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ORIGINAL ARTICLE

Looking back at the lawsuit that transformed the chiropractic profession part 6: *Preparing for the lawsuit*

Claire D. Johnson, DC, MSEd, PhD and Bart N. Green, DC, MSEd, PhD

Objective: This is the sixth article in a series that explores the historical events surrounding the *Wilk v American Medical Association (AMA)* lawsuit in which the plaintiffs argued that the AMA, the American Hospital Association, and other medical specialty societies violated antitrust law by restraining chiropractors' business practices. The purpose of this article is to provide a brief review of the plaintiffs, lead lawyer, and the events immediately before the lawsuit was filed.
Methods: This historical research study used a phenomenological approach to qualitative inquiry into the conflict between regular medicine and chiropractic and the events before, during, and after a legal dispute at the time of modernization of the chiropractic profession. Our methods included obtaining primary and secondary data sources. The final narrative recount was developed into 8 articles following a successive timeline. This article, the sixth of the series, explores the plaintiffs' stories.
Results: Because of the AMA's boycott on chiropractic, chiropractors were not able to collaborate with medical physicians or refer patients to medical facilities, which resulted in restricted trade and potential harm to patients' well-being. The plaintiffs, Patricia Arthur, James Bryden, Michael Pedigo, and Chester Wilk, came from different regions of the United States. Each had unique experiences and were compelled to seek justice. The lead lawyer, Mr George McAndrews, was the son of a chiropractor and had witnessed the effect that the AMA's attacks on chiropractic had on his father. It took several years to gather enough resources to file the suit, which was submitted in 1976.
Conclusion: The conflicts that the plaintiffs experienced stimulated them to pursue a lawsuit against the AMA and other organized political medicine groups.

Key Indexing Terms: Health Occupations; Chiropractic; Medicine; Humanities; History, 20th Century; Antitrust Laws

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INTRODUCTION

To file a lawsuit, a complaint must be established, an injury must be declared, and plaintiffs must come forward. By the early 1970s, the chiropractic profession in the United States had been fighting for decades to obtain the right for chiropractors to legally practice chiropractic in all states. These legislative and legal battles were often fought against political medical establishments that were heavily resourced. These events took both a financial and emotional toll on those in the chiropractic profession.

Leading up to this, from the 1950s through the 1960s, the *England, et al v the Louisiana State Board of Medical Examiners* trial was fought to establish the rights of chiropractors to practice in Louisiana.[1,2] The lawsuit's eventual humiliating defeat to the chiropractors added to the burden of the financial legal expenses. By the time the 1970s arrived, neither the International Chiropractors Association (ICA) nor the American Chiropractic Association (ACA; previously known as the National Chiropractic Association) had the appetite for engaging in similar trials. The chiropractic leadership hoped that their efforts would be more fruitful in seeking licensure through legislation instead of through the court system.

Because the chiropractic associations lacked interest in pursuing other lawsuits, this left solitary chiropractors to search for ways to protect themselves. Some chiropractors who experienced injustices as a result of the American Medical Association's (AMA's) boycott of chiropractic wanted to fight back.[3] However, many challenges needed to be overcome before legal action could take place.

The historical events surrounding the *Wilk v American Medical Association (AMA)* lawsuit[4] are important for chiropractors today, because they help explain the surge in scientific growth[5–24] and the improvement in access to chiropractic care for patients once barriers were re-

Figure 1. - The 4 chiropractors (plaintiffs), from left to right: Michael Pedigo, James Bryden, Chester Wilk, and Patricia Arthur.

moved.[25–38] These events clarify chiropractic's previous struggles and how past experiences may be influencing current events. The obstacles and challenges that chiropractic overcame help to explain the current culture and to identify issues that the chiropractic profession may need to address into the future.

The purpose of this article is to provide a brief description of the people and the events leading up to the *Wilk v AMA* lawsuit.[39] This article describes the key plaintiffs, their primary lawyer, how they came to be involved, and the means necessary to support the lawsuit.

METHODS

This historical study used a phenomenological approach to qualitative inquiry into the conflict between regular (orthodox) medicine and chiropractic and the events before, during, and after a legal dispute at the time of modernization of the chiropractic profession. The metatheoretical assumption that guided our research was a neohumanistic paradigm. As described by Hirschheim and Klein, "The neohumanist paradigm seeks radical change, emancipation, and potentiality, and stresses the role that different social and organizational forces play in understanding change. It focuses on all forms of barriers to emancipation-in particular, ideology (distorted communication), power, and psychological compulsions and social constraints-and seeks ways to overcome them."[40] We used a pragmatic and postmodernist approach to guide our research practices, such that objective reality may be grounded in historical context and personal experiences and interpretation may evolve with changing perspectives.[41]

We followed techniques described by Lune and Berg.[42] These steps included identifying the topic area, conducting a background literature review, and refining the research idea. Following this, we identified data sources and evaluated the source materials for accuracy. Our methods included obtaining primary data sources: written testimony, oral interviews, public records, legal documents, minutes of meetings, newspapers, letters, and other artifacts. Information was obtained from publicly available collections on the internet, university archives, and privately owned collections. Secondary sources included scholarly materials from textbooks and journal articles. The materials were reviewed, and then we developed a narrative recount of our findings.

