation of the question under consideration.

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I am open to re-evaluating my opinions expressed in this report based on additional information, some of which I understand is still being compiled and expected to be received after submission of this report.

Statement of Opinion

In this report I will briefly summarize the demographics related to diversity in the chiropractic profession and the extent to which African Americans are significantly underrepresented compared to other racial groups within this profession. This section will include a discussion on how Black professionals, particularly Black women, are presented with fewer opportunities for advancement in health care leadership communities and how negative perceptions of Black women by whites can result in race based discriminatory treatment. I will be drawing on scholarship which suggests that Whites, as the dominant group in an established hierarchy, seek to monopolize and control resources they believe are their exclusive or proprietary property. In this case, that white monopolization of a resources could be positions on the Chiropractic Board of Director, overseeing committees, executive positions, being the one to set agendas or having the means and ability to position oneself to run for elected leadership roles. Finally, I will be examining the submitted documents (deposition and exhibits) within the context of these academic literatures to arrive at a professional opinion if it is likely that Dr. Keita Vanterpool's race played a role in her suspension from the FCLB's Board of Directors.

Legacy of Racism in the Chiropractic Profession

In "Beyond the 'Jim Crow' Experience: Blacks in Chiropractic Education" Dr. Glenda Wiese outlines the role race and racism has played in the chiropractic community. She explains that:

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“It is ironic that while the chiropractic profession was fighting its battle of oppression with organized medicine, chiropractors were, in turn, an instrument of oppression for African-Americans who desired to enter their profession. The Palmer School blatantly stated, “Negroes not accepted” in its catalogs of the 1920’s through the 1940’s (Palmer School of Chiropractic, 1930). The Lincoln College of Chiropractic, named after the Great Emancipator, also had racial restrictions from the 1920’s to the 1940’s (Lincoln Chiropractic College, 1926). These exclusionary practices were supported, in part, by social convention of the times. Some state and local laws institutionalized the restrictions. For example, Texas would not allow an African American chiropractor to take post-graduate work in that state in 1956 (cited in Thompson 2017).

While overt race-based discrimination and institutional racism that kept African Americans from applying to chiropractic schools was challenged by the Department and Health Education and Welfare in the 1980s, the history of the profession was one of Black exclusion. The net effect was that the institution itself and the various organizations within this institution (FCLB, NBCF, regional licensing boards and DC granting universities and their faculty) were and continue to be run, owned and operated almost exclusively by whites. The chiropractic universities were staffed with white faculty and the various chiropractic boards, licensing organization and official agencies have been, and continue to be, populated almost entirely by whites, particularly white men. As the history of the profession clearly shows, there has been the complete and total monopolization of the chiropractic profession by whites.

Research suggests that these nearly all white organizations become “racialized” where “organizational beliefs, rituals, norms and even language can serve to reproduce inequality...and come to represent the population they serve” (Wingfield and Chavez 2020, p.35). Within an all-white organization, the “leadership is defined by historically white values and norms; this reinforces or organizational status quo which in turn perpetuates inequalities across leadership (Walter 2017, p.216). The chiropractic profession can most certainly be characterized as an overwhelming white organization whose leadership is almost exclusively white.

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The continued overrepresentation of whites in this field is a case of past-in-present racial discrimination concerning the chiropractic profession. Past-in-present discrimination is a form of structural discrimination that "involves apparently neutral present practices whose negative effects derive from prior intentional discrimination practices" (Feagin 1980, p.12). The race based discriminatory actions of yesterday result in the absence of African Americans in the profession today. Chiropractic researcher Leonard Vernon notes that "In a profession whereby its colleges have generally relied on alumni to recruit students it should be of no surprise that minorities represent 1% of the number of chiropractors in practice" (Vernon 2016, p. 42.)

Lack of Diversity in the Chiropractic Profession

In 2022 U.S. Census reported that African Americans comprised 13.6% while non-Hispanic Whites were 59% of the US population. The Census reports that the "white alone" population in the US is 75% (US Census Quick Facts, 2022). A National Institute of Health Study found that "from 1991 through 2009, blacks comprised less than 1% of chiropractors. In 2009 the racial composition of US chiropractors was 85% white" (Wheldon and Song, 2012, p. 3). In 2019 the number of Black chiropractors had risen to 1.6% (Practice of Analysis of Chiropractic, 2020). In 2019 the number of white chiropractors had risen to 90.8%. The Journal of Chiropractic Education found among all racial groups in the US "the greatest negative divergence of DCs (doctors of chiropractic) from their percentage in the current US population is for blacks" (Johnson and Green 2012, p. 3). In other words, among all racial minorities in the US, African Americans were the most underrepresented group in the chiropractic profession compared to other racial minorities.

