Dynamic Chiropractic

PERSONAL INJURY / LEGAL

The England Case and the Wilk Case: A Comparison, Part 1

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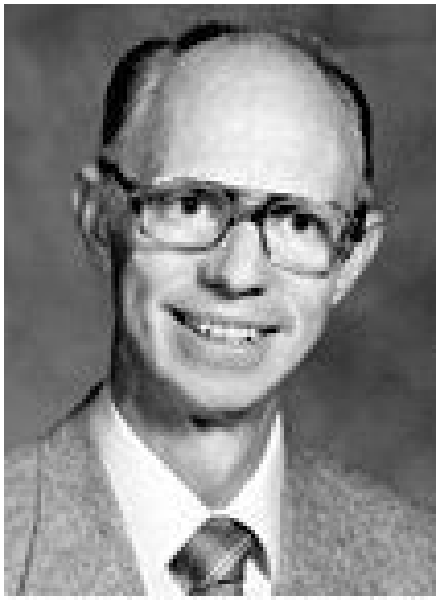
The chiropractic profession and the patients it serves scored a major legal victory in 1987 when Federal District Judge Susan Getzendanner ruled in favor of four plaintiff chiropractors and against the American Medical Association (AMA) and several co-conspirators (Table 1).[1,2] Those brave DCs stood up against the Goliaths of health care and, after 11 years and two trials, were victorious. (A number of the defendants dropped out along the way, preferring to settle with plaintiff DCs.) The decision opened doors and lowered artificial barriers between doctors of chiropractic and medical doctors.

Judge Susan Getzendanner, circa 1993.

Dr. Chester Wilk, circa 1987.



Dr. James Bryden, circa 1980.

Dr. Patricia Arthur, 1988.

Dr. Michael Pedigo, 1987.

Although impediments to teamwork between these professional groups remain, it's hard to think patient care hasn't improved at least a little because of the slightly greater cooperation. Nowadays, we

take for granted that MDs will accept referrals from DCs, although referrals in the opposite direction are probably still far fewer than they should be. We are much less frequently surprised when good research conducted by DCs is published in prestigious medical journals - based on its quality rather than the credentials of the authors. In the aftermath of the Wilk decision, patients are less fearful of telling their allopathic physicians they also are receiving treatment from chiropractic physicians. There still is much room for improvement in DC-MD relations, but the path to better cooperation has been illuminated by the judicial outcome of the *Wilk, et al.* case.

Table 1: Original plaintiffs and defendants in *Wilk et al. v AMA et al.,* October 1976.

Plaintiffs
Chester A. Wilk, DC
James W. Bryden, DC
Patricia B. Arthur, DC
Steven G. Lumsden, DC
Michael D. Pedigo, DC
Defendants
American Medical Association
American Hospital Association
American College of Surgeons
American College of Physicians
Joint Commission on Accreditation of Hospitals
American College of Radiology
American Academy of Orthopedic Surgeons
American Osteopathic Association
American Academy of Physical Medicine & Rehabilitation
Illinois State Medical Society
Chicago Medical Society
Medical Society of Cook County
H. Doyl Taylor
Joseph A. Sabatier Jr., MD
H. Thomas Ballantine, MD
James H. Sammons, MD

Less well-remembered by chiropractors today is *England, et al. v the Louisiana State Board of Medical Examiners,* a conflict reported by Texas Chiropractic College (TCC) alumnus Paul J. Adams, DC.[3-5] The case riveted the attention of DCs for several years in the late 1950s and early 1960s. Jerry England, DC, and several other chiropractic physicians battled the allopathic establishment in state and federal courts in a quest for permission to practice chiropractic in the Pelican State. Chiropractors in Louisiana had been oppressed by organized medicine for years,[6,7] a consequence of statutes that defined any professional effort to care for the sick as the practice of medicine. Only those licensed to practice medicine, it was contended, should be allowed to practice chiropractic. The chiropractors engaged attorney J. Minos Simon to devise their battle plan and to represent them in court. Simon's strategy was to argue that the medical board's stranglehold on licensure denied the benefits of chiropractic care to the citizens of the state.

Dr. Jerry England, circa 1957.

Dr. Paul J. Adams, circa 1959.

J. Minos Simon, Esq., 1964.

The *England* case, as it was known, was settled in 1965 when a three-judge panel convened in New Orleans, heard evidence from both sides and ruled in favor of the medical board. Their decision was reached after dramatic testimony by two renowned chiropractors: Joseph Janse, DC, ND, president of the National College of Chiropractic (NCC) in Lombard, Ill., and William D. Harper, Jr., MS, DC, president of the TCC in Pasadena, Texas. Dr. Janse was humiliated on the stand by counsel for the defendant medical board who hammered away at the lack of federally recognized accreditation for chiropractic schools and at chiropractors' treatment for non-musculoskeletal disorders, such as stepping on a rusty nail. Janse departed the state, determined to establish federal accreditation for the NCC or leave the profession.[8-10] He accomplished this goal six years later when the NCC achieved regional accreditation.[11] Recognition of the Council on Chiropractic Education (CCE-USA) as a professional accrediting body for chiropractic colleges followed in 1974.[12]

Drs. Joe Janse, Bill Harper and Bobbie Rogers Harper; from the 1968 TCC yearbook Alpha.

Dr. Bill Harper was not intimidated by his inquisitors. His testimony in federal court - including extensive interrogation concerning his book, *Anything Can Cause Anything*[13] - is recalled as a magnificent and erudite exposition of straight chiropractic thinking.[14] Of interest was the flattery and congratulations offered to Dr. Harper by the president of the state medical society, Dr. Joseph Sabatier: Sabatier extended his hand to Bill Harper at the end of the latter's testimony. (Sabatier was later known to DCs as chairman of the AMA's Committee on Quackery.)

Despite Dr. Harper's presentation, the plaintiff DCs' judicial gambit was lost.[15] The federal tribunal ruled that the proper venue for seeking change in the laws governing licensure was not the judiciary but the legislature. Arrests of DCs for unlicensed practice, which had been suspended during the eight-year legal battle, were now resumed. Chiropractors were forced to return to the lawmakers (who had several times rejected their request for a licensing law). Not until 1974 was the practice of

chiropractic authorized by statute in Louisiana.[16]

Editor's note: Part two of this article is scheduled to appear in the Sept. 24 issue.

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