The article was reviewed for accuracy, completeness, and content validity by a diverse panel of experts, which included reviewers from various perspectives within the chiropractic profession ranging from broad-scope (mixer) to narrow-scope (straight) viewpoints, chiropractic historians, faculty and administrators from chiropractic degree programs, corporate leaders, participants who delivered testimony in the trials, and laypeople who are chiropractic patients. The article was revised based on the reviewers' feedback and returned for additional rounds of review. The final narrative recount was developed into 8 articles that follow a chronological storyline.[3,43–48] This article is the sixth of the series that considered events relating to the lawsuit that transformed the chiropractic profession and explores the stories of the people involved with pursuing the lawsuit.

RESULTS

In January 1976, months before the *Wilk* case was filed, the Judicial Council of the AMA issued a statement that medical physicians could decide for themselves whether or not to accept patients from chiropractors.[49] Although there was resistance within the AMA ranks, and this may have been welcome news to some chiropractors, the systemic exclusion of chiropractors continued. It seemed as if additional legal action was needed if changes were to be made.

Fighting for Chiropractic

A small group of chiropractors joined together in a lawsuit to fight the AMA and other associated medical organizations and individuals.[50] The plaintiffs' experiences are examples and represent the general struggles that chiropractors experienced in the United States. Although 5 plantiffs started the lawsuit, Steven Lumsden withdrew, which left 4 chiropractors (ie, Patricia Arthur, James Bryden, Michael Pedigo, and Chester Wilk) who persisted from the filing of the lawsuit through the final decision (Fig. 1).

The Plaintiffs

Dr Arthur

In the 1960s, Patricia Arthur was a single mother who was searching to further her education (Fig. 2). She wanted a career that would provide for her and her son. She attended the Robert Packer Hospital School of Surgical Technology to become an operating room aide, earning her certificate in 1968. The 8-month course gave her knowledge and skills for the operating room and relevant departments in a hospital. During this time, her son developed a chronic respiratory infection. She sought medical help from a pediatrician at the hospital. Despite persistent efforts, her son's condition worsened. At this time, he was also diagnosed with dyslexia and minimal brain dysfunction, which meant he needed extra care and attention.[51,52]

Figure 2. - Dr Patricia Arthur had hoped to practice chiropractic in Estes Park, Colorado.

A medical doctor (MD) suggested that since her son was not responsive to medicine, perhaps she should try chiropractic. She had never been to a chiropractor before, but she was willing to try in the hope that her son would be able to live a healthier and more normal life. She found a local chiropractor and scheduled her son to begin treatments. After 8 visits, he showed remarkable improvement and no longer experienced respiratory problems. This was a relief to Patricia and sparked her thinking about what she could do for her career.

In August 1970, she moved to Davenport, Iowa, and enrolled in the Palmer College of Chiropractic. Three and a half years later, she graduated with her doctor of chiropractic degree. During this time, she continued to care for her disabled son. With her interest in sports medicine and love for the outdoors, she moved to Estes Park, Colorado, to set up her chiropractic practice. Estes Park was a haven for outdoor enthusiasts, and she wanted her son to be in a healthy environment.

In June 1975, she opened her office. During this time, she set up her office by securing office space, developing advertisements, and making community connections. The item she needed most was an X-ray machine. Fresh out of school, she could not afford to buy a new X-ray machine, so she searched the area to see what might be available. The nearest chiropractor with a machine was 60 miles away, which would be too far to ask her patients to travel. What seemed to be the obvious choice was for her to contact the local hospital and set up a relationship so she could order X-rays and laboratory tests for her patients there.

Because of her training and having worked for several years in a hospital environment, she was fluent with the inner workings of a hospital, especially with hospital procedures and patient care. She was comfortable contacting the local hospital staff and approached the administrator at Elizabeth Knutsson Hospital to establish a relationship. She spoke with several people and made friends quickly with the lab and X-ray technicians. They promised her that they would take care of anyone she sent to the hospital.

However, during her first day of practice, the hospital administrator arrived at her office with some disturbing news. The hospital administrators had changed their minds and said that they would not allow her to refer her patients to the hospital for X-rays or lab testing. The administrator said that she needed to submit her concern for review, which she did. The hospital sent her a letter stating that the "Joint Commission on Accreditation of Hospitals will not allow chiropractors to use hospital facilities." The hospital was new, and the administration was applying for accreditation, which meant it would be under extra scrutiny. The hospital staff was told that their accreditation would be in jeopardy if they allowed a chiropractor to use their facility. Thus, they felt that they had no other choice but to deny her request.

This meant that Arthur was not able to take care of her patients safely and that she would not be able to run her practice under those conditions. She felt that she had no other option than to leave the area and start a new practice elsewhere. She had spent a great deal of money to start the new practice in Estes Park. As a single mother supporting a disabled son with special education needs, she endured significant financial hardship. She began to search for help. She wrote to the ACA and the Colorado Chiropractic Society to see if they could assist her. Also during this time, she had read about a chiropractor who was speaking out about injustices being done to chiropractors. His name was Dr Chester Wilk.

Dr Bryden

The strict ban preventing MDs from working with chiropractors was in effect in all regions of the United States. James Wilson Bryden, DC (Fig. 3), practiced in Sedalia, Missouri, and had experiences similar to those of Dr Arthur.