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For a point of comparison, a recent study by the American Association of Medical Colleges (AAMC) report in 2022 found that Blacks made up only 5.7% of physicians in the United States although they are 13.6% of the US population (AAMC Specialty Report January 2023). Explaining this disparity, Dr. Michael Dill of the AAMC said that “One reason why the percentage of US doctors who are Black remains far below that of the US population that is Black can be traced to how Black people have been "historically excluded from medicine" and the "institutional and systemic racism in our society.” Blacks are indeed underrepresented as physicians in the United States, but this underrepresentation is even more acute and severe in the chiropractic profession.

Writing in the Association of Chiropractic Colleges flagship journal about “Preparing for 2050” doctor of chiropractors Johnson and Green warned that “The diversity of race and sex in chiropractic practitioners, student bodies, faculty and enrollments are not proportion to the US population and these proportions are not responding as quickly as other health professions to the changing profile of America. The chiropractic profession urgently needs to develop and implement strategies to address issues of diversity and cultural competence to prepare for inevitable changes by the year 2050 (Johnson and Green 2012, p. 11). This “urgent” call to diversify the ranks of the chiropractic profession was made more than a decade ago, but as the statistics above demonstrate, very little has been achieved in diversifying the profession.

This lack of diversity is so profound that when the Federation of Chiropractic Licensing Board delegates choose Dr. Vanterpool as their new vice president, a chiropractic publication noted that Dr. Vanterpool “has the distinction of being the first African American female member of the National Board of Chiropractic Examiners board (NBCE) and only the third African American member in its 58-year history” (NBCE Makes History, 2022). Dr. Vanterpool

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would be in professional board gatherings where she would be the only Black person in attendance.

The Angry Black Women Stereotype

Professor Ashley defines the “angry Black woman” stereotype as a “Black who is characterized as aggressive, ill tempered, illogical, overbearing, hostile, and ignorant without provocation (Ashley 2014). A Harvard Business Review article explained that “The angry Black woman” stereotype has penetrated many parts of American culture, including the workplace. This pervasive stereotype not only characterizes Black women as more hostile, aggressive, overbearing, illogical, ill-tempered, and bitter, but it may also be holding them back from realizing their full potential in the workplace — and shaping their work experiences overall.” The authors further explain that “anger is a commonly expressed emotion in the workplace. But our research has found that when some people see a Black woman become angry, they’re likely to attribute that anger to her personality — rather than an inciting situation....An internal attribution occurs when the behavior is perceived to be about the person themselves. For example, we may think a Black woman expresses anger because she has an angry disposition (Mothro et. al 2020). Research suggests that individuals “are more likely to make internal attributions for expressions of anger when an individual is a Black woman, which then leads to worse performance evaluations and assessment of leadership capabilities” (Motro, et. al. 2022). “The angry Black woman stereotype has the potential to negatively impact black women’s employment status and career progress.”

A 2022 report by McKinsey & Company on “Women in the Workforce” found that “Compared to other women at their level, Black women leaders are more likely to have colleagues question their competence and be subjected to demeaning behavior – and one in three

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Black women leaders say they've been denied or passed over for opportunities because of personal characteristics, including their race and gender" (Brownlee 2022, p. 2). Other studies have found that "black workers report workplace racial discrimination in the form of selectively enforced rules, overt harassment and a higher likelihood of being fired or denied promotions...and that being Black in predominately white settings means fewer opportunities for advancement, being taken less seriously, and frequent disrespect from co-workers, clients and supervisors" (Wingfield and Chavez 2020, p.34).

Not only are Black women significantly underrepresented in leadership roles, but a recent study found the "stereotypes of Black women put them at a serious disadvantage in the workplace. Stereotypes such as the "angry Black woman trope" perpetuate the assumption that black women are hostile, aggressive, overbearing, and ill-tempered. These stereotypes are also extended to black women in leadership roles" (Maina 2022, p. 2).

