

Dear Colleagues,

I am writing to you to announce that I have settled MAT's lawsuit with Greg Mack, Matt Bernier, Kevin Dunn, Jacques Taylor and Charlie McMillin. I also want to let you know that in recent days, as the ink on our agreements is still drying, I have heard from some of you that one or more of these former instructors is already telling people that they "won" the lawsuit and that they have plans to "reveal the truth" about MAT and me.

You deserve to know more. So, I am going to give you a lot of detail. This letter is lengthy. But, I think you will enjoy learning some of the specifics.

### **THE SETTLEMENT**

First, let me be clear. The former instructors did not "win" the lawsuit. The lawsuit was settled by the mutual agreement of all parties. You should know that pursuant to the settlement agreement, **MAT will be paid a total of \$165,000**. MAT will also be paying Matt Bernier to settle separate employment claims he made alleging he was not properly compensated as an employee, but those claims had nothing to do with MAT's uniqueness or effectiveness.

More importantly, I want to explain why I initiated this lawsuit in the first place, what we accomplished, and why I have decided to settle now.

### **WHY I FILED THIS LAWSUIT**

The reason I filed this lawsuit was, first and foremost, to protect the investment (financial and otherwise) each of you has made in your business by studying, becoming certified in, and offering MAT to your clients. After many years of learning and teaching MAT, and also generating substantial income from their own use of MAT, the former instructors launched a false and disparaging campaign to try to destroy me, MAT, and the value of all of your certifications.

Soon after I rejected a proposal to give the former instructors a substantial ownership interest in MAT, they decided that MAT was inauthentic, not original, stolen, and fraudulent. They said that I had lied to them, and all of you, about the origins of MAT and that it was merely a "repackaging" of techniques that were used in Applied and Clinical Kinesiology. And, then, they attempted to convince anyone who would listen that MAT simply does not work.

Of course, those of you who have mastered MAT and who use it in your business every day knew that none of that was true. Each of you who regularly uses MAT and/or MATRx with your clients has repeatedly heard from them that after seeing numerous personal trainers, chiropractors, and other professionals, they have never experienced the results they get from MAT. So, you **know** that MAT is unique and different from anything else out there. And, you **know** MAT works.

But, you and I also know that growing your client base depends a great deal on the reputation of MAT. So does growing the community of practitioners. So, I could not let the attacks by the former instructors go unanswered.

### **WHY I SETTLED**

So, you might ask why, with all of this information, did I settle the lawsuit? As I said, my purpose was to defend the reputation of MAT that we all rely on in our businesses. I definitely had no interest in spending years and lots of money in a lawsuit other than to accomplish that.

As all of you know, the last 14 months have been very difficult for me. A little more than a year ago, I was fighting for my life after a horrific auto accident. My absence from MAT and the trainings had a devastating impact on the company. And, at about the same time, we had issues with Colorado regulators that required us to suspend operations and become accredited as an occupational school. Thankfully, we successfully resolved all of the regulatory issues, and I have been blessed with an incredible recovery.

Those challenges and my steadfast focus on MAT clients, students and practitioners convinced me that all of my attention needs to be directed to MAT and my family. Simply stated, life is too short.

I believe that I accomplished a lot in this lawsuit. A judge who heard from all sides concluded that MAT is *original and unique*. A well-recognized expert who knew Dr. Goodheart and Dr. Beardall confirmed what I have always told you. And, the person who was "there" for both the development of Dr. Beardall's tests and the initial development of MAT has done the same thing. (See below-referenced testimonies)

I didn't need to spend the next several months of my life involved in litigation and distracted from MAT to prove my point any more. It was time to settle.

Through their counsel, the former instructors *said* that they, too, were ready to move on. The recently sent letter that I have read doesn't seem to be consistent with that. We will see what happens going forward. I certainly will be on the lookout for any infringement of MAT's intellectual property or any defamatory attacks that require legal action. In any event, if the former instructors decide to rehash their old attacks, you have this information that allowed me and our MAT community to **move on and move forward**.

For those that are interested in hearing the specifics of the court case and what the "experts" had to say about MAT, you can read the rest of the document below (Many of you will find benefit in the testimonies):

## THE COURT'S INITIAL OPINIONS ABOUT MAT

Almost immediately after filing the lawsuit, MAT sought a preliminary injunction to try to stop the former instructors from breaching contracts they signed that prevented them from disparaging MAT and trying to solicit MAT practitioners. In order to get a preliminary injunction, you have to prove that the damages you would suffer without an injunction would be "irreparable," meaning that it would be too difficult to calculate damages after a trial. Based on that requirement, the judge denied the request for a preliminary injunction and explained:

And, again, this is not a holding, Mr. Roskopf, that they haven't violated their contract. Far from it. It's just that in a contract case, the typical course is to do discovery and then have a trial, have the jury decide whether the contract sat in breach, and then that jury will also give you damages that are necessary to bring you back through a position that you should be in had all that not happened.

