

From "Illegitimate" to Integrated: How a Judge's Decision Changed It All

Claire Johnson, DC, MEd, PhD; Bart N. Green, DC, MEd, PhD | DIGITAL EXCLUSIVE

Editor's Note: Thirty years ago this month, Judge Susan Getzendanner issued her historic ruling in the *Wilk, et al., v AMA, et al.*, antitrust suit. For veteran DCs, this is a look back at that historic ruling; for recent graduates and chiropractic students, this is an education in a decision that opened doors – and yet still leaves challenges the profession must face head-on.

George McAndrews had already been through hell. For the previous 14 years, [George P. McAndrews](#), JD, had represented the plaintiffs that sued the American Medical Association (AMA) for violation of the Sherman Antitrust act. The first trial (*Wilk v AMA*) began in 1976, but the plaintiffs suffered a hard loss of that case in 1981. Later, they were granted an appeal.

Thus, McAndrews had already dedicated many years before the second trial started in 1987. His hope was that the second trial would result in a better outcome and resolve the rift that had placed chiropractors on the outskirts of health care. He knew the AMA must be found guilty of its illegal boycott of the chiropractic profession if things were going to change.

Several weeks before the second trial, McAndrews made a strategic decision. He knew future judgments for chiropractic, and perhaps even the future of the profession, depended upon the outcome of this trial. Just before the start of the second trial, he requested a change – to do a bench trial instead of a jury trial. Choosing a bench trial meant a judge would be the sole person to decide the outcome.

To do so also meant the plaintiffs would waive their claim for the years of damages from the illegal boycott. Instead of money, McAndrews knew the real prize for the chiropractic profession would be a court declaration of an injunction against organized medicine, primarily the AMA.

The Judge Who Made History

Susan Getzendanner was the judge who tried the case. She was no ordinary judge. She was known for her sense of humor and spunk, and already had a distinguished career as a trial lawyer before being named to the federal bench. Because this trial was located in Chicago, right in the heart of AMA territory, she was already very familiar with their trial lawyers and tactics. Not being one to shy away from challenges, Judge Getzendanner looked forward to judging this case.

After two months of considering arguments and reviewing the facts, Getzendanner decided swiftly. Her decision was based upon whether or not the AMA violated the [Sherman Antitrust Act](#). She found that *"the American Medical Association ("AMA") and its members participated in a conspiracy against chiropractors in violation of the nation's antitrust laws."*¹

Since its inception in the 1847, the AMA's purpose included the exclusion of non-medical doctors. Thus, it was no surprise that the AMA was exclusive. However, it was not until the early 1960s that the AMA efforts to strike at other professions ramped up and took a sinister turn.

At that time, the AMA implemented a boycott that focused on chiropractors, professing they were illegitimate and harmful to the public. It seemed the AMA, in a very bold move, was attempting to eradicate an entire profession.

Beyond a shadow of a doubt, it was clear to Judge Getzendanner that, based upon the mounds of evidence, the violation had occurred. In her letter, she stated:

In the early 1960s, the AMA decided to contain and eliminate chiropractic as a profession. In 1963 the AMA's Committee on Quackery was formed. The committee worked aggressively—both overtly and covertly—to eliminate chiropractic. One of the principal means used by the AMA to achieve its goal was to make it unethical for medical physicians to professionally associate with chiropractors. Under Principle 3 of the AMA's Principles of Medical Ethics, it was unethical for a physician to associate with an "unscientific practitioner," and in 1966 the AMA's House of Delegates passed a resolution calling chiropractic an unscientific cult. To complete the circle, in 1967 the AMA's Judicial Council issued an opinion under Principle 3 holding that it was unethical for a physician to associate professionally with chiropractors."¹

However, by the 1987 trial, the AMA had already ended the Committee on Quackery and removed the statement that it was no longer unethical to collaborate with a chiropractor. Whether strategic maneuver or unfortunate oversight, the AMA never formally announced this fact to the profession, the health care industry or the millions of U.S. citizens who had been bombarded for years with anti-chiropractic tactics. Getzendanner's letter states:

Although the conspiracy ended in 1980, there are lingering effects of the illegal boycott ... Some medical physicians' individual decisions on whether or not to professionally associate with chiropractors are still affected by the boycott.¹

So, with Getzendanner's decision that the AMA was guilty, she needed to determine the appropriate action. Although known for her jovial attitude, her final statements regarding an injunction were adamant. Her declaration was not only to be made public, but that it would be published in the AMA's esteemed *Journal of the American Medical Association* – the very journal used as a weapon against chiropractic for decades prior. The injunction was to be published in the part of the journal that is permanent record, one that could never be expunged. In the Jan, 1, 1988 issue of *JAMA*, the injunction was published. This was the end of one era and the beginning of another.

The Impact: Transformations

The initial filing of the first case in 1976 to the decision in 1987 (and even later, the final denial of appeal in 1990) spanned 14 years. However, it allowed for some transformations in the chiropractic profession to occur that led up to the final decision. Countless people contributed to substantial improvements over this time.

So, although the court decision in 1987 was essential to remove the barrier for the chiropractic profession to move forward, the efforts behind the scenes by scores of people over the years were also important contributors to change.

George McAndrews, through his grit and determination, was able to bring this most important trial of all trials to successful completion. His efforts have helped to restructure the relationship between the medical establishment and chiropractic, and shaped how the profession is today.

Since the decision by Susan Getzendanner and the publication of the injunction in *JAMA*, much has

changed in the chiropractic landscape in the U.S. One must wonder if any of these advancements could have occurred without the injunction.

On this 30th anniversary of the legal decision, we can celebrate that doctors of chiropractic are freely able to give and receive referrals from medical doctors, order diagnostic services at hospitals, and some have joined hospital medical staff. There have been collaborations between doctors of chiropractic and medicine in education and research, and chiropractic institutions have received federal research funding. For those DCs within integrated health care settings, there are high-levels of collaboration and cooperation in health care delivery to patients.

Challenges Still Ahead

However, as a profession, we cannot let our guard down. Many of the concerns about chiropractic from the 1960s and '70s are still with us today. There continue to be questions about accreditation and quality of chiropractic education, the scientific basis for chiropractic practices, the amount of evidence supporting practice, unethical practice behaviors, unsubstantiated or unscientific claims in education and advertising, and scopes of practice.

It is imperative for the profession to continue to improve, not only to honor those who have made sacrifices for the profession, but also to better serve patients. It is not only about the survival of the chiropractic profession; we must also uphold the public's trust. Judge Getzendanner's decision opened a door for the chiropractic profession; it is up to us to choose what we do now that the door has been opened.

Reference

1. Getzendanner S. Permanent injunction order against AMA. *JAMA*, 1988 Jan 1;259(1):81-2.
-

Editor note: Drs. Johnson and Green are authors of a book that recounts this landmark legal case, and explores decades of overt and covert tensions between the medical and chiropractic professions. Included in the historical treatise are important lessons can be learned from this historic legal journey as health care continues to evolve.

SEPTEMBER 2017