

1 CLOSING ARGUMENT ON BEHALF OF THE DEFENDANT
2 AMERICAN COLLEGE OF ORTHOPEDUC SURGEONS

3 MR. FULLER: May it please the Court --

4 THE COURT: Mr. Fuller.

5 MR. FULLER: -- Mr. McAndrews, counsel, and ladies and
6 gentlemen: This is our last chance to address you, and I
7 begin with just this question that has been bothering me:
8 What is this all about? Is this a suit to protect the
9 citizens of the United States? No.

10 Are the plaintiffs seeking to upgrade the health
11 care in the United States? No.

12 This is a suit brought under the Federal Laws
13 governing commerce. It is not brought under any laws
14 regulating the quality of health care. And the plaintiffs,
15 as you heard from Mr. McAndrews' final result here, are
16 asking for money damages roughly computed on the basis of the
17 idea that they are entitled to 25 percent more income above
18 what they predict for their chiropractic practice than they are
19 presently or have been receiving since 1973. The figures that
20 you have just seen you still have fresh in your mind and I need
21 not repeat them.

22 Counsel refers to this as some sort of normal
23 interprofessional cooperation, and he says that there is
24 not any effort on their part to become medical doctors.
25 Well, one of the things that you noted is there is nothing
in the claim that has been presented to you with respect to

1 any future damages. Why? Because somehow it is the plaintiffs
2 contention that as a result of this lawsuit, medicine as it
3 is delivered in this country is going to be restructured.
4 The laws of the states where chiropractors practice dealing
5 with any limitations, or directions on hospital staff
6 membership, or any limitations on chiropractors, apparently,
7 are going to evaporate, and these five plaintiffs together
8 with their colleagues will become primary care physicians.

9 Ladies and gentlemen, that is what each one of
10 these plaintiffs told you when they took the stand, that
11 each one of them considers himself or herself to be, a
12 primary care physician, and they want, according to this
13 theory, to instantly enjoy the average income in the United
14 States for a hospital-based practice and the average income
15 measured by physician standards for a collaborative practice
16 with medical doctors and that is what they are seeking here.
17 So what is this lawsuit all about? Money. Money damages.

18 If they can silence organized medicine, place themselves
19 and their colleagues in this stream of health care, then
20 they expect to enjoy the fruits of that effort. They want
21 then to move into the hospitals. That is necessary if you
22 are going to have a hospital-based practice, and get 22
23 percent more of your income from a hospital-based practice.
24 That is what their ambitions are.

25 Mr. McAndrews says the hospitals were built by

1 taxpayers' money or community interests and all of this
2 property is established just for the benefit of the radiologists,
3 or the surgeons, or someone practicing in that hospital.

4 Hospitals were built by communities and organizations
5 to serve communities and to provide quality health care.
6 The people who put in their money, the people who pay
7 their taxes, expect medical care, not chiropractic care.

8 If chiropractors want hospitals, they can build
9 hospitals. But I think the fact of the matter is, and as
10 the evidence clearly shows, they don't need them, and when
11 a citizen who pays his or her taxes goes to a community
12 hospital, they expect medical care.

13 Well, compare, or perhaps better contrast that
14 motivation on the part of the plaintiffs with that of the
15 defendants. What is it all about as far as the defendants
16 are concerned? What is this motivation? The plaintiffs
17 ignore all of the evidence that has been presented with
18 respect to the defendants' motivation, primarily because
19 it would not fit into their claims for economic loss or
20 economic competition, and as this Court, I believe, will
21 instruct you, there are elements here for you to consider,
22 and that is there must be in part of the proof required of
23 the plaintiffs the showing that there is a commercial interest
24 that motivates the defendants, an economic commercial interest,
25 nothing else.

Fuller - closing

1 And one thing that Mr. Mc Andrews didn't
2 mention, but let me mention it now: The burden of proof,
3 I believe the Court will instruct you, is on the plaintiffs
4 to prove the elements of their cases, not upon the defen-
5 dants to come in and disprove them. That is the way this
6 system works. So any intimation or any innuendo that the
7 defendants have failed to prove something, the burden is
8 the plaintiffs'.

