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Family Opposes Motion to Dismiss Lawsuit Against DOD Over Death of 24-Year-Old From COVID-Vaccine-Related Myocarditis

The family of George Watts Jr., a 24-year-old who died of complications from COVID-19 vaccine-induced myocarditis, today contested a motion to dismiss its lawsuit against the U.S. Department of Defense. Children's Health Defense is funding the lawsuit on behalf of Watts' family.

By Brenda Baletti, Ph.D.

The family of a 24-year-old man who died of complications from COVID-19 vaccine-induced myocarditis today contested a motion to dismiss its lawsuit against the U.S. Department of Defense (DOD), which oversaw the development and distribution of the vaccines under Operation Warp Speed.

Ray Flores, Children's Health Defense (CHD) outside counsel, is representing the estate of George Watts Jr.

Flores filed the memorandum in the U.S. District Court for the District of Columbia. CHD is funding the lawsuit filed on May 31.

The Watts family alleges Defense Secretary Lloyd Austin engaged in "willful misconduct" by exaggerating the safety of the Pfizer-BioNTech vaccine authorized for emergency use and then exclusively allowed distribution of the stockpiled version of the vaccine even after the U.S. Food and Drug Administration (FDA) granted full approval to a different vaccine, Comirnaty.

The DOD intentionally, without justification and with disregard for the difference between the experimental and licensed vaccines, misrepresented an experimental vaccine as "safe and effective" when it could not legally use that terminology for them, the lawsuit states.

As a result, according to the complaint, Watts was misled into taking the investigational vaccine and died as a result.

The DOD argued in its motion to dismiss that the department cannot be sued in this case because it has "sovereign immunity," which is a legal doctrine asserting the state cannot commit legal wrongdoing and therefore cannot be sued without its consent.

The DOD also argued that even if the state did not have sovereign immunity, the complaint's allegations were not sufficient to claim the DOD engaged in "willful misconduct" when it made public statements about the safety and efficacy of the COVID-19 vaccine.

The DOD claimed the licensed and experimental vaccines were interchangeable and any

statements were consistent with evaluations and recommendations made by the FDA and the Centers for Disease Control and Prevention (CDC).

The plaintiff argued that "sovereign immunity" does not apply under the Public Readiness and Emergency Preparedness (PREP) Act in this case and that cutting off all redress, even in the case of DOD's "willful misconduct," is unconstitutional and therefore it would lose the immunity typically offered by the PREP Act.

Responding to DOD's assertion that it did not engage in "willful misconduct," the plaintiff wrote:

> "[The] Defendant's Motion improperly attempts to shift the focus away from DOD's indisputable liability for hornswoggling Americans into participating in its deadly mass human experiment — one that far surpassed the reach of the lethal medical experimentation that led to the U.S. Military Tribunals of Nazi doctors in Nuremberg some 75 years earlier.
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> "DOD's experiment pushed several hundred million free vaccines on a trusting American public with an intentionally deceptive promise that the vaccines were safe and efficacious, while Operation Warp Speed ('OWS') kept detailed records and an ongoing tally of the severely injured and the dead."

'DOD rushed a mass medical experiment on the American population'

Watts was a student at Corning Community College in Corning, New York, in the summer of 2021, when the school mandated the COVID-19 vaccine for all students attending fall classes.

He waited to get vaccinated until the FDA "approved" the Pfizer Comirnaty vaccine and got his first dose at Guthrie Robert Packer Hospital in Pennsylvania on Aug. 27, 2021, and his second dose on Sept. 17, 2021.

He was administered the Emergency Use Authorization (EUA) Pfizer BioNTech COVID-19 vaccine, even though the FDA had approved the Pfizer Comirnaty vaccine on Aug. 23, 2021, because the DOD didn't make the approved vaccines available to the public.

According to the complaint, Watts suffered "medical symptoms" after his first dose and more serious neurological side effects, along with a sinus infection, after the second dose. He was treated with antibiotics, but his health continued to decline.

The 24-year-old had no previous medical history that would explain his death in the

emergency room from cardiac arrest on Oct. 27, 2021. The medical examiner ruled the death was from "complications of COVID-19 vaccine-related myocarditis."

His death certificate also listed COVID-19 vaccine-related myocarditis as the sole immediate cause of death.

Watts' family first sought compensation for his death under the Health Resources & Services Administration's Countermeasures Injury Compensation Program (CICP).

The CICP was established under the PREP Act, which protects "covered persons" — such as pharmaceutical companies, or in this case, the DOD — from liability for injuries sustained from "countermeasures," such as vaccines and medications, administered during a public health emergency.

As of Aug. 1, only four CICP claims totaling $8,592.55 have been paid out for injuries related to COVID-19, which the memorandum filed today notes is not "adequate, prompt, timely, reasonable or equitable."

According to the memorandum:

> "Not only is the CICP insufficient to satisfy due process, but here due process is further offended when a Plaintiff, upon exiting the CICP program, has absolutely no remedy against willful misconduct —– the only possible claim — against federal agencies and actors hiding behind the shield of sovereign immunity."

The only exception to PREP Act immunity is if a countermeasure-related injury is caused by "willful misconduct" by a covered person or entity.

The complaint alleges the DOD engaged in willful misconduct when it propagated the idea that the experimental versions of the COVID-19 vaccine were "safe and effective," while fully aware that the FDA's EUA does not meet that standard.

"Countermeasures" such as treatments and vaccines produced under EUA only have to meet a standard of "may be effective."

According to the complaint, the DOD "capitalized on a quintessential 'bait and switch' fraud," using the fact that Comirnaty was FDA-approved to bolster its claims that the vaccine authorized for emergency use was "safe and effective," in a move that intentionally misled millions of Americans.

That means the DOD intentionally, without justification and with disregard for the risks,

misrepresented an experimental vaccine as "safe and effective" when it could not legally use that terminology, the original lawsuit states.

This was the equivalent of deploying weapons on the American people, Flores told The Defender:

> "Biologics are not ordnances. The deployment of weaponry is poles apart from logistics for medicines. But once given the opportunity to lead Operation Warp Speed, DOD ignored the different parameters.
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