



A Decade After the Woburn Toxic Waste Case, Chemist Still Ponders Truth, Justice

Daniel J. Fitzgibbons
CHRONICLE STAFF

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In 1990, chemist Michael DeCheke's meticulous analysis of a soil sample swept him into the legal morass that became known as the Woburn toxic waste trial, a lawsuit chronicled in Jonathan Harr's book, "A Civil Action," and a movie by the same name.

A decade later, DeCheke's fascination with the case is still strong. But instead of searching for minute traces of chemical contamination, he sifts through records, transcripts and documents for insights into truth and justice.

DeCheke's transformation from an analytical chemist to legal philosopher began in the summer of 1989 when he was working at the Graduate School's Microanalysis Laboratory and a graduate student in the School of Public Health gave him a vial of flaky, dry, reddish-brown, material to examine.

Unbeknownst to DeCheke, the substance was at the center of an attempt by attorney Jan. R. Schlichtmann to reopen a 1982 lawsuit filed by eight Woburn families charging W.R. Grace & Company, Beatrice Foods and UniFirst Corporation with contaminating public water supplies by dumping toxic materials near city wells. The families alleged that the toxic materials were carcinogenic and led to the leukemia-related deaths of six children and one adult in a nearby neighborhood.

UniFirst agreed to pay the families \$1.05 million before Anne Anderson et al. v. W.R. Grace et al. went to court in 1986. Following a seven-month trial, W.R. Grace was found liable for polluting the wells. A second phase of the trial was to consider whether the pollution caused the leukemia cases, but W.R. Grace settled with the families for a reported \$8 million.

Beatrice Foods, which had owned a tannery on the Woburn site and retained liability for the plant, was found not responsible for any contamination by the presiding judge.

By 1988, however, Schlichtmann had uncovered new evidence that sludge had been secretly removed from the Beatrice site. Over the trial judge's

objections, the Court of Appeals ordered new hearings, which began in 1990.

By that time, DeCheke had determined that the sample he was analyzing - a bit of the sludge from the tannery site - was mostly animal fat with traces of toxic solvents used in the tanning process. According to DeCheke, the sludge sample was definitive proof that Beatrice was responsible for contaminating the Woburn wells.

However, the judge discounted the evidence, accepting instead testimony by a soil chemist hired by Beatrice that the sludge was a synthetic, non-toxic resin. Ruling that there was insufficient evidence to reopen the case, the judge effectively relegated DeCheke's analysis to a mere footnote in the annals of the lawsuit.

That failure of scientific evidence to outweigh legal strictures at first disillusioned DeCheke. He criticized the court system for being "very anti-scientific."

But the intervening years have given DeCheke a new perspective, especially for someone who grew up in communist Hungary. Since retiring from the Uni-versity in 1995, he has immersed himself in the Woburn case.

"Ten years is a distance," he says. "History moves on, time can clarify."

The study in his Easthampton home illustrates DeCheke's continuing fascination with the court case. A long table is covered from end to end with books, papers and charts related to the Woburn lawsuit.

During the past year, DeCheke plunged even deeper into the issue as Harvard Law School professor Charles Nesson, who served as co-counsel for the Woburn families, convened a symposium on the case. Bringing many of the major players from the case together, Nesson used the symposium as a teaching tool for his first-year students. After DeCheke introduced himself to Nesson, he was invited to serve as the "resident scientist" for the class.

The experience opened DeCheke's eyes to the world of the courtroom and the intricate and often arcane rules of evidence. And the Woburn case took on a deeper meaning.

"During this year, it became a cause," says DeCheke. "It is a timeless message - it's not Woburn - it's an important lesson that we can avoid future mistakes."

According to DeCheke, the true lesson of the Woburn case is that "civil action" in the most basic sense can prevent similar tragedies in other communities. DeCheke has come to believe that all citizens have an obligation to participate in public policy decision-making and change laws that work against the common good.

Recalling his 35 years in Hungary, DeCheke says, "Freedom is not natural to me. I still discover day by day the beauty of freedom in this

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The law. DeCheke savors the words and then admits that he is hooked.

"I am falling in love with the law," he says. "You can change the law, the law is alive, it is flexible."

After taking a course in evidence procedures at Holyoke Community College, DeCheke is well-versed in some of the legal details of presenting cases. He is still convinced that science has an important role to play in the courtroom, perhaps through the appointment of scientific advisers to assist judges. And he has new perspectives on the use of expert witnesses. He shared some of those views this week during presentations to the Chemistry and the Law Division of the American Chemical Society during its national meeting in Washington, D.C.

But the deeper questions of truth and justice are what really capture DeCheke's imagination. He is adamant that the public must safeguard the environment. It is that message that DeCheke is spreading during public lectures, including recent talks at Connecticut College and Vassar.

While DeCheke believes that industry can adopt environmentally friendly practices, he says such changes will not occur unless businesses are compelled by public pressure and the law to do so.

Through grassroots civil action, he tells his audiences, environmental calamities can be averted. Using Woburn as a worst-case scenario, DeCheke says the mistakes of the past can provide answers for other communities.

He steadfastly eschews the label of activist ("No, no, no!"), preferring instead a local newspaper's description of him as an "environmental ethicist."

"Is it environmental ethicism?" he says. "I think it is, but environmental in a wider sense. It is a wholistic idea. Everything is related. We cannot separate the legal from the political and the economic."