Race, Discrimination, and the Control of White Resources

Race scholars maintain that Whites, as the dominant group in an established racial hierarchy, seek to monopolize and control public and private resources they believe are their exclusive or proprietary property. In his seminal work linking stereotypes, racial attitudes and racism to one's sense of "group position," Herbert Blumer (1958) explained that Whites view public resources (neighborhoods, pools, schools, jobs, restaurants, public spaces, political institutions) as their own private property because the established racialized hierarchy places Whites above Blacks. These race-based entitlements were sanctioned by social norms, enforced by law, and kept by force (Blumer 1958, Bobo 2001, Wingfield and Chavez 2020).

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Social scientists working in this field view the sense of white entitlement and the monopolization of social, political, and economic resources as a reflection of a group's perceived and relatively privileged placement in a social system based on a racial hierarchy. This positioning of whites over Blacks within this racial hierarchy justifies, as members of this group see it, the exclusive right to preferred social and economic resources. These actions serve to maintain white privilege and reestablish, reframe, recreate and protect the existing racial hierarchy. One could view the chiropractic field as a profession that has almost exclusively had whites in key leadership positions. Whites in leadership roles becomes the norm.

Historically, segregated public spaces and criminalizing individual interactions between whites and Blacks was a matter of law, which guaranteed that whites would seldom have to compete for resources or share social space with Blacks. This was a form of white supremacy in its clearest manifestation; desired social amenities like quality housing stock, high performing schools, primary sector jobs, government employment, parks or restaurants were under the control and solely available to Whites because racist ideology defined Whites as being socially and biologically superior to Blacks. As the racial history of the chiropractic field demonstrates, as a matter of policy Blacks were excluded from chiropractic schools for much of the profession's history. Institutions, like the Federation of Chiropractic Licensing Boards, the National Board of Chiropractic Examiners or the universities that recruit and train individuals to become chiropractors, can be viewed as a resource that has historically been controlled by Whites.

Blumer identified four feelings or perspectives that proceed race motivated discriminatory behavior. The dominant group sees themselves as superior and views the subordinate group as different or alien, the dominant group feels entitled to valued social and

economic resources and finally the dominant group is fearful that the subordinate group will encroach upon those resources the dominant groups believe are rightfully theirs (Blumer 1958). Use of stereotypical traits as the basis for seeing a group as being fundamentally different from the dominant group is conducive to aversion and antipathy directed at the subordinate group. Defining one's group as superior and a minority group as "being of a fundamentally different stock" creates the feeling that the dominant group is entitled to "certain control and decision-making as in government and law, [and] the right to exclusive membership in given institutions such as schools, churches and recreational institutions" (Blumer 1958 p. 118). What sets in motion race based discriminatory behavior is the belief by the dominant group that the subordinate or minority groups harbors designs on those resources, hence threatening the social and material status of the dominant group. The dominant group organizes and responds when a resource they believe is their own "property" is threatened with loss or devalued by sharing this resource with a subordinate group. These threats to white economic, political, and social standing are thought to be most acute when whites find themselves competing over resources and the various social structures that control their allocation (Bonilla-Silva 2001; Gallagher 1997; Bobo 1997, 2001). Blumer argued that when a minority group intrudes into the dominant groups "sphere of group exclusiveness, or an encroachment on their area of proprietary claim" the result is race motivated prejudice and discrimination in order to maintain and control the resources whites believe is their "property."

Dr. Winkler made several references to what she deemed as inappropriate professional "behavior" by Dr. Vanterpool. Dr. Winkler wrote in her email (exhibit 4) "I have never seen this type of overreach occur in my years here." In deposition Dr. Winkler claimed that Dr. Vanterpool's discussion "was disrespectful, pointed, deflecting, blaming" to the point "that the

board had a feeling of being threatened” (Winkler deposition p. 74). Dr. Vanterpool was painted as someone who thought differently than the board and her ability to “get a seat at the table” at the Summit meeting in Orlando was a resource that Dr. Vanterpool, at least in Dr. Winkler’s view, should be denied. Blumer explains that when a minority group harbor designs on resources the dominant group believes they should have under their control discrimination against the out-group is likely. Another resource that Dr. Vanterpool was set to challenge was a run for the candidacy for President in the upcoming FCLB elections at the 96th Annual Education Congress in May 2023. Her suspension from the board denied her the ability and opportunity to achieve a valued resource, a position as the board’s president. The act of Dr. Vanterpool’s suspension from the FCLB board by the defendants is consistent with Blumer’s theory race motivated discriminatory behavior.