9 The plaintiffs lift one phrase out of a di-
10 gest of a discussion in the AMA which deals with an objec-
11 tive, not motivation. That objective was to contain chiro-
12 practic within its limits and to eliminate the hazards,
13 the health hazards, of chiropractic.

14 Mr. Mc Andrews has chosen to give it a dif-
15 ferent characterization, and by reading these phrases in
16 the sinister tones that he has used -- he would make an
17 excellent announcer for the WBBM "Mystery Theater" -- to
18 try to give it a flavor that lurking in the background
19 are some sinister motives, and then with a little quick
20 smile to give you the clue that this is the important
21 part, but in Mr. Mc Andrews' mind and in his version of
22 this phrase, he ignores the fact that this term, however
23 used, was not known, was not repeated, wasn't adopted,
24 wasn't asserted by the other defendants. And, furthermore,
25 it identifies but one thing: The objective, not the moti-

1 vation. It doesn't express any commercial interest, any
2 economic interest on the part of any physician.

3 And with this burden of proof that the
4 plaintiffs have, let me ask you to consider this: For
5 four years, every defendant has been required to produce
6 every known document in existence that dealt with any of
7 these transactions in which the plaintiffs were interested.
8 What you see under this table is only the tip of the ice-
9 berg as to what has been produced, just a small part of the
10 effort that has gone into this: letters, memos, minutes,
11 disgorged from all of the defendants' files. These notes,
12 these minutes, these letters, were not written with any
13 lawsuit in mind. They were written with personal views,
14 free, uninhibited, intending to convey the meaning of the
15 writer to the person that he thought was going to read it.
16 Let me give you a couple of examples.

17 Dr. Stevens had some handwritten notes
18 that he used in connection with his speeches that he was
19 giving on this subject, and in those handwritten notes, he
20 said: Their concern was the elimination of the hazards to
21 health. That is the concept he had. Not Mr. Mc Andrews'
22 abbreviated version, not Mr. Mc Andrews' sinister intentions.

23 Let's take another letter that popped up for
24 the defendants that shows you the difference between letters
25 written when one is speaking candidly, and when one is

Fuller - closing

1 speaking from a point of view of a partisan in a lawsuit.

2 Dr. Haldeman's letter written after he had
3 taken the chiropractic examination in California castigating
4 that body for its ineptness, its ignorance and its lack
5 of competence to deal with anything scientific. And he
6 was embarrassed that this letter had come to light to
7 express his true feelings on the subject.

8 Think back, now, not Mr. Mc Andrews' summary,
9 bits and pieces interpreted as he has, think back. You have
10 heard this evidence. Has there been any economic interest
11 expressed by anyone? Oh, with the exception of the little
12 bit he reads from Dr. Sabatier's flip remark, there isn't
13 a word, not a syllable and, yet, repeatedly, it was neces-
14 sary for us to put into the evidence and to read following
15 this to put into context the intentions of every defendant
16 that they were concerned about patient care.

17 Let me give you an example today. Mr.
18 Mc Andrews read to you from a paper prepared by John C.
19 Wilson, Jr., MD, a past president of my client, the American
20 Academy of Orthopedic Surgeons, and this was delivered
21 originally as a paper in 1966 and printed in 1967 at the
22 time this subject was involved with the AAOS and perhaps
23 with others, and certainly with the AMA.

24 Let me read to you, if I may, the opening
25 statement from that paper:

1 "Although unquestionably dedicated to
2 the advancement of medical science, our profession
3 apparently has failed to respond to pressing social
4 needs. This failure is manifest by strong external
5 forces striving to change the basic nature of medi-
6 cal practice and to impose upon each physician a
7 different and perhaps more burdensome way of life.

8 "Medicine in the broad concept is a service.
9 The doctor is a public servant. Whether his prime
10 interest be patient care, teaching, or research,
11 his goal must be to improve the health of the people."