Bryden grew up in a rural community, and health care options were limited. In such towns, chiropractors often filled the role of the local health care provider. As a child, Bryden was treated by both an MD and a chiropractor for childhood illnesses and other problems. He learned to trust both medicine and chiropractic for his health and wellness. In 1949, he entered Logan College of Chiropractic. Three years later, he graduated and was eager to learn more. He took a short postgraduate course at National College of Chiropractic that included training in advanced diagnosis. He opened his practice in Sedalia, Missouri, in 1954.[52,53]

His office contained the equipment typically seen in a broad-scope chiropractor's office in the 1950s, including tables for adjusting patients, an electrocardiogram (EKG) machine, heartometer, endocardiograph, shortwave diathermy, galvanic muscle stimulator, ultraviolet, and an X-ray machine. In addition to his advanced diagnosis

Figure 3. - Dr James Bryden practiced chiropractic in Sedalia, Missouri.

postgraduate training at National, Bryden took a physical and clinical diagnosis course at Logan that included EKG interpretation. He also received additional advanced training at a local college.

When indicated, Bryden referred patients who needed medical attention to a local medical physician, Jerome Block, MD. Block graduated from medical college in 1964 and completed his residency in internal medicine with a subspecialty in cardiology in 1969. Block began practicing medicine in Sedalia in 1970 and was an assistant clinical professor at the University of Missouri–Columbia. He was well-qualified and a member of the Missouri Medical Association, the AMA, a Fellow of the American College of Physicians, and a member of the American Society of Internal Medicine.[54]

For patients with a chest concern, Bryden would do a physical examination and EKG and then send the results to Block for further evaluation. Block would perform his assessment and then send a report back to Bryden explaining if he saw any areas of concern on the EKG. For those patients who needed additional workup or medical care, Block would admit the patient to the hospital and maintain medical supervision of the case. Over 2 years, Block read EKGs 5 times for Bryden. Two of these patients had significant abnormalities indicating a myocardial infarction. Block received these patients into his care at the hospital so that they could receive proper medical treatment.

One day, Block explained that he could no longer send reports to Bryden. When asked why, Block explained that

Figure 4. - Dr Michael Pedigo practiced in the San Francisco Bay Area in California.

the ethics board at his hospital told him he was no longer allowed to work with Bryden. The hospital ethics board's leaders told him that he would lose his position at the hospital if he continued to interact with a chiropractor. Block emphasized that it was nothing personal; it was that the medical regulations forbade him to have professional interactions with a chiropractor. Thus, the interprofessional relationship with Block ended.

Thereafter, Bryden began to search for other MDs in the area who would be willing to accept his patient referrals for those who needed medical attention. However, he was not able to find any MD willing to work with him. He knew this was a grave concern since his patients would suffer if he was not able to properly refer them for conditions that needed medical management.

Dr Pedigo

Michael Pedigo applied to Palmer College of Chiropractic in 1965 (Fig. 4). Pedigo worked to pay for his tuition and received some financial help from his parents. For him, not working was not an option since no financial aid was available because chiropractic programs were not federally funded, partially because of the boycott from organized medicine.

Pedigo knew that there would be times when a patient might have a problem that would be best managed by an MD, and he wanted to hand off the patient accordingly. For example, when ordering X-rays, he wanted to know if there was a particular pathology that would alter his course of treatment or if there was degenerative disease in the spine that would require medical treatment. After graduating, he had expected to work with MDs to provide

Figure 5. - Dr Chester Wilk practiced in the Chicago, Illinois, area.

the best care possible for his patients. He looked forward to this collaboration as he set out to practice on his own.[52,55]

He set up his practice in Northern California. He noticed that when he would send a patient to a local MD, the patient would not return to complete chiropractic care. He was told that the MD would frighten the patients by telling them that chiropractors were quacks and that they would break their necks, thus causing them not to return.[56]

Pedigo had attempted several times to use hospital ancillary facilities, such as for X-rays and X-ray reports, for specific patients who needed those procedures. Each time he inquired, he was denied. He felt discriminated against as a health care professional and knew that such actions would ultimately harm the patients. For example, he made an appointment for a patient to see a local neurologist. The neurologist refused to see the patient because she was referred by a chiropractor. This prevented her from receiving appropriate care for her condition.

He contacted a local hospital by phone to discuss the possibility of referring patients who needed medical care. The person explained that chiropractors were not welcome and that it was the hospital policy not to allow chiropractors to use the facilities or access services. Because Pedigo was not allowed to refer patients to the hospital to use radiological services, he had to purchase X-ray equipment, an added expense that he felt was not necessary.

Dr Wilk

Chester Wilk was born and grew up in Chicago, Illinois. He originally began training as an optometrist, but he changed his mind and entered the chiropractic and naturopathic program at the National College of Chiropractic in 1949. He graduated in 1952 with both doctor of chiropractic (DC) and naturopathic doctor (ND) degrees (Fig. 5).

When Wilk first set up his practice in Illinois, he did not have X-ray equipment, so he contacted several local hospitals to arrange for his patients to be received at the radiology department. The hospital replied that it was their policy not to associate with chiropractors.[52,57]

Wilk felt that it was important for patients to have access to both chiropractic and medical care, because in some cases, patients would benefit from both services. Thus, he hoped to collaborate with and refer patients to medical physicians in his area. He tried to establish referral sources so that he could send patients for consultations. In the late 1960s, Wilk had a working relationship with a local MD. Over the years, he had sent dozens of patients to and had received referrals from this doctor. However, he noticed that the referrals stopped once the MD was made aware of the AMA's restrictions against working with chiropractors.

