

Date: 2002-07-23

FOR IMMEDIATE RELEASE: JULY 22, 2002 -- Anthrax Vaccine Fraud Lawsuit

CONTACT: Kenneth T. Levine, Nelson Levine de Luca & Horst
Three Valley Square, Suite 280
512 Township Line Road
Blue Bell, PA 19422
215-283-6570 (office)
215-588-5085 (cell)
215-628-0657 (fax)
E-mail: klevine@nldhlaw.com ;

On July 24, 2002, the United States District Court for the Western District of Michigan heard oral argument on the Motion to Dismiss filed by BioPort Corporation in the matter, U.S. ex rel. Dingle v. BioPort Corporation (Case No. 5-00-CV-124). In this lawsuit, Russ Dingle and Tom Rempfer have filed a claim on behalf of the United States of America against BioPort Corporation, and its head of operations, alleging that BioPort - the sole American manufacturer and distributor of the anthrax vaccine - is responsible for the presentation of false claims to the United States government. The basis for such lawsuit arises from their discovery that the anthrax vaccine sold after 1990 to the United States government (principally for the involuntary inoculation of military forces) was manufactured without conformity to the approved limitations established by the Food and Drug Administration (FDA) when it licensed the controversial vaccine.

The oral argument was heard by the Honorable Gordon J. Quist at 3:30 p.m. BioPort principally has attacked the complaint that Dingle and Rempfer drafted and filed without the assistance of counsel on various technical grounds. At no time does BioPort affirmatively argue that FDA violations did not occur or that false claims were not filed, but simply that the Complaint filed by Dingle and Rempfer failed to conform to purportedly stringent pleading requirements for such lawsuits.

Dingle and Rempfer were forced to resign from their pilot positions at the Connecticut Air National Guard in 1999 when their documented concerns as to the safety, efficacy, necessity and legality of the military's AVIP (Anthrax Vaccine Immunization Program) and the vaccine itself were never addressed. Following their resignations, Dingle and Rempfer testified before the United States House of Representatives in furtherance of their broad efforts to keep a focus of the improprieties of the AVIP and the military's response to the legitimate medical concerns surrounding the vaccine.

The Judge's decision on the motions to dismiss hearing is expected in early August.

Additional resources:

GAO Report concerning changes in manufacturing process:
<http://www.gao.gov/cgi-bin/getrpt?gao-02-181t> ;

False Claims Case:

<http://www.nlj.com/cases/1029anth-dingle.pdf>