

WCA Exec. Guilty of Frivolous Lawsuit

WISCONSIN ASSOCIATION ORDERED TO PAY \$100,000 IN LEGAL COSTS

Editorial Staff

A Wisconsin Circuit Court judge has ruled that the Wisconsin Chiropractic Association (WCA) and its executive director, Russell Leonard, filed a "frivolous" lawsuit in 2002 against Dale Strama, DC, a former chair of the Wisconsin Chiropractic Examining Board, for the sole purpose of "maliciously injuring" Dr. Strama by swaying chiropractors from attending continuing education seminars sponsored by Dr. Strama's organization. The ruling, issued May 12, 2005 in Dane County Circuit Court, by Judge John C. Albert, clears Dr. Strama of using his position to generate more business for Allied Health, a chiropractic business at which he practices and is a shareholder.¹

In Wisconsin, doctors of chiropractic must take 40 hours of continuing education every two years as a condition of maintaining licensure. Both Allied Health and the WCA sponsor continuing education seminars for chiropractors, as do numerous other organizations.

The WCA filed the suit against Dr. Strama on July 19, 2002. The suit alleged that the examining board approved continuing education seminars sponsored or co-sponsored by Allied Health without Dr. Strama's recusal. Dr. Strama served on the examining board from 1993 to 2002, and was its chair from 1999 to 2002.

In court, Dr. Strama testified that while he is a shareholder of Allied Health, he is not involved in the management or financial affairs of the company, and that he has never been involved in the operation of seminars co-sponsored by the company. He also testified that the board must approve all continuing education courses, and that during his tenure on the board, the task of approval was delegated to a fellow board member, James Greenwald, DC, to avoid any potential conflict of interest.

Allied Health was formed in 1994. Dr. Strama testified that following the company's formation, he sought the advice of the board's legal counsel as to whether he could continue to serve as a board member. He added that following the formation of Allied Health, he would recuse himself when matters pertaining to the company came before the examining board, and that prior to the WCA's filing suit in 2002, he had not been contacted by anyone from the WCA regarding his participation in the approval of continuing education programs granted to Allied Health.

Following Dr. Strama's testimony, Russell Leonard was called to testify. He testified that, as part of a price-fixing settlement with the Federal Trade Commission² in 2000, prior to filing suit against Dr. Strama, the WCA had agreed to stop "discouraging anyone, including chiropractors, from sponsoring, participating in or attending seminars dealing with issues of chiropractic medicine." Leonard added that he personally receives 35 percent of the profits generated from WCA seminars, an amount that has exceeded \$100,000 per year on several occasions. If the state were to allow an increase in the number of sponsors or co-sponsors of continuing education seminars, that increase could potentially reduce the amount of money the WCA makes from seminars - and thus, reduce the amount of Mr. Leonard's profits.

Also testifying was John Schweitzer, who served as legal counsel for the examining board from

1999 until June 2003. Mr. Schweitzer testified that Dr. Strama was careful to observe the board's ethical rules, and often spoke with him for advice. Schweitzer added that he believed it was within the board's responsibility to authorize Dr. Greenwald to grant approvals of continuing education applications, and that he was unaware of any instance in which Dr. Strama did not observe the ethical rules.

Following a review of the testimony provided by witnesses for both sides, Judge Albert issued a 17-page ruling, which stated, in part:

- "Russell Leonard knew that if he conducted a reasonable inquiry, there would be no facts to support naming Dr. Strama in the suit. He knew how the continuing education applications were handled and deliberately misled WCA counsel on that critical issue."
- Dr. Strama, Mr. Schweitzer, and several other defense witnesses were all considered more credible witnesses than Mr. Leonard "on the issues where their testimony was in conflict."
- Mr. Leonard "does bear ill will toward Dr. Dale Strama" and "sees Allied Health as a threat to his own financial gain from commissions he receives from WCA-sponsored seminars."
- Leonard and the WCA "commenced the suit against Dr. Strama solely for the purpose of maliciously injuring Dr. Strama."

Judge Albert also ruled that the WCA must pay Dr. Strama's legal fees as a result of the case.

Various media sources have placed the costs of the legal fees at approximately \$100,000.^{3,4}

References

1. *Wisconsin Chiropractic Association v. Wisconsin Chiropractic Examining Board, et al.* Case # 02-CV-2266. Filed July 19, 2002.
2. Wisconsin Chiropractic Association and its director agree to settle FTC charges of price fixing. *Dynamic Chiropractic*, May 1, 2000: www.chiroweb.com/archives/18/10/18.html.
3. Foley RJ. Judge blasts head of chiropractors' group for frivolous suit. *Duluth News Tribune*, May 12, 2005.
4. Judge criticizes head of chiropractors' group. *Appleton Post-Crescent*, May 13, 2005.

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