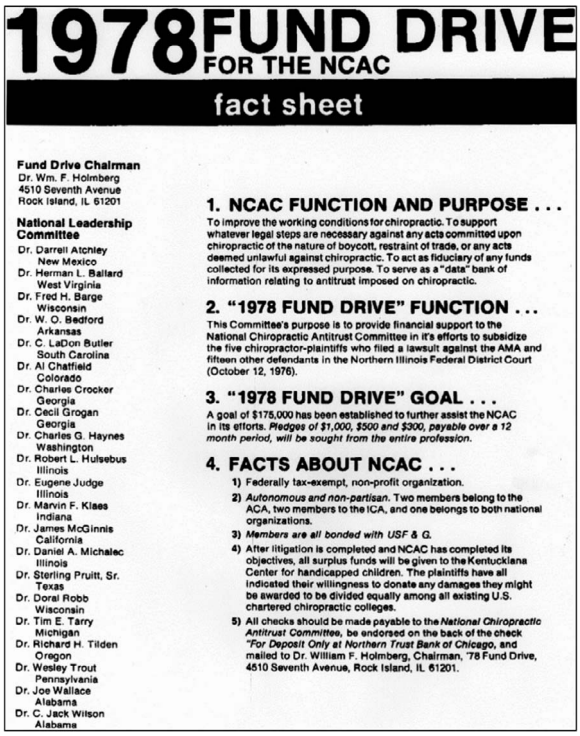
Because of the AMA boycott on chiropractic, Wilk was not able to refer patients to access diagnostic imaging or refer patients for medical care when necessary. This situation put the patients' health at risk. Therefore, if a patient presented with a condition Wilk thought could be co-managed, he had to forsake accepting the patient and send them directly for medical care, thus losing business in his practice.

Development of NCAC

In the early 1970s, Wilk had been searching for others to join him in a lawsuit against the AMA, and several people agreed to help him form a group to support an antitrust suit.[58,59] The group was called the National Chiropractic Antitrust Committee (NCAC), a tax-exempt nonprofit organization, approved by the Internal Revenue Service on March 4, 1975.[60] Claire O'Dell, DC, served as the chairman of NCAC, Wilk was secretary, and Michael Pedigo, DC, was a trustee and later the co-chairman[56] (Fig. 6). The NCAC made it clear that no members of NCAC or the plaintiffs were to receive any monetary compensation or damages for participation. William Holmberg, DC, became the fundraiser for an antitrust fundraising committee (Fig. 7).

The NCAC would eventually fund the *Wilk et al vs AMA et al* litigation and disseminate any resulting funds to nonprofit research and philanthropic entities. The 4 primary functions of NCAC were the following:

1. To improve the working conditions for chiropractic.
2. To support whatever legal steps are necessary against any acts committed upon chiropractic of the nature of boycott, restraint of trade, or any acts deemed unlawful against chiropractic.



1978 FUND DRIVE
FOR THE NCAC
fact sheet

Fund Drive Chairman
Dr. Wm. F. Holmberg
4510 Seventh Avenue
Rock Island, IL 61201

National Leadership Committee
Dr. Darrell Atchley
New Mexico
Dr. Herman L. Ballard
West Virginia
Dr. Fred H. Barge
Wisconsin
Dr. W. O. Bedford
Arkansas
Dr. C. LaDon Butler
South Carolina
Dr. Al Chatfield
Colorado
Dr. Charles Crocker
Georgia
Dr. Cecil Grogan
Georgia
Dr. Charles G. Haynes
Washington
Dr. Robert L. Hulsebus
Illinois
Dr. Eugene Judge
Illinois
Dr. Marvin F. Klaes
Indiana
Dr. James McGinnis
California
Dr. Daniel A. Michalec
Illinois
Dr. Sterling Pruitt, Sr.
Texas
Dr. Doral Robb
Wisconsin
Dr. Tim E. Tarry
Michigan
Dr. Richard H. Tilden
Oregon
Dr. Wesley Trout
Pennsylvania
Dr. Joe Wallace
Alabama
Dr. C. Jack Wilson
Alabama

1. NCAC FUNCTION AND PURPOSE . . .
To improve the working conditions for chiropractic. To support whatever legal steps are necessary against any acts committed upon chiropractic of the nature of boycott, restraint of trade, or any acts deemed unlawful against chiropractic. To act as fiduciary of any funds collected for its expressed purpose. To serve as a "data" bank of information relating to antitrust imposed on chiropractic.

2. "1978 FUND DRIVE" FUNCTION . . .
This Committee's purpose is to provide financial support to the National Chiropractic Antitrust Committee in it's efforts to subsidize the five chiropractor-plaintiffs who filed a lawsuit against the AMA and fifteen other defendants in the Northern Illinois Federal District Court (October 12, 1976).

3. "1978 FUND DRIVE" GOAL . . .
A goal of $175,000 has been established to further assist the NCAC in its efforts. *Pledges of $1,000, $500 and $300, payable over a 12 month period, will be sought from the entire profession.*

4. FACTS ABOUT NCAC . . .
1) Federally tax-exempt, non-profit organization.
2) *Autonomous and non-partisan.* Two members belong to the ACA, two members to the ICA, and one belongs to both national organizations.
3) *Members are all bonded with USF & G.*
4) After litigation is completed and NCAC has completed its objectives, all surplus funds will be given to the Kentuckiana Center for handicapped children. The plaintiffs have all indicated their willingness to donate any damages they might be awarded to be divided equally among all existing U.S. chartered chiropractic colleges.
5) All checks should be made payable to the *National Chiropractic Antitrust Committee*, be endorsed on the back of the check *"For Deposit Only at Northern Trust Bank of Chicago,* and mailed to Dr. William F. Holmberg, Chairman, '78 Fund Drive, 4510 Seventh Avenue, Rock Island, IL 61201.

