

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ANDREW WAX, an Infant, by and through his parents and natural guardians, MELANIE WAX and MARK WAX, and MELANIE WAX and MARK WAX, Individually; DEVIN WARD, an infant, by and through his parents and natural guardians, ANGIE WARD and CLINT WARD, and ANGIE WARD and CLINT WARD, Individually; CODY ROBINSON, an infant, by and through his parents and natural guardians, SHANNON ROBINSON and JASON ROBINSON, and SHANNON ROBINSON and JASON ROBINSON, Individually; NICHOLAS FOY, an infant, by and through his parents, ANGELA FOY and DARRELL FOY, JR., and ANGELA FOY and DARRELL FOY, JR.; CHRISTOPHER HOLLEMAN, an infant, by and through his mother and natural guardian, KRISTINA DICKERSON, and KRISTINA DICKERSON, Individually, and on behalf of all others similarly situated,

Plaintiffs,

-against-

AVENTIS PASTEUR INC., f/k/a CONNAUGHT LABORATORIES; LEDERLE, INC., WYETH PHARMACEUTICALS INC., f/k/a WYETH-AYERST PHARMACEUTICALS, INC., Individually and as Successor in Interest to AMERICAN HOME PRODUCTS, INC.; MERCK & CO., INC.; GLAXOSMITHKLINE, Individually and as Successor in Interest to SMITHKLINE BEECHAM CORP.; PARKE-DAVIS AND COMPANY; BAXTER PHARMACEUTICAL PRODUCTS INC.; THE ABBOTT LABORATORIES; PFIZER INC., a Subsidiary of WARNER-LAMBERT, INC.; SIGMA-ALDRICH, INC.; MERIDIAN CHEMICAL TECHNOLOGIES, INC.; SPECTRUM CHEMICAL MANUFACTURING CORP.; EM INDUSTRIES, INC.; and ELI LILLY AND COMPANY,

Defendants.

CV-02-2018

**FIRST AMENDED  
COMPLAINT  
AND DEMAND  
FOR JURY TRIAL**

-----X  
Plaintiffs, by their attorneys, **DOUGLAS & LONDON, PARKER & WAICHMAN,**  
and **THE ROBLES LAW CENTER,** on behalf of themselves and on behalf of all others

similarly situated, upon information and belief, at all times hereinafter mentioned, allege as follows:

### **NATURE OF THE CASE**

1. This class action is brought on behalf of all persons residing in the United States who were exposed to Thimerosal in multi-dose vaccines.
2. Defendants designed vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
3. Defendants researched vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
4. Defendants manufactured vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
5. Defendants marketed vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
6. Defendants supplied Thimerosal for use as a preservative in certain multi-dose vaccines.
7. Defendants packaged vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
8. Defendants distributed vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
9. Defendants sold vaccines that contained Thimerosal for use as a preservative in certain multi-dose vaccines.
10. As a result of the defective, toxic, and otherwise dangerous nature of Thimerosal,

those persons who received vaccinations containing Thimerosal were exposed to high levels of mercury, a known highly toxic substance.

11. Plaintiffs and the Plaintiff Class that are defined and set forth in Sub-Class One have been diagnosed with autism or other neurological disorders, as well as other severe and permanent health consequences as a result of Plaintiffs' exposure to high levels of mercury contained in Thimerosal.

12. Plaintiffs and the Plaintiff Class that are defined and set forth in Sub-Class Two face an increased risk of developing autism and other serious neurological disorders, as well as developing other severe and permanent health consequences as a result of Plaintiffs' exposure to high levels of mercury contained in Thimerosal.

13. Plaintiffs and the Plaintiff Class that are defined and set forth in Sub-Class Three have claims for their severely injured and damaged children, as well as medical monitoring claims for those children whose exposure to mercury contained in Thimerosal has not yet manifested in an injury, but who must be continuously monitored due to said exposure.

14. As result of said exposure to Thimerosal and its highly toxic mercury component, Plaintiffs have also been caused to sustain further neurological insult from other vaccines, including the measles, mumps and rubella vaccine (hereinafter referred to as "MMR"), which does not contain Thimerosal, but caused further neurological insult and exacerbated Plaintiffs neurological disorders from their prior Thimerosal exposures.

15. Defendants concealed their knowledge of Thimerosal's dangers and defects, from the Plaintiffs, all Plaintiff Class members, and their physicians, healthcare providers, and/or hospitals.

16. Consequently, Plaintiffs and all Plaintiff Class members seek compensatory

damages as a result of their exposure to Thimerosal which has caused and will continue to cause Plaintiffs and all Plaintiff Class members to suffer physical pain, mental anguish, lost earnings, and medical and other expenses.

17. Further, Plaintiffs and all Plaintiff Class members seek equitable and other relief, including injunctive relief, for themselves, and all others similarly situated, to compensate them in whole or in part for the following issues which confront them as a result of their exposure to Thimerosal:

- (a) the increased costs of medical, including but not limited to those unreimbursed by insurance policies, those uninsured, and/or the payment of higher insurance rates due to their child's condition as a result of his/her exposure to Thimerosal;
- (b) the costs of psychological counseling to the parents of the infant Plaintiffs to alleviate the emotional distress imposed by knowledge that their children were exposed to a known toxin;
- (c) medical monitoring;
  - i) for the establishment of an endowment and/or fund sponsored by Defendants for the continued research into Thimerosal exposure, including long term effects, injuries, mercury toxicity generally, and other known and unknown problems associated with mercury exposure and mercury poisoning;
  - ii) for the establishment of an endowment and/or fund to allow for the infant Plaintiffs to be monitored by physicians and other healthcare professionals with the subsequent medical data being utilized in some manner approved by the Court and/or by some other sanctioned medical or scientific group, to fulfill the goals of this relief, namely to further the medicine and scientific information about exposure to mercury, and more specifically Thimerosal, whether by data compilation, independent studies, including biological and chemical studies and/or by epidemiological studies.
- (d) the costs of maintenance and expansion of networks to share vital medical information about the dangers and harms caused by exposure to Thimerosal from multi-dose vaccines;

(e) for whatever relief the Court deems just and proper under the circumstances.

### **JURISDICTION**

18. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332, because the amount in controversy as to Plaintiffs and each member of the Plaintiff Class exceeds \$75,000.00, exclusive of interest and costs, and because Defendants are incorporated and have their principal place of business in states other than the states in which the named individual and representative Plaintiffs reside.

**THIS ENTIRE DOCUMENT IS AVAILABLE AT THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF NEW YORK, OR YOU MAY CONTACT OUR OFFICE TO OBTAIN A COPY.**