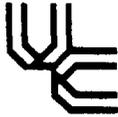


DOCUMENT SOURCE	
Lawrence Berkeley Laboratory Archives and Records Office SCIENTISTS' PAPERS	
Records Series Title	JOHN LAWRENCE
Accession No.	424-92-0066
File Code No.	19-14-6
Carton No.	2
Folder No.	SAENGER, EUGENE L.
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University of Cincinnati
Medical Center



University of Cincinnati Hospital
Cincinnati General Division

234 Goodman Street
Cincinnati, Ohio 45267

Eugene L. Saenger Radioisotope Laboratory
TELEPHONE (513) 872-4282

Lectator

*in addition
v. Tao*

March 28, 1983

*Lectator
File Saenger*

John Lawrence, M.D.
220 Glorietta Blvd.
Orinda, California 94563

Dear John,

In regard to our discussion concerning a possible suit involving the Regents of the University of California in regard to weapons testing, I base my somewhat paltry observations on my experience with the Utah trial which pitted the Department of Justice as defendants against Stewart Udall and his law firm representing some 1,000 plaintiffs. I am not certain that I can represent any of the following statements as being truly verifiable in a court of law but I believe them to be fairly accurate. They obviously need checking.

My first experience with all of this was when Stewart Udall, having just retired as Secretary of the Interior, passed through Cincinnati and gave a lecture at the EPA Auditorium here in which he essentially presented his brief, explaining how the inhabitants of southwest Utah and with some overlap into California and Nevada were affected by fallout with an increase in cancer. At that time I was too polite to ask him how he was financing this presentation of the case of these plaintiffs. Subsequently I have seen a letter in which the inhabitants of that portion of the country were circularized as to whether they had any recollection of events revolving about weapons testing and if they replied positively, they were asked to make a small contribution, say \$50 or \$100, to support their case. It was estimated by one of the U.S. attorneys that this fund which paid for out-of-pocket expenses, travel, developments of briefs, depositions, etc. amounted to about \$50,000.

In order to reduce the entire suit to some manageable dimensions it was agreed upon between plaintiffs and defendants that they would try approximately 26 cases. Twenty-five of these were some form of leukemia with the exception of chronic lymphatic leukemia and one case of carcinoma of the thyroid which was the one which I had most to do with. There are a great many technical angles to all of this which are really not necessary to go into at the moment.

This suit was against the United States of America and was defended by an attorney named Henry Gill from the Department of Justice with a staff of young attorneys, the U.S. Attorney assigned

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in Salt Lake City, and an attorney from Albuquerque working for the Department of Energy named Jake Chavez who is my very good friend and who has had a great deal of experience both at Rocky Flats and at Los Alamos. He can be reached at: Office of Chief Counsel, U.S. Department of Energy, P.O. Box 5400, Albuquerque, New Mexico 87115. I would strongly suggest that your people consult him as I think he is probably as knowledgeable as anyone working for the Federal government in these radiation cases.

It would not seem unlikely from what I know of other cases that the case would not actually be defended in large part by the Federal government since you are only the contractors operating the several laboratories involved rather than being strictly representative of the citizens of California. For example in the case of Boaz vs. Phillips Petroleum in Idaho, the Federal government paid for the costs of the trial and for the judgment which in that instance was against the government. They have also paid for the support of the case against Rocky Flats which I believe it operated by Dow Chemical. Mr. Chavez has tried a number of these cases and continues to do so.

In the case which I mentioned to you involving Wlادنstrom's macroglobulinemia, there was a very bright young attorney at the Department of Justice in Washington named Donald Jose. He can be reached at: Donald Jose, Trial Attorney, Torts Branch, Civil Division, U.S. Department of Justice, Washington, D.C. 20530. Mr. Jose informed me that the Department of Justice was trying to put together a group of attorneys who have particular expertise in these matters since they see so many of them being filed.

One of the major concerns which I feel very strongly about and which has appeared in the literature and has also gotten through an Act of Congress has to do with a concept of attributable risk, a term which you can find in many of the well-known texts on statistics and a well-recognized method of trying to determine an important factor in a situation which might be considered multifactorial in its etiology. Cancer would certainly qualify in this sense. Attached is testimony by Victor P. Bond, M.D.

In addition I attach the Orphan Drug Bill which was recently passed by Congress and signed by the President so it is now law. I direct your attention to Section 6 and suggest that both the Regents and your attorneys read this language very carefully. To me, it does not only guarantee that the taxpayers in the United States will be supporting all of the cancer patients in any region where fallout can be found but also will seriously compromise any physicians whose patients having had radiation will develop a disease which could be associated in any way with radiation. Although this concept was originally developed because it was thought to be a method of protecting the government against unreasonable suits, I think that the reverse will be the case and it will give citizens broad license to do as they please given various methods of calculation which can prove controversial if not disastrous.

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Records Series Title	<u>JOHN LAWRENCE</u>
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I will not go into my personal feelings about this concept at this point but only present it to you so that you can have people who are far more qualified in epidemiology, statistics and common sense evaluate the concept. After you have had a chance to review these documents with your experts further, I would be pleased to help in any way I can but these are some of the principal pitfalls.

There is one other matter which I am sure you will find vexatious in the extreme and that is a review of DAAG group, the ones which had to do with the assessment of dose from fallout. One of the principal scientists and a man of very high reputation whom I do not know personally is Dr. Lynn Anspaugh who I believe works at the Lawrence Livermore Laboratory. Most of this work was generated by DOE personnel and from my experiences with the one case with carcinoma of the thyroid tried at Utah was at least a vexatious experience if not almost completely inaccurate. The reason for my statement was that I was asked to defend the claim of a young woman who at approximately age 20 developed a papillary follicular carcinoma of the thyroid the diagnosis of which was not in contention. I was furnished dose estimates initially of approximately 340 rad which after about 6 months was reduced to an estimate of about 40 rad and then to about 20 rad. If any of this makes any sense to you, you are more tolerant than I am but since all of this was due to radioiodine-131 you may want to compare them with the experience which many of our associates have had using tracer doses of I-131 to diagnose thyroid disease during the 50's and 60's. In this particular case the exposure occurred primarily at one of the weapons tests in 1953. All of this material may not make you feel a great deal better but at least makes some suggestions as to how you might wish to proceed. I suspect that you might wish to keep this material somewhat confidential although there is nothing which I have given to you which is not in the public record so that there is no way that any of us can be compromised were the entire letter and contents made public.

Sincerely,



Eugene L. Saenger, M.D.

ELS/sck
enclosures

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