Figure 6. - National Chiropractic Antitrust Committee Fact Sheet that outlines the function and purpose of NCAC and its ambitious goal to raise money. This 1978 fund drive demonstrated the joining of both chiropractic associations (mixer/broad scope and straight/ narrow scope) and their combined efforts to provide financial support for the lawsuit.

3. To act as fiduciary of any funds collected for its expressed purpose.
4. To serve as a data bank of information relating to antitrust imposed on chiropractic.

The NCAC published a fact sheet stating, "Organized medicine is perpetuating a vicious and cruel restraint against chiropractic and the unsuspecting public. It is most appropriate that on the bicentennial anniversary of the nation's revolution, we unite to stop another kind of tyranny and oppression."[61]

On January 17, 1976, a person claiming to be "Sore Throat" (the source who supposedly supplied the stolen AMA documents)[3,62] spoke by telephone to an audience of chiropractors at a seminar. Sore Throat stated that he gave the speech over the phone to conceal his identity and to raise funds for the NCAC lawsuit. Sore Throat claimed that the AMA had a file on NCAC, that he was in discussions with Wilk, and that both the ACA and ICA had attorneys reviewing the potential antitrust case proposed by NCAC.[60] The person urged the chiropractic profession to file an antitrust suit to stop the AMA from destroying documents pertaining to a "secret organization" that involved the AMA, Better Business Bureaus, Federal Trade Commission, United States Postal Service, and Food and Drug Administration. Sore Throat claimed,

Figure 7. - Dr William Holmberg, chairman of the National Chiropractic Antitrust Committee.

> . . . it is a secret organization and met secretly twice a year for the sole purpose of the elimination of drugless healing in the United States. Chiropractic, being the largest drugless healing body around was the most discussed subject especially by the AMA.[63]

The person claiming to be Sore Throat urged that a private antitrust suit would be quicker than a Federal Trade Commission–led investigation and that it would lead to a more rapid injunction to preserve records.[59]

The officers of NCAC requested that attorney Paul Slater (who would eventually join McAndrews in representing the plaintiffs in the trials) review the evidence to see if NCAC had a reasonable case against the AMA.[60] Slater concluded that NCAC had a valid argument to take AMA to court for violation of antitrust laws.[60] Dr Jerry McAndrews, a chiropractor and executive director of the ICA, stated that he had his brother, Mr George McAndrews, an attorney in Chicago, review similar documents for the potential of a boycott by the AMA.[64]

For the NCAC to be successful, it needed the support of entire chiropractic profession, which meant that both national associations would need to join their efforts. NCAC approached the ICA to endorse the suit. Wilk discussed with the ICA board the potential to file an antitrust suit against the AMA.[60,64] After that, the board approved an endorsement if the ICA's general counsel approved the attorneys chosen to handle the action.[64] The

general counsel approved, and the NCAC had the ICA endorsement.

Wilk approached the ACA; however, the ACA's legal counsel was opposed to filing suit against the AMA.[60] The ACA had been involved in lawsuits that cost the ACA time, money, and reputation, and they were unwilling to engage in similar trials.[65] The ACA announced that it would not provide endorsement or support in any way for an antitrust suit based on political arguments.[56] While the ACA would not provide endorsement of the case at that time, it allowed NCAC to broadcast information to ACA members through the *ACA Journal of Chiropractic*. The article read,

> AUTONOMOUS AND NON-PARTISAN. Not under control of any state or national chiropractic organization, though it cooperates with all chiropractic organizations in an effort to best represent the ENTIRE chiropractic profession. Its committee members are from all factions in chiropractic, and recognize that partisan chiropractic has NO RELEVANCE in this committee and its objectives.[66]

Late in 1979, 3 years after the lawsuit was filed and a year before the first trial began, the ACA finally reconsidered and adopted a position to support the lawsuit after increasing pressure from the NCAC and ACA membership.[67]

The primary job of NCAC was fundraising and distribution of funds to pay bills. Advertisements asking for donations to fund the suit were published in chiropractic periodicals. Initially, funding for the suit was a grassroots effort on behalf of the plaintiffs and their associates. As the profession became more aware that the outcome of the case could determine the future of the profession, people and organizations contributed money to fund the case.

Another function of NCAC was to determine the beneficiaries of any funds, should the plaintiffs win the case. The NCAC members and officers designated that if there were any remaining funds resulting from the case, they should be donated to fund chiropractic research.[68,69]

Holmberg was the chief organizer of the funding program with support from the ICA for part-time staff, consisting of Holmberg's office receptionist and her sister-in-law.[70] Holmberg set up a national fundraising committee with 21 chiropractors serving as members.[71] They began the task to raise $175,000 in 6 months. Rallies were held at ICA conventions, and appeals were made to the ICA leadership and representatives. The president of the ICA, Joseph Mazzarelli, DC, and Dr Jerry McAndrews, "traveled about 75,000 miles a year for 5 years raising funds to support the lawsuit."[64] The chairman of NCAC, Clair O'Dell, also traveled across 12 states to tell chiropractors about the importance of the lawsuit and to raise funds.[72]

According to Holmberg, the largest single donation was for $50,000 from the ACA when it decided to support the lawsuit.[70] Perhaps the smallest but most touching donation was $1 from a chiropractic student, who included a note that he wished he could have donated more but was under financial hardship. Figure 8 shows a fund drive advertisement from the NCAC.[67]

For the plaintiffs Arthur, Bryden, Pedigo, and Wilk, finding a lawyer who would agree to take on their case was challenging. The plaintiffs had few funds, there was little support from the national professions at the time, and they were asking to take on some of the largest and richest health organizations in the country. It was not surprising that the lawyers they asked refused to take the case as they were already representing the AMA or other similar organizations. Mr George McAndrews, on the other hand, was the perfect lawyer for the job.