12 That was the type of leadership the AAOS
13 had when they were concerned about the intrusions of
14 chiropractic. And Dr. Wilson concluded:

15 "The present situation is both hopeful
16 and disturbing. We have come a long way through
17 a torturous maze of error to reach a better under-
18 standing of the basic nature of low-back pain and
19 sciatica. The patient of 1966 is certainly far
20 better off than his 1911 counterpart. We are better
21 diagnosticians, better surgeons, and I trust better
22 doctors. However, there is still much to be learned
23 and even more to be remembered. My plea is that we
24 utilize the knowledge already available so that
25 our patients could be treated cautiously, intelli-

1 gently and effectively."

2 That is the attitude that prevailed in the
3 Academy in 1967 when they adopted, themselves, their own
4 statement that chiropractic is not a scientific practice.

5 Professional societies such as the AAOS
6 have purposes of enlarging and disseminating knowledge
7 about a special field of medicine. And they also serve a
8 purpose to be able to pay honor and respect to those indi-
9 viduals who contribute to those functions.

10 Now, all defense counsel have the duty to
11 bring out all of the defenses of their clients. My in-
12 structions have been to defend patient care, proper
13 patient care. Let me say the AAOS has not conspired with
14 anyone. No one has.

15 Every critic of chiropractic becomes in
16 Mr. Mc Andrews' mind some sort of a conspirator or concon-
17 spirator, either named or unnamed, in this lawsuit. And
18 the AAOS stands accused here of asking its members to
19 agree to ten Principles of Medical Ethics. That is the
20 evidence. And then in its own way, in January, 1961, adopted
21 a proposition that stated that chiropractic was not a scien-
22 tific method of healing or care. That's it. That's the
23 evidence against the AAOS. The record is otherwise silent.

24 I remember when asking Dr. Parker about the
25 qualifications for Palmer College when he went there for

1 admission, I said, "What were the admission requirements?"

2 And he said, "\$520."

3 I said, "That's it?" And he said, "That's
4 it."

5 And so with respect to this evidence as to
6 the AAOS, that's it.

7 There is one other factor before you by way
8 of stipulation, and this you accept because there is no
9 quarrel and it is true: That the AAOS has not enforced
10 any action against any member in all the years it has been
11 in existence since 1934 because of any contact with a
12 chiropractor. Never has. As a matter of fact, it has only
13 had occasion in the whole period of time once to exercise
14 the bylaw with respect to removal, and that was to remove
15 someone from membership who had lost his license after
16 having been convicted in a Federal Court. But not of any anti-
17 trust activity. It was an immoral activity.

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1 Counsel says, therefore, it is such a threat that
2 it is a disgrace to be declared unethical as though we
3 have kept this sword dangling over everyone, and that is just
4 not true. Not only is it not true, but there hasn't been a
5 plaintiff who has taken the stand and who has identified
6 for you one instance where they have been unable to get
7 a patient to a doctor for care. And to the contrary, Mrs.
8 Arthur had a male-trained, according to her story, orthopedic
9 surgeon willing to help her and accept her patients.

10 Dr. Bryden in Sedalia, Missouri, had Dr. Braverman,
11 an orthopedic surgeon, who had no difficulty in dealing with
12 him for his patient care.

13 Where is this grand conspiracy? No, the question
14 is: Was the position taken by the defendant and the
15 defendants here justified? Well, let me ask you to reflect
16 on the evidence in that respect.

17 The plaintiffs were led by Chester Wilk. He
18 acknowledges that he rallied the chiropractors and got
19 them together, active at least as early as 1974 with
20 respect to this lawsuit. You have met the other plaintiffs.

21 Now, let me ask this question: Who is conspiring
22 against whom?

23 Since 1895, the chiropractors have had no interest in
24 medical hospitals, and no demonstrated need, no awareness on
25 the part of the American Hospital Association or anyone else

1 that hospital care was even contemplated by chiropractors.

2 Now, in 1974, two letters appear. I would like to
3 take a moment to read these to you because when they were
4 read to you during the trial I am quite sure Mr. McAndrews
5 didn't intend to divert you from understanding the
6 comparison, but it may have affected your ability to under-
7 stand the comparison, and I refer to Plaintiffs' Exhibits
8 8-A and 11-C. One is from Parkersburg, West Virginia, and
9 it is addressed to a hospital there, and it is signed by
10 a chiropractor. It is dated February 9, 1974. The first
11 paragraph:

12 "A number of my patients in the past have
13 been in need of inpatient service while under
14 the care of chiropractic. In fact, many of
15 them have asked me, 'Why can't I have my
16 chiropractic care while I'm in the hospital?'"