Inability to Detail By Law Violations

Dr. Winkler was asked several times in her deposition to point to any violations of the Federation’s bylaws or policies that would explain why Dr. Vanterpool was suspended as vice president of the FCLB. She was asked to point to any bylaw or policy violations in the May 11, 2021 email (exhibit 4) that Dr. Winkler had sent Dr. Vanterpool that could explain what Dr. Vanterpool was suspended as vice president. Dr. Winkler was asked if Dr. Vanterpool, as vice president, had not fulfilled her obligations with the managing the organization’s budget or transactions of business which would be a dereliction of duty and be grounds for some type of punitive action. In each of these scenarios Dr. Winkler admitted that Dr. Vanterpool had not violated any of bylaws or policies and had fulfilled her assigned duties as vice president. Dr. Winkler also admitted that the email that Dr. Vanterpool sent out “FCLB Delegates and Alternative Delegates and Supporters” (exhibit 4) did not violate the Federation’s bylaws or

policies. Dr. Winkler agreed that Dr. Vanterpool was not in violation by attending the summit in Orlando. Based on the evidence that was submitted to me Dr. Vanterpool was suspended without having violated any by laws.

Conclusion

It is my professional opinion that race did play a role in the suspension of Dr. Vanterpool as vice president of the FCLB. Given ample opportunity in deposition, Dr. Winkler was unable to point to any violations in FCLB by laws or policies by Dr. Vanterpool. It is also the case that other chiropractic doctors who had had board positions and had been found guilty of violations of FCLB by laws were treated much more leniently than Dr. Vanterpool. The doctors, Grossman, Tays, Campion, Colucci, Coon, were in direct violation of the FCLB by laws. Of all these doctors, Dr. Vanterpool received the most onerous FCLB sanctions even though she did not violate any of the organizations by laws. The only difference here is the race of the doctors; the doctors treated leniently are white and Dr. Vanterpool is Black. As pointed out earlier in this report Black workers are subject to “selectively enforced rules, overt harassment ...and disrespect from co-workers.” There appears to be no metric, check list or objective measures in place that the board uses that links by law or policy infractions to disciplinary consequences. Research suggests that “the use of concrete performance indicators and formalized evaluation systems has been associated with reductions in racial bias in performance evaluation” (Pager and Shepard 2008, p. 194). Without having such objective measures in place, the ability for subjectivity and racial bias can creep into the decision making process. This appears to be the case for Dr. Vanterpool. What is explained and predicted in sociological literature maps quite closely with Dr. Vanterpool’s experience with her white colleagues.

While it is difficult to establish intent, what is clear is that Dr. Vanterpool's mistreatment by the defendants is consistent with the literature on how Black female professionals in leadership positions are treated. When Black women in white organizations voice a dissenting opinion, advocate for their own agenda, or challenge the status quo this can be perceived as a "threat" or inappropriate professional behavior. In this instance Dr. Vanterpool engaged in what Dr. Winkler described as an "overreach" of her position (Exhibit 4) although such alleged overreach, as Dr. Winkler acknowledged, did not violate any by laws or policies. What seemed to be problematic was that Dr. Vanterpool, the vice president, "wanted a seat at the table" (Winkler deposition p. 56) regarding attendance at a chiropractic conference in Orlando, a request, given her title and past precedent, was appropriate.

As was noted in the deposition Dr. Winkler felt their actions to justify suspension was based not on violation of bylaws but because she and the board were threatened (p. 74 Winkler deposition) by Dr. Vanterpool's expressing herself in a disrespectful manner to the board. As noted earlier in this report, such behavior directed at Dr. Vanterpool is consistent with the literature on the "angry black woman," that is, someone perceived by whites to be aggressive, overbearing, and ill tempered. The "angry black woman" trope appeared to be in play when Dr. Winkler linked what she deemed to be "disrespectful" expressions by Dr. Vanterpool to one of generalized "threat" (Winkler deposition 72-76) directed at the entire board although upon cross examination conceded that Dr. Vanterpool did not make any specific threats against board members. The "angry black woman" stereotype becomes the grounds for race based discriminatory treatment that hinders the employment status and career progress of African American females.

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