

# Gauntlets of Truth

By Reg P. Wydeven  
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A few years ago, our daughter had a week or two where she had nightmares just about every night. She would wake up at about 2 a.m. screaming. I decided to ask her to come to all my basketball games because after hearing that scream, I jumped about 6 feet in the air – I could have dunked easily.

My dad got me some vanilla air freshener that he called “bad dream spray.” Every night we sprayed the air freshener in her room around her bed to keep the bad dreams away. It worked, and we have been sleeping soundly since (for the most part).

While I knew the air freshener did nothing scientifically to keep bad dream away, our sweetie didn’t know that. She thought the spray worked and the nightmares stopped, so that’s all that matters. Well, the 7th U.S. Circuit Court of Appeals doesn’t agree.

Located in Chicago, the federal appeals court, which has jurisdiction over Wisconsin, recently upheld a multimillion-dollar judgment against the Mt. Prospect-based marketer of the Q-Ray bracelet. Between January 2000 and June 2003, QT Inc. sold more than one million bracelets, for between \$50 and \$250 each, through infomercials and over the Internet. QT claimed the “ionized bracelet” could relieve pain caused by everything from arthritis to chemotherapy. ‘Wired’ magazine recently named QT’s bracelet as one of its top 10 Snake-Oil Gadgets.

In 2003, the Federal Trade Commission sued QT and the company’s chief executive, Que Te “Andrew” Park, for false advertising. The FTC’s allegations arose from a Mayo Clinic study that revealed the bracelet worked no better than a placebo. A federal magistrate judge held in favor of the FTC in September of 2006 by ordering QT to forfeit an estimated \$22.5 million in profits and also refund an estimated \$65 million to consumers who purchased bracelets over the Internet.

Early in 2007, QT filed for bankruptcy, citing the FTC as its largest creditor. QT appealed the magistrate judge’s decision to the 7th Circuit, arguing the judge subjected the bracelet’s claims to excessively rigorous standards of proof. QT also claims the judge dismissed the placebo effect of the bracelet, that some consumers benefited from the bracelet for no apparent medical reason.

In a colorful decision, chief judge Frank Easterbrook wrote that QT’s assertions about the effectiveness of the ionized bracelets, which he described as “techno-babble” and “blather,” went beyond those that could be supported by a placebo effect. Easterbrook wrote, “They made statements about Q-Rays, ionization and bio-energy that they knew to be poppycock.”

The court held that since sugar pills can provide the same placebo effect, “charging \$200 for a device that is represented as a miracle cure but works no better than a dummy pill is a form of fraud.” Unlike most boring legal opinions, Easterbrook’s decision poetically stated that QT might as well have said, “Beneficent creatures from the 17th Dimension use this bracelet as a beacon to locate people who need pain relief, and whisk them off to their home world every night to provide help in ways unknown to our science.”

I’ve decided that if my knees ache after our next basketball game, I may try spraying my daughter’s bad dream spray on them. Even if it doesn’t relieve the pain, the scent should at least cover up the stench of my sweaty knee braces.