17 Now, let's turn to the letter of January 16, from
18 Stamford, Connecticut, signed by another chiropractor
19 addressed to a hospital. The first paragraph:

20 "Over the years, a number of my patients
21 who were suffering from acute conditions have
22 been in need of inpatient service while receiving
23 chiropractic care. Many times I have been asked,
24 'Why can't I have my chiropractic treatment while I am
25 in a hospital?'"

1 Let's stick with this one, and I'll read the second
2 paragraph of the one from Connecticut:

3 "The mandated inclusion of chiropractic
4 in all HMOs as well as the question of comprehensive
5 health care makes this issue current."

6 Paragraph 2 of the letter from West Virginia:

7 "The mandated inclusion of chiropractic
8 in all HMOs as well as the question of comprehensive
9 health care makes this issue current."

10 The last paragraph in the one from West Virginia:

11 "I would like to request from you the
12 necessary information on how to have chiropractic
13 included as one of the services given at your
14 facility. I hope to hear from you soon."

15 The last paragraph from Connecticut:

16 "I would like to request from you the
17 necessary information on how to have chiropractic
18 included as one of the services given at your
19 facility. I hope to hear from you soon."

20 Now, Dr. Wilk testified that he was in preparation
21 of this lawsuit before he wrote letters to the hospitals
22 in the summer of 1976.

23 Dr. Pedigo testified here under oath that he
24 didn't know anything about this until 1976, and then was
25 impeached from his own deposition where under oath he

1 acknowledged that he signed cards and had gotten this thing
2 organized as early as 1974.

3 Dr. Pedigo wrote three letters the same day,
4 same words, to hospitals. Dr. Wilk scattered his out on
5 successive days with almost the same words. Both of
6 those men had practiced chiropractic for some time up until
7 that point, and had never found a need to use a hospital, or
8 to try to use a hospital, or to seek the help of a hospital.
9 Why, suddenly, just before they filed their lawsuit?

10 Now, the plaintiffs would have you brush aside
11 the defendants' expressed concern about chiropractic saying
12 that our position is a sham. They say we had no right to
13 claim that "Chiropractic was one cause, one cure"
14 because they served notice through some "White Paper" that
15 they put out in 1973, I think it was, or 1974, I am not
16 sure of the date, a chiropractic organization trying to
17 persuade HEW, simply saying, "We don't believe that any more.
18 We're all through."

19 Each plaintiff has testified here in Court that
20 that isn't the way they do business any more.

21 "They don't want to be medical doctors," says
22 Mr. McAndrews, but they don't want to be chiropractors
23 either.

24 Well, this resolution that the AAOS adopted in
25 this respect was January 1967. 1966, apparently, was an

1 important year. Many things came out about chiropractic,
2 including a reprint of this book: "The Science, Art and
3 Philosophy of Chiropractic," by D. D. Palmer, and this was
4 put out again in January of 1966.

5 MR. McANDREWS: Is that in evidence?

6 MR. FULLER: This part that I am about to read is.
7 This is the only part that I'm going to read. It is the
8 part that I read to Dr. Haldeman. It is in the transcript.
9 The grandson of D. D. Palmer who was then the head of the
10 school and who continued to be head of the school up until
11 two years ago, until, I believe, at that time Mr. McAndrews'
12 brother, Jerry McAndrews, who is seated back here, became
13 the head of the school. This is what this gentleman said:

14 "In studying these pages, it should be at all
15 times remembered that they were written some 55
16 years ago. While the material in them clearly
17 sets forth the unmistakable cornerstone of our
18 philosophy in science, a considerable amount of
19 additional research has unquestionably --"

20 Now I am using Mr. McAndrews' thing, putting emphasis
21 on words. Forgive me.

22 "-- has unquestionably further developed and
23 confirmed the scientific proof of D. D.'s original
24 concept of the cause of disease. Starting with
25 his own pen and thought processes in 1895, we

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see many years later his premise today accepted
and recognized to such a position of acceptance
that chiropractors now constitute the largest of
all the non-medical healing professions and
his science is practiced throughout the world."

