

An open letter to the American Chiropractic Association:

When the American Chiropractic Association (ACA) announced its “Save Our Subluxation” Campaign as a way to raise money for its National Chiropractic Legal Action Fund (NCLAF) I expected — as did so many other doctors of chiropractic — that the thrust of the campaign would be the re-instatement of the term Subluxation into laws and our profession’s lexicon.

I contributed more than \$10,000 of my personal funds to the NCLAF and I used my column in *The Chiropractic Journal* to encourage thousands of other doctors to do the same. So far, the ACA has raised an estimated \$7 million to pay for lawsuits against Trigon Health Care and the Health Care Financing Administration (Medicare).

During the past year, numerous concerns have been raised about these two actions. The Chiropractic Coalition — made up of the International Chiropractors Association, Federation of Straight Chiropractors and Organizations and World Chiropractic Alliance — have urged the ACA to stop spending money on the two cases, which were obviously heading to failure.

In the Medicare case, the Coalition went to Congress with a proposal for a legislative solution, which the ACA not only failed to support but actively opposed.

In the Trigon case, the Coalition asked the ACA to stop the bleeding and discontinue raising and using money that could be spent on more productive activities.

The Trigon lawsuit is approaching a tragic and predictable end. The ACA lost at the District Court, lost at the Appellate level, was denied an “en banc hearing,” and was denied a rehearing.

On July 19, 2001, a District Court dismissed two of the counts and, on April 25, 2003, the other counts were dropped when U.S. Federal Judge James P. Jones ruled in a summary judgment that there were “no genuine issues of material fact remaining for trial.” The opinion explained that summary judgment is a tool designed for “weeding out claims and defenses that **have no factual basis.**” (emphasis added)

The Court of Appeals affirmed the lower court’s dismissal of all complaints and wrote a decision that could be cited as a precedent in any future case alleging conspiracy by an insurer to discriminate against chiropractors. Besides wasting millions of dollars, we now will have a federal precedent which explicitly allows insurers to pay DCs less than MD and DO providers, for the same services.

And now the ACA plans to spend even more money to attempt to take the case to the United States Supreme Court! There is absolutely no reason to believe that the ACA will manage to even get a writ of certiorari to allow the case to be brought before the high court, let alone that it could possibly win there, particularly considering the dismal results the legal effort has had so far. Yet, the ill-advised attempt could cost huge amounts of money.

The legal experts at Medicare have apparently been watching the case closely, since they filed for a motion for summary judgment as well — the same type of judgment that effectively put an end to the Trigon case.

The legal costs for these cases has been staggering and could continue to drain millions of additional dollars away from lobbying, research, education, public relations, and dozens of other more worthy (and productive) projects.

The company hired to handle both cases is Chicago-based McAndrews, Held & Malloy, whose founder and senior partner is attorney George McAndrews, brother of Jerome McAndrews, DC, ACA’s national spokesperson.

In the wake of this debacle, it is now time for an accounting. Doctors of chiropractic — particularly those of us who promoted and contributed money to this project — are entitled to know where our money went and where it is going.

Specifically, we ask the ACA to provide the following information:

1. How much money has been collected?
2. How much money has been spent?
3. How much money does the ACA take from donations for management and fund raising?
4. Is the ACA continuing to debit credit cards for ongoing donations?
5. How many hours has Mr. McAndrews’ firm billed for each of the two lawsuits?
6. What are the hourly rates charged by the attorneys involved?
7. In addition to attorney fees, what additional costs were incurred?
8. Who bore the cost of promotion and travel? What were these costs?
9. How much money has come from ACA, and how much from other sources?
10. Are donations from other sources being used to reimburse ACA for ACA’s contributions?
11. Is there an audited accounting available to donors?
12. Who is making decisions on how to proceed? Is there a democratic process involving the donors in the decision making process?
13. If ACA plans to pursue a legislative solution in the wake of failure of these suits, why did it not do so initially, as suggested by other chiropractic organizations, and save the \$7 million?
14. Who is responsible for deciding to appeal the case?

The profession requires prompt, candid and specific answers.

If the ACA wishes to claim that it represents the profession, it must answer to the profession.

Sincerely,



Terry A. Rondberg, DC
President, World Chiropractic Alliance

Survey for the profession:

- Did you donate to the National Chiropractic Legal Action Fund? Yes No
- Do you feel your money was responsibly spent? Yes No
- Do you share the Chiropractic Coalition’s concerns about the merits of the case and/or its legal presentation? Yes No
- Do you think the ACA has ever adequately addressed those concerns? Yes No
- Do you feel the ACA should be accountable to the profession concerning the \$7 million raised for these lawsuits? Yes No

Please answer the above questions and send your answers to:



The World Chiropractic Alliance
590 N. Dobson Rd., Suite 1
Chandler, AZ 85224

Or, respond to the survey online at: www.worldchiropracticalliance.org/aca-survey.htm