***But, before he said that, the judge made the most important statements of the entire case:***

I will make some observations that I think will be helpful to the parties in understanding my decision and maybe focusing their efforts during this case. I'll note first that I'm not persuaded by the defendants' contentions that they worked with Mr. Roskopf and for the plaintiff for such long periods, investing their time and money in MAT, including performing MAT on their own clients, then suddenly questioned MAT's efficacy once they determined Roskopf plagiarized other doctors' findings.

The testimony was clear to me that the practitioners who testified in this court would only engage in treatment that they felt benefited their clients. Having done so for a decade, practicing MAT speaks for itself in that regard.

Moreover, the evidence presented, including Dr. Blake's testimony and documents in the record, demonstrate to me, for purposes of this hearing, at least, that ***MAT and MAT Rx are unique in their approach to attempting to improve muscle function and performance.*** That is, I believe, the testimony was that ***these techniques took existing practices and understandings and applied them in a novel way to reach something new.*** And that's certainly what Dr. Blake [sic] testified.

It is important for you to know the judge made these statements: 1) after the former instructors had submitted their own declarations, 2) after they submitted as much documentary "evidence" as they wanted to provide the court, 3) after they had taken my deposition, 4) after Mack, Bernier and Dunn had a chance to testify in court, 5) after their attorneys had the opportunity to cross-

examine me in court, and 6) after the court heard from Dr. Robert Blaich, an extremely well-regarded doctor.

### **DR. ROBERT BLAICH**

Dr. Blaich's testimony was very telling. I will provide you a lot of detail in this letter because I think it is important for you all to know. Dr. Blaich testified about his extensive background, including that he is a diplomate of the International Collage of Applied Kinesiology. He also explained the relationship between applied kinesiology and clinical kinesiology. I won't detail the information here, but it is interesting to read.

*Critically*, Dr. Blaich told the judge he knew both Dr. George Goodheart and Dr. Allan Beardall. In fact, he and Dr. Beardall were personal friends who would spend hours together at professional meetings. Dr. Blaich has expertise in both applied and clinical kinesiology. He is well-regarded in the industry and known throughout the world. He serves numerous high profile clients including professional football players, racecar drivers, triathletes, and entertainers. My attorney asked Dr. Blaich to explain to the judge whether MAT is merely a "repackaging" of other disciplines, as the former instructors alleged.

In the initial days of the case, Dr. Blaich looked at hundreds of MAT slides and spoke to me several times. He had no agenda going into this case. In fact, when he first reviewed the materials, he was quite upset because, on his *initial* review, he thought much of MAT was wholesale lifted from prior works. But, things changed when he considered things more deeply. As he explained it, he did "further assessment of looking for the uniqueness of MAT distinct and different from applied kinesiology and clinical kinesiology." With respect to muscle tests, he determined that "many had been modified just as Alan Beardall modified many of the applied kinesiology tests when he developed clinical kinesiology." As Dr. Blaich put it, the MAT tests "were modified with a strategic thought process" that was unique to MAT.

When he spoke about the muscle tests – the muscle tests which the former instructors have told the world I have "copied" -- Dr. Blaich confirmed that "the modification of those tests, especially the way he does it in an extremely shortened position, is different than how muscles are tested In applied kinesiology and clinical kinesiology."

My lawyer asked Dr. Blaich what his ultimate conclusion was regarding whether MAT is just a repackaging or misrepresentation of the kinesiology practices. What Dr. Blaich told the judge was detailed and very important:

Well, the conclusion is that he or MAT follows a different thought process and a specific protocol which is different than applied kinesiology and clinical kinesiology. MAT uses solely range of motion and/or extreme range of motion as its assessment tool to then determine what muscles to test. That's considerably different than applied kinesiology or clinical kinesiology. So the thought process of deciding what muscles to test in the first place is unique.

Secondly, the way the muscles are tested is different and unique in that they are consistently tested in the most shortened or extreme shortened position as their starting point.

And thirdly, In MAT the muscles are tested at varying degrees in a range of motion of muscle. Whether that's 30-degree variations or different variations, those kind of tests are rarely done in applied kinesiology or clinical kinesiology.

Dr. Blaich went on to explain that although AK and CK "sometimes use range of motion testing....it's rare that's your entry point for determining what muscles to test." But, even when someone who practices AK and CK would use range of motion testing it is "typically how it's done in traditional medical orthopedics." But, "in MAT that's done in a much more extreme way consistently." With that, Dr. Blaich testified about the substantial differences in the thought process between AK/CK and MAT and the way muscle tests are performed. As Dr. Blaich explained it, because of all of these differences, if the same client presented to a practitioner of AK/CK and MAT, they may not be testing the same muscles on those same clients, and, in any event, they would be tested in a different sequence and in a different manner.

One exchange between the judge and Dr. Blaich really says it all:

THE COURT: Okay. Have you or do you intend to change anything you do in light of what you know about MAT.

DR. ROBERT BLAICH: *I could potentially refer a difficult patient to an MAT practitioner.*

After Dr. Blaich spent more time with the MAT materials, reviewing other reference materials, and doing more investigation over the course of the case, he said in an expert report that "it is even more clear that several critical differences exist, which distinguish MAT from AK and CK, as well as from traditional manual muscle testing." In his report, he identified "5 major categories of fundamental difference between MAT and AK/CK," and elaborated extensively on differences in: 1) "Philosophy and thought-process of evaluation and treatment," 2) "Determination of what to test and starting point in patient examination," 3) "Muscle test position," 4) "Muscle test timing," and 5) "Treatment procedure."