The Lead Lawyer for the Plaintiffs
George McAndrews

McAndrews's father was a chiropractor who chose the profession after chiropractic treatments improved his asthma. While growing up, George witnessed the animosity between the chiropractic and medical professions. Therefore, he was familiar with the injustices that his father and his father's patients suffered (Fig. 9).

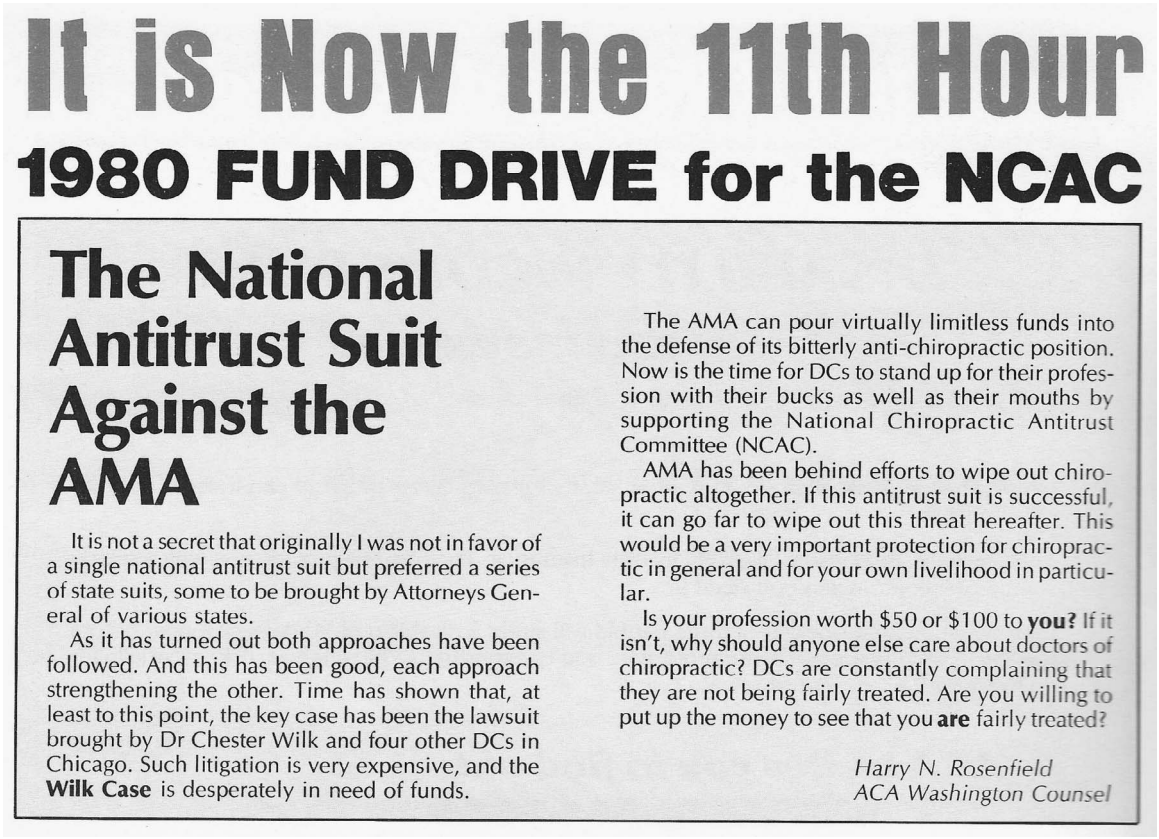
When asked why he chose to go into law, McAndrews said, "I became a lawyer because, in 1940 when I was 5, my father was listening to war news on the radio and he abruptly said: 'George, kings and queens and presidents don't run the world—lawyers do.' From that moment on that became my obsession."[73] He graduated from law school and focused his legal practice on, "patent, trademark, antitrust, fiduciary duty, unfair competition, warranty, and other intellectual property law."[74]

McAndrews began practicing law in 1962 after graduating from Notre Dame law school. He was looking forward to a productive career in patent law and had no intention of working on chiropractic cases. Yet in 1975, after many long talks with his brother Jerry McAndrews, DC, George McAndrews was finally convinced that taking on the chiropractic/medicine antitrust case was a worthy cause. He recalled the hardship that his father went through and decided to join the fight to honor his father.

McAndrews knew both the good and the bad of the chiropractic profession. He also knew much was at stake, and it would be a tough battle. The opponents, the AMA and several other medical associations, were formidable. McAndrews knew that this was to be a battle that was "against the odds," and there could be heavy losses.[65] He also knew that the fate of the profession depended on him and his legal team. Therefore, he not only agreed to represent the plaintiffs but also supported the mission of NCAC. McAndrews spoke all over the country and was offered an honorarium of $1,000 and travel expenses for his presentations; however, McAndrews gave the money back to NCAC. Holmberg recalled, "George sent each $1,000 check to me. He contributed thousands of dollars himself."[70]

Lawsuit Filed

After imploring to the national organizations, searching for lawyers to represent the plaintiffs and gathering up the resolve to take on the AMA and its conspirators, the



It is Now the 11th Hour

1980 FUND DRIVE for the NCAC

The National Antitrust Suit Against the AMA

It is not a secret that originally I was not in favor of a single national antitrust suit but preferred a series of state suits, some to be brought by Attorneys General of various states.

