

1 IN THE HIGH COURT OF JUSTICE Case No.S/01/0173 and others
2 QUEEN'S BENCH DIVISION
Court 76

Royal Courts of Justice
Strand
London WC2

4 Monday 26th July 2004

5 Before:

6 MR JUSTICE KEITH

7 -----

8 In the Matter of the MMR Vaccination Litigation
9 Application Notices:

10 B E T W E E N:

11 SAYERS & Ors Claimants

12 AND

13 SMITHKLINE BEECHAM PLC and Ors Defendants

14 MR A ULLSTEIN QC (appearing pro- bono) appeared on behalf of
15 the Claimants.

16 MR STEWART (sitting alongside ANDY STEWART, father of
Tobias) appeared on behalf of Tobias Geoffrey Stewart

17 MR C GIBSON QC and MR PRASHAM POPAT (Instructed by Messrs
18 Davies Arnold Cooper, 6- 8 Bouverie Street, London EC4)
appeared on behalf of the Defendant SmithKline Beecham.

19 MR A PRYNNE QC and MR JONATHAN WAITE QC and MR T RILEY-
20 SMITH (Instructed by Messrs Lovells, 65 Holborn Viaduct,
London EC1) appeared on behalf of the Defendant Merck.

21 MR G LEGGATT QC and MR H MATOVU (Instructed by Messrs CMS
22 Cameron McKenna, Mitre House, 160 Aldersgate Street, London)
appeared on behalf of the Defendant APMSD

23 -----
Daily Transcript by
24 John Larking Verbatim Reporters
Temple Chambers, 3- 7 Temple Avenue, London EC4Y OHP
25 Tel 020 7404 7464 Fax 020 7404 7443

PROCEEDINGS

1 Shortly after, she started screaming, and would not
2 (inaudible)
3
4 LORD JUSTICE KEITH: Please take your time. Do
5 you want to come back? Do you want a, do you want to come
6 back to it a little later?
7
8 MRS WICKENS: No. Im fine.
9
10 LORD JUSTICE KEITH: Would you like to put in a
11 document for me to read rather than you stand there and read
12 it?
13
14 MRS WICKENS: No. I happen to think that all of you should
15 listen to it because I have seen the smirks on your faces
16 while youve been listening. I think you should hear this.
17
18 LORD JUSTICE KEITH: Please take your time.
19
20 MRS WICKENS: Over the net days and weeks the little baby I
21 knew was replaced with a baby that would cry day and night.
22 She lost her little smile (inaudible) and started to bite
23 and pull out large chunks of her hair. (Inaudible) was
24 covered with bald patches. She stopped talking and her
25 understanding disappeared. She had a hearing test done

1 under general anaesthetic and repeated several more times,
2 from which I was told she had nerve damage to her hearing,
3 and she was fitted with a hearing aid. Her hearing is now
4 good after suffering many years from glue ear. I do
5 remember she always wanted to be on my lap and looking back
6 I think she was terrified.

7
8 Melissa had suddenly changed to become autistic. This was
9 not something that came on slowly, or anything I would have
10 missed. She was not like this before the vaccine. She was
11 a totally different child. I could not get the doctors to
12 listen to me, and one even called me an overanxious neurotic
13 mother. Melissa was finally diagnosed as a severe autistic
14 with severe learning difficulties and (inaudible) behaviour.
15 She was underweight for many years and is now still on a
16 lower weight for her age. She was later diagnosed with
17 lymphoid (inaudible) and severe constipation. She has
18 (inaudible) in her bowel. She suffers from reflux. She has
19 severe (inaudible) and strange rashes which seem to occur at
20 the same time as her bowel pain. She wears nappies at night.

21 My daughters health is deteriorating. She now has a
22 stomach ulcer. She is 13« years old and still in nappies and
23 she is physically far stronger than I am when she in pain.
24 Her tummy is extremely swollen and (inaudible). She suffers
25 extreme bowel head and joint pain which is becoming more and

1 more frequent. When she is in pain she is terrifying to be
2 with. She will bite herself. She has a thick scar on her
3 hand from where she is biting it. You can see that in the
4 photograph.