### **DR. CRAIG BUHLER**

Dr. Blaich was not the only expert to opine about the critical differences between MAT and AK/CK. Dr. Craig Buhler also provided critical information about those differences and about the origins of MAT.

Dr. Buhler's involvement in this case came about in a very enlightening way. As many of you know, Dr. Buhler and I worked together in the early years when I began to develop MAT, but we had not been in contact for many years. After the lawsuit was filed, **Greg Muck** contacted Dr. Buhler and told him that I was trying to steal some of Dr. Beardall's work in a patent application MAT filed pertaining to MATrx. Dr. Buhler was also told that I have misrepresented the origins

of MAT for years, failed to give any credit to Dr. Beardall or Dr. Goodheart, and several of the other false things the former instructors have said about me since I refused to make them my business partners. Dr. Buhler testified in his deposition that after he investigated more fully, he determined that Mack had "*misled*" and "*manipulated*" him.

Dr. Buhler has a unique perspective when it comes to Dr. Beardall's development of clinical kinesiology and the development of MAT. *Dr. Buhler was there for both of them.* In his deposition, Dr. Buhler explained that, starting when he was a student, he worked with Dr. Beardall and, eventually, worked in Dr. Beardall's office full time, where he "took notes and assisted in the process he [Dr. Beardall] was developing." This was the initial work Dr. Beardall did in grouping more than 300 muscles and developing his own tests for those, which expanded on tests of Dr. Goodheart.

Dr. Buhler explained in his deposition that he was the person who really taught me about manual muscle testing. And, if there had ever been any doubt in anybody's mind that my tests are mostly different than Dr. Beardall's, that doubt should be removed by Dr. Buhler's testimony at deposition:

But that was one of the things that pretty much started the process of us having difficulty with each other. Because he began to change the muscle tests. And that offended me. Because Beardall had spent his whole career evolving this, and then Greg starts changing it.

Dr. Buhler explained that I was not changing just a few tests. Instead, it was part of a system I was putting together. He testified that he was initially "upset" by my changes to Beardall's tests:

Beardall had spent a career evolving this process of muscle testing, isolating. And then I teach Greg how to do it. And then all of a sudden, he starts changing it. And we -- we had discussions about that. And he kept saying that this isn't -- what Beardall is saying is not anatomically correct.

The former instructors have said that my changes of are not of meaningful significance. But, Dr. Buhler explained that his frustration was not simply because I was changing some of the muscle test by only a few degrees. He was concerned because there was clinical significance to those changes. Ultimately, Dr. Buhler confirmed that when I changed the positions, he was frustrated because they were not Dr. Beardall's tests. But, he came to understand that my tests fit into a biomechanical perspective, and that was different than the perspective of clinical kinesiology.

Later in the case, I hired Dr. Buhler to serve as an expert witness. In his report, he explained that he reviewed the MAT materials for the Cervical Spine Presentation, Lower Body Presentation, Trunk & Spine Presentation, Upper Body Presentation, and Foot Presentation, as they existed around 2005. He also reviewed Dr. Beardall's various manuals. He was asked to provide his opinion regarding the differences or similarities of the MAT muscle tests and those of Clinical Kinesiology.

After his examination, he concluded that the "vast majority of the manual muscle tests used in MAT" are "different from the tests used in Clinical Kinesiology." "In fact, some of the MAT tests are not to be found in Dr. Alan Beardall's manuals." Importantly, he explained that "*to the extent the MAT tests are the same as some of the tests in Dr. Beardall's manuals, the tests could not have been meaningfully changed because the relevant muscle could only operate on one axis or was already being tested in the shortened position.*"

His written opinion included a 25 page analysis of muscle-by-muscle test comparisons. I am not including that here because that analysis provides positional and testing specifics for MAT that are in your manuals and which I do not want to generally circulate. But, you can compare your manuals to Dr. Beardall's works to see for yourself. In his analysis, Dr. Buhler even identified 18 MAT tests on muscles that don't appear in Dr. Beardall's manuals.

The former instructors have tried to mislead people by showing just a sampling of MAT tests that are the same as Dr. Beardall's. They want people to extrapolate from that sample and conclude that all of the MAT tests are "copied." Frequently, for example, they show the foot muscle tests. But, Dr. Buhler explained the issue:

With respect to the toe flexors, extensors, and intrinsic muscles of the feet, most if not all of the MAT tests are the same as the CK tests. For the most part, these positions cannot be changed because the muscles only operate on one axis or are already tested in the shortened position.

## IN CONCLUSION

I am returning all of my professional focus to MAT and all of you. As I have been from the beginning, I will be committed to constantly improving MAT and the lives of everyone connected to it and served by it. We have "Vision Statement" upcoming that I am excited to share with all of you.

Of course, if you have any questions, please let me know.

Greg Roskopf