As it has turned out both approaches have been followed. And this has been good, each approach strengthening the other. Time has shown that, at least to this point, the key case has been the lawsuit brought by Dr Chester Wilk and four other DCs in Chicago. Such litigation is very expensive, and the **Wilk Case** is desperately in need of funds.

The AMA can pour virtually limitless funds into the defense of its bitterly anti-chiropractic position. Now is the time for DCs to stand up for their profession with their bucks as well as their mouths by supporting the National Chiropractic Antitrust Committee (NCAC).

AMA has been behind efforts to wipe out chiropractic altogether. If this antitrust suit is successful, it can go far to wipe out this threat hereafter. This would be a very important protection for chiropractic in general and for your own livelihood in particular.

Is your profession worth $50 or $100 to **you?** If it isn't, why should anyone else care about doctors of chiropractic? DCs are constantly complaining that they are not being fairly treated. Are you willing to put up the money to see that you **are** fairly treated?

Harry N. Rosenfield
ACA Washington Counsel

Figure 8. - A 1980 advertisement to raise money for the antitrust suit pointing out that the American Medical Association was well-funded and that chiropractors should consider supporting the lawsuit to help reduce the present and future threat to the chiropractic profession. (Reprinted with permission from the American Chiropractic Association.)

plaintiffs filed suit on October 12, 1976.[75] The organizations and individuals are listed in Figure 10.

The AMA had a long history of fighting legal battles. They had the experience, capacity, and infrastructure to hire the best possible team of lawyers and had the funding needed to succeed in potentially long and difficult legal battles. By the time the 1976 *Wilk* case materialized, the AMA was already experienced with such cases.

Elsewhere in the United States, similar antitrust lawsuits were undertaken. Three months after the *Wilk* suit was filed, the New Jersey Chiropractic Society and individual chiropractors filed a class action suit against the AMA, the Radiological Society of New Jersey, and others. They claimed that the defendants:

> combined and conspired to monopolize trade and commerce in the delivery of healthcare services for ailments treatable by both chiropractors and doctors of medicine and surgery, i.e., radiologists. Consumers contend that defendants have impeded their free choice of health care by refusing to provide diagnostic X-rays to consumers referred by chiropractors and to release X-rays to such chiropractors.[76]

Other similar suits followed, including the Pennsylvania Chiropractic Society filing in 1977, one in New York, and another in Iowa filed in 1979.[77]

By July 1980, before the beginning of the first *Wilk v AMA* trial, the AMA had already made substantial changes to their principles and code of ethics that would allow working with chiropractors. The chairman of the AMA's Board of Trustees, when discussing the AMA's change in position that allowed medical physicians to associate with chiropractors, stated, "'I like to fight as well as the next one,' Steen said at a news conference, but added that if the AMA lost the chiropractic lawsuits now pending in Illinois, Iowa, New York and New Jersey, the combined damages could bankrupt the association."[78] Even though the lawsuits had not yet been resolved and the *Wilk v AMA* case was just beginning, changes were being made to create a more inclusive health care environment.

DISCUSSION

The chiropractic profession, which was underresourced and outnumbered as compared with organized medicine, continued to be battered by the AMA's anti-chiropractic campaigns. Most chiropractic leaders and associations were reluctant to approach the AMA with another legal battle, having suffered recent losses in the legal arena. These losses (namely, *England v Louisiana*)[2] took a toll financially and to the spirits and hopes that the chiropractic profession would be able to practice unhindered. With

Figure 9. - Mr George McAndrews was the lead lawyer for the plaintiffs. He was raised in a chiropractic family. Although he did not choose to become a chiropractor, he dedicated a substantial portion of his career to help right the injustices done to the chiropractic profession.

- **American Medical Association (AMA)**
- **American Hospital Association (AHA)**
- **American College of Surgeons (ACS)**
- **American College of Physicians (ACP)**
- **Joint Commission on Accreditation of Hospitals (JCAH)**
- **American College of Radiology (ACR)**
- **American Osteopathic Association (AOA)**
- **American Academy of Physical Medicine & Rehabilitation (AAPMR)**
- **Illinois State Medical Society (ISMS)**
- **Chicago Medical Society CMS)**
- **Medical Society of Cook County (MSCC)**
- **H Doyl Taylor**
- **Joseph A Sabatier Jr, MD**
- **H Thomas Ballantine, MD**
- **James H Sammons, MD**

Figure 10. - The list of defendants named in the lawsuit.

both the national chiropractic associations continuing their infighting, there was little hope to break past this oppressive environment.

Meanwhile, a group known as Scientologists was planning its own attack for revenge, having themselves been under the scrutiny of the AMA for many years. They carried out a clandestine plan that obtained AMA documents that would eventually be turned over to various organizations, including those in chiropractic. The Scientologists had hoped that the chiropractic organizations would take action, relieving the Scientologists from the necessity of doing so. However, with recent losses, neither chiropractic association was willing to take on the task. However, the publicly available AMA documents provided the chiropractic profession with material for evidence in a legal case against the AMA and the other related organizations.