Fuller - closing

1 for the HEW. He testified by deposition here. But the
2 thing that Mr. Mc Andrews overlooks, two things I would
3 call to your attention: After the first time that chiro-
4 practic was submitted to HEW and it fell 5 to 4, or whatever
5 that vote was, and it was resubmitted, Dr. Mennell had
6 occasion to write further letters on the subject, and
7 he opposed it and said, "I cannot accept the chiropractic
8 dogma."

9 The spinal manipulative therapy which he
10 espouses is not synonymous with chiropractic according
11 to him, according to Dr. Haldeman, according to anybody
12 who is involved with spinal manipulative therapy as such.
13 But one thing Dr. Mennell did point out: If you are engaged
14 in trying to help back pain with spinal manipulative therapy,
15 and you don't succeed within two weeks, stop, because you
16 may have a more serious problem on your hands than some-
17 thing that arises from simple back pain. You had better
18 get a good solid differential diagnosis before you go far-
19 ther.

20 Now, these spinal manipulative therapy people
21 have formed an academy and so with, I think, some figure
22 was given here of 350,000 physicians in the United States,
23 I don't know how many in Canada or how many that might
24 qualify in Mexico, but out of all of them, the North
25 American Academy of Manipulative Medicine has a membership

1 of 200.

2 It is of interest that the witnesses chosen
3 by the plaintiffs in this case, two of whom appeared live
4 and one by deposition, that Dr. Block was here. He is a
5 member of that Academy. Dr. Mennell and Dr. Haldeman are
6 members of that Academy. So it is a rather special group
7 with a special interest.

8 The dangers of chiropractic, counsel said, were
9 not significant, and he chose to juxtapose two statements: One his
10 statement as to how many billions of adjustments may be
11 given with his statement as to being only 100 reported
12 conditions in any given period of time. He neglected to
13 point out that Dr. Haldeman indicated what some of these
14 serious complications and risks are.

15 But he also failed to point out that all ←
16 of the reported cases come from medical doctors, physicians.
17 We don't know how many people have been injured by chiro-
18 practors. Chiropractors don't report them. Chiropractors
19 don't keep such records. They don't let the world know,
20 nor other chiropractors know, or do any research whatever
21 in the field. So the risks are there and the risks are
22 great.

23 Now, Dr. Haldeman explained to you how
24 ridiculous Dr. Palmer's original theory was of curing
25 deafness. I agree Dr. Bryden felt that he could explain

1 it by some vascular experience and using chiropractic
2 theory. But Dr. Haldeman, who is truly well-trained --
3 there is no question about his training as a neurologist --
4 knew and was prepared to state there is no anatomical basis
5 for that theory at all.

6 Another thing he told you that I think is
7 important: Chiropractors do not need to admit their patients
8 to hospitals. That is his statement. He is their expert. And
9 I think the critical one in our discussion was one that
10 he stated unhesitatingly: That it is wrong for chiroprac-
11 tors to hold themselves out as primary health care pro-
12 viders. It is wrong, and that is what medicine has been
13 saying right along: That it's wrong. Why? For the health
14 care of the patient. The dangers that are present. The
15 need to bring quality health care. It's wrong. And that
16 is what these plaintiffs are trying to do, that is what
17 these plaintiffs have represented they want to do. It
18 is what Mr. Mc Andrews represents the entire chiropractic
19 profession wants to do.

20 Let's take a quick look at some of them.
21 Each of them, as I said, claims to be a chiropractic pri-
22 mary health care physician.

23 Dr. Arthur is licensed by a state that we
24 have acknowledged, and Colorado expresses the theory of
25 chiropractic as being exactly what D. D. Palmer has always

1 said it was, and that is what her practice is, and that
2 is what these limited licenses in these states mean. And that
3 is what these people are entitled to do, and these are the limits
4 that they should be required to abide by. And that is all
5 that medicine has sought to require.