5
6 She will take anyone in a fight. Kicking, scratching,
7 pulling hair and biting as hard as she can and she will not
8 let go. A few months ago she bit me 8 times in one attack
9 before she was pulled off me. I needed hospital treatment
10 and I will always have the scars on my arms.

11
12 She will also throw and break as many things as she can get
13 hold of when she is like this.

14
15 My daughter can now speak. Mainly in single words and always
16 (inaudible). When she is calmed down, she sobs to go to
17 hospital or to see a doctor. It is so awful when a doctor
18 cant or wont treat her. I cannot find any medication that
19 Melissa can tolerate for her pain. I feel so helpless. I
20 believe the MMR vaccine damaged Melissa. I was there. I
21 watches her change. I saw what happened.

22
23 Melissa does not have a future. Its just taken away from
24 her. She will always need 24 hour, 7 days a week, 1 to 1
25 care. She will not have a career. She will not get married

1 or have children. I hope that one day soon we can claim for
2 it. (Inaudible)

3
4 Melissa deserves her right to have her case heard in court.
5 She deserves to have compensation to allow her to have a
6 good quality of life. We need legal aid to do this. If there
7 were more strong evidence of MMR and autism in the near
8 future it would be unjust if her rights were taken away
9 (inaudible) compensation for her suffering (inaudible). I
10 feel Melissa has been severely damaged by this vaccine. I
11 wish she could talk to you and tell you how she feels
12 (inaudible). She has suffered enough, and she is in agony.

13
14 And there is actually one more matter. Like the others, I
15 filled in for the Legal Services Commission, the reasons why
16 I felt that Melissa should continue to have Legal Aid. And
17 I was naturally surprised when we got the cancellation
18 through. And I did phone them and (inaudible). And, I was
19 talking to a girl on the phone. And she said to me, she
20 didnt really say much, and I said to her, did you look at
21 the cases as a whole, were the cases as a whole, did you
22 make a decision on the cases as a whole, because I knew that
23 it was a group action. And she said yes. So I said, are you
24 saying that the weaker cases dragged my daughters down with
25 them, because my daughter is a strong case, Ive been told

1 that, and she said yes.

2

3 So I then decided to write in to ask the reasons why
4 Melissas legal aid was dropped, and also how they had come
5 to this decision. I have yet to hear from that, so I phoned
6 up, and left a message. Somebody very senior from the Legal
7 Services Commission phoned me back and in the course of the
8 conversation, he said that the decision to stop the Legal
9 Aid came from above. Now I said to him, what did you mean by
10 above. He said (inaudible) that the decision to stop Legal
11 Aid came from the Government He actually said that. It was
12 not. Why would I make that up. I have no need to make that
13 up. He said that to me. And I was not mistaken because I
14 asked him what he meant. I just feel that that should be
15 down on record.

16

17 I would also like an inquiry, an investigation, whatever it
18 is, that needs to go on. If that is the case, that is very
19 very serious. We dont stand a chance if that is the case. We
20 dont stand a chance. These children dont stand a chance.

21

22 LORD JUSTICE KEITH: And is your position, Mrs
23 Wilkins, the same as the others?

24

25 MRS WILKINS: Yes my Lord.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

LORD JUSTICE KEITH: You discontinue, but want
to be able to resurrect the claim if public funding is
restored. The photograph youve given me of Melissa, do you
want me to keep that?

MRS WILKINS: You can keep that, sir. Do look at it when
you do make your decision.

LORD JUSTICE KEITH: Thank you very much.

Well, it is now 1 oclock. Are there any other parents who
wish to address me? Yes? You madam, just to see how many
there are. Two. Anyone up the back? Three, four. I just want
to have some idea as to how long were likely to be. But now
is the time that we normally stop for lunch. So I will hear
from you if I may, after lunch.

We start again at 2 oclock.

Luncheon Adjournment

MRS HAMLIN: I am Susan Hamlin and I am the mother of
Francis Hamlin and I was his litigation friend, but as he is
about to be 20 I gather he should normally represent