The plaintiffs who came forward for the *Wilk v AMA* suit represented different areas of the United States and diverse training. Yet all experienced similar situations in which efforts by the AMA could be questioned in an antitrust lawsuit. Their stories were examples of the thousands of other chiropractors who were experiencing barriers while trying to serve the American public.

The chiropractic plaintiffs and legal team had few resources with which to seek justice. They faced the AMA and other medical associations, which were large and financially robust, with seemingly limitless resources. Although the odds were against them, the chiropractors and their lawyers chose to make personal and professional sacrifices to benefit the chiropractic profession, by giving up their regular lives to pursue this lawsuit. Had they not committed to contributing nearly 15 years of their lives to the lawsuit, the chiropractic profession in the United States would likely look very different than it does today.

Limitations

This historical narrative reviews events from the context of the chiropractic profession and the viewpoints are limited by the authors' framework and worldview. Other interpretations of historic events may be perceived differently by other authors. The context of this article must be considered in light of the authors' biases as licensed chiropractic practitioners, educators, and scientific researchers.

The primary sources of information were written testimony, oral interviews, public records, legal documents, minutes of meetings, newspapers, letters, and other artifacts. These formed the basis for our narrative and timeline. We acknowledge that recall bias is an issue when referencing sources, such as letters, in which people recount past events. Secondary sources, such as textbooks, trade magazines, and peer-reviewed journal articles, were used to verify and support the narrative. We collected thousands of documents and reconstructed the events relating to the *Wilk v AMA* lawsuit. Since no electronic databases exist that index many of the publications needed for this research, we conducted page-by-page hand searches of decades of publications. While it is possible that we missed some important details, great care was taken to review every page systematically for information. It is possible that we missed some sources of information and that some details of the trials and surrounding events were lost in time. The above potential limitations may have affected our interpretation of the history of these events.

Some of our sources were interviews, manuscripts, or letters in which the author recalled past events. Recall bias is an issue when referencing interview sources. Surviving documents from the first 80 years of the chiropractic profession, the years leading up the *Wilk v AMA* lawsuit, are scarce. Chiropractic literature existing before the 1990s is difficult to find since most of it was not indexed. Many

libraries have divested their holdings of older material, making the acquisition of early chiropractic documents challenging. While we were able to obtain some sources from libraries, we also relied heavily on material from our own collection and materials from colleagues. Thus, there may be relevant papers or artifacts that were inadvertently missed. Our interpretation of the events related to the trials is limited to the materials available. The information regarding this history is immense and because of space limitations, not all parts of the story could be included in this series.

CONCLUSION

Facing lawsuits on multiple fronts, the AMA slowly loosened its control of which health care practitioners that medical physicians could choose to work with. However, the AMA's restraint of trade and boycott of chiropractic was still in effect. Although the chiropractic associations were unwilling to take legal action, the conflicts that the several determined chiropractors experienced stimulated them to pursue an antitrust lawsuit against the AMA and other groups and individuals in organized political medicine. The plaintiffs recruited a legal team and created a funding organization to support the trials of the *Wilk v AMA* lawsuit.

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About the Authors

Claire Johnson, DC, MSEd, PhD, has been a licensed chiropractor for 30 years and is the editor in chief for 3 scientific journals, Journal of Manipulative and Physiological Therapeutics, Journal of Chiropractic Medicine, and Journal of Chiropractic Humanities. She has decades of experience publishing in the fields of clinical and historical research and is a professor at the National University of Health Sciences. The daughter of a medical physician, she grew up in the San Francisco Bay Area, where she witnessed the conflicts between medical and chiropractic providers and wondered why such tensions existed. One of her passions has been to try to unravel this mystery and find a way forward. Her work with interprofessional relationships has included coordination of a team of international spine experts that developed an evidence-informed spine care model for communities around the world. Her master's degree in health professions education and public health doctorate contribute to her expanded worldview and greater understanding of the interconnectivity of this important historical subject, including the impact of this trial on chiropractic, patients, and the public. Claire Johnson is a professor at the National University of Health Sciences (200 E. Roosevelt Rd, Lombard IL 60148; cjohnson@nuhs.edu).

Bart Green, DC, MSEd, PhD, provides chiropractic care in an interdisciplinary, on-site corporate health center in San Diego and is a faculty member at the National University of Health Sciences. He has developed doctorate courses in the domains of chiropractic history and clinical education at several chiropractic programs. He is the editor in chief of the Journal of Chiropractic Education. He was raised in the Los Angeles area, where he observed health disparities and the need for both medical and chiropractic care to be made more available for underserved populations. He is a skilled communicator and has experience navigating the complexity of interprofessional collaborative relationships in the medical health care environment. He served on the medical staff at Naval Medical Center San Diego in interprofessional spine, sports, and combat casualty care clinics, providing chiropractic care to active-duty military members. He has taught in clinical settings training chiropractors, chiropractic students, medical students, nursing students, residents, physician assistant students, and Navy corpsmen. Bart Green is a lecturer at the National University of Health Sciences (200 E. Roosevelt Rd, Lombard IL 60148; bgreen@nuhs.edu). Address correspondence to Claire D. Johnson, 1507 E Valley Parkway 3-486, Escondido, CA 92027; cjohnson@nuhs.edu.

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Author Contributions

Concept development: CDJ, BNG. Design: CDJ, BNG. Supervision: CDJ. Data collection/processing: CDJ, BNG. Analysis/interpretation: CDJ, BNG. Literature search: CDJ, BNG. Writing: CDJ, BNG. Critical review: CDJ, BNG.

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