6 Michael Pedigo, \$30,000 a year from Medi-
7 care.

8 Every one of these plaintiffs and every ex-
9 pert who has bothered to be asked or taken a shot at the
10 question has told you that you cannot diagnose, you cannot
11 read a chiropractic subluxation on an x-ray. That is con-
12 sistent, every witness, every plaintiff has come forward
13 with that.

14 Now, there is some confusion, perhaps, as
15 to what Medicare has involved with chiropractic. Medicare
16 has not endorsed chiropractic. Medicare by virtue of this
17 political maneuvering, and don't think this was just some-
18 thing, wisdom, which struck Congress overnight, that there
19 wasn't an enormous campaign, political campaign, resulting
20 in granting chiropractic to this extent:

21 "You may make an examination, and if you
22 can diagnose on x-ray subluxation, then Medicare
23 will pay for the examination,"
24 not for the x-ray and Medicare will not pay for anything
25 else chiropractic claims it can do.

1 Although he cannot read an x-ray and find
2 a chiropractic subluxation, Michael Pedigo is willing to
3 send it in to the Government and say he did. And how does
4 he explain that? By saying, "Well, the law doesn't say
5 'chiropractic subluxation. It just says subluxation'."

6 Michael Pedigo attended Parker three times,
7 Bryden once, Wilk once. Mr. Mc Andrews wants to brush away
8 Parker here. Parker comes back, I think, to haunt the
9 whole chiropractic group. One out of every three chiro-
10 practors by statistical measurement has been through
11 Parker since 1950, at least by Parker's own testimony,
12 at least. Our average here is three out of five have
13 been through Parker.

14 Parker - - you have heard this testimony,
15 and here, again, you only heard a small tiny bit of the
16 type of testimony that is involved with Parker. But Dr.
17 Mennell and Dr. Haldeman both lent their names and their
18 reputations to the Parker sessions to be there and to appear
19 and to give speeches.

20 Dr. Bryden was there, and he said he found
21 nothing objectionable about Parker. Dr. Pedigo used it
22 very successfully, and Dr. Pedigo used the chiropractic
23 research chart. He stopped, he said. We don't know when.
24 But he stopped using it. But he did use it, and he uses
25 a confidential report form that we read to you that the

1 plaintiffs have had admitted into evidence which is almost
2 the same pattern as the Parker one that was offered into
3 evidence and which you have seen an example of.

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Fuller - closing

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1 Did Dr. Haldeman or Dr. Mennell justify this
2 chiropractic research chart on the basis that it was
3 referred pain that they were taking care of? No. No one
4 has. The only statement you have had on that has been the
5 unsupported testimony of Mr. McAndrews here this morning
6 in which he says that's how it's explained. Well, I will
7 ask him to explain if referred pain deals with some of
8 these things that are shown here:

9 Children's acute diseases, for example. Dr. Parker
10 is still distributing this in 1980, telling them that at
11 the average age of 8 years and the average duration of their
12 condition of six days, and with only 78.2 percent of them
13 he claims that ever saw a doctor, the chiropractors accept
14 93.2 percent of them. And they give them an average of
15 4.1 adjustments, and they keep them under their care for
16 at least six days. And they X-ray 97.3 percent of them
17 for acute children's diseases. That is hardly a referred
18 pain.

19 Paralysis, Parkinson's disease, tonsillitis, varicose
20 veins, vertigo, vomiting, hardly referred pain. You don't
21 explain this any other way than Dr. Haldeman, who, being a
22 trained physician, being a neurologist, said, "I take offense
23 at it." It has been banned in Canada. But every one
24 of these items listed on this chiropractic research chart
25 Dr. Bryden treats. That is his testimony here in front of

1 you, every one of them. We didn't have to read them to
2 him because he acknowledged every one of them.

3 This morning, the patients that go to Dr. Pedigo's
4 office can pick up a booklet on, "Why Chiropractic
5 is Different" to explain the same D. D. Palmer theory of
6 disease causation. And we read it to him, and he acknowledged
7 that that came out of a chiropractic college in South
8 Carolina. And it bears the date or publication date of 1976.
9 But they are still distributing that.

10 He puts out the same general statement in his own
11 blue book that he gives to every patient.

12 James Bryden not only found nothing objectionable
13 at Parker, but he is the one that gave cervical adjustments
14 for hemorrhoids, hayfever and diabetes at the sixth dorsal,
15 he said, and he tried to explain the Palmer deafness
16 solution that apparently began chiropractic all those
17 years ago.

18 He gave EKGs. Dr. Block did not abandon him.
19 Dr. Block is under no terror from any medical organization.
20 Dr. Block was reading this man's EKGs that Bryden took without
21 seeing the patient and sending reports back to Bryden. But
22 he took his patients and still takes his patients and still
23 treats his patients, and he still will even give him his
24 curbside readings on EKGs. His terror, if that is appropriate,
25 or concern, which would be far better was the result of

1 the State of Missouri suggesting that in reading these
2 X-rays or these EKGs without seeing the patient, this service
3 that he was giving the chiropractor, constituted a solicitation
4 of business, and he might lose his license in Missouri and
5 that is why he stopped doing that, but he didn't stop doing
6 the rest. And so Dr. Bryden still has that service. So
7 no patient has been denied medical care. There has been
8 no showing of that and there is certainly no need shown for
9 any role of chiropractors in hospitals.

10 Dr. Jarvis, who has no connection with medicine,
11 no connection with any of the defendants, no connection with
12 organized medicine, although I gather he is presently
13 employed teaching in a dental school as part of his work,
14 explained, I think some of the phenomenon here rather well.
15 He pointed out that chiropractic has a different reality,
16 and you can't communicate with people who have different
17 realities. You can communicate between the Chinese, and
18 the Russians, and the Americans on science because there
19 is a common reality, but in chiropractic there is not.

20 Recall his statements, if you will, and I think you
21 will find that they explain it extremely well.

22 The state that has licensed these people did not
23 intend them to be primary health care providers. They gave
24 them a license in each instance to be chiropractors, and
25 they are licensed only as chiropractors and they can't

1 change their spots, and they can't become junior doctors,
 2 but they have done very well. There has been no pressure
 3 that I am aware of that they have had to bear economically
 4 other than through their own shortcomings of being unable
 5 to conduct a practice such as Mrs. Arthur or, for whatever
 6 reason, Mrs. Lumsden has gone and left the practice, himself.

7 One and a half billion dollars to go to chiropractors.
 8 Divide that among 20,000, and you get a pretty significant
 9 number. If a dentist attempted to do what these chiropractors
 10 wish to do, they would be exceeding their licenses.

11 Would there be an antitrust suit if somebody
 12 complained and said, "Please don't pretend to be primary
 13 health care providers"? I don't think so. And I don't think
 14 that the dentists would. But the chiropractors have, and
 15 the chiropractors will.

16 None of the plaintiffs, none of the schools of
 17 chiropractic, no one associated with chiropractic has disavowed
 18 James Parker's Chiropractic Research Foundation. No one has
 19 come out publicly and cast any aspersions on his training,
 20 nor his theories, nor his research documents. If that is
 21 the status of chiropractic, so be it. But let's not here
 22 hypocritically say, "We don't identify with that. We have
 23 nothing to do with it."

24 Ladies and gentlemen, each of us, the lawyers,
 25 the doctors, and all of us take oaths, and you took one to

1 become a juror. And we look to you to honor that oath that
2 you will well and truly try the issues joined herein, and
3 a true verdict render. And on behalf of the AAOS, we ask
4 that you mark that verdict form "No" as to any finding of
5 any violations by any defendant. There are none. That is
6 a verdict in accordance with the law, and a verdict in accord-
7 ance with the evidence, and with that, all I can do is say,
8 "Your health."

9 THE COURT: Thank you, Mr. Fuller.

10 ~~Mr. Cherney, are you prepared to make your~~
11 ~~final arguments?~~

12 ~~MR. CHERNEY: Yes, your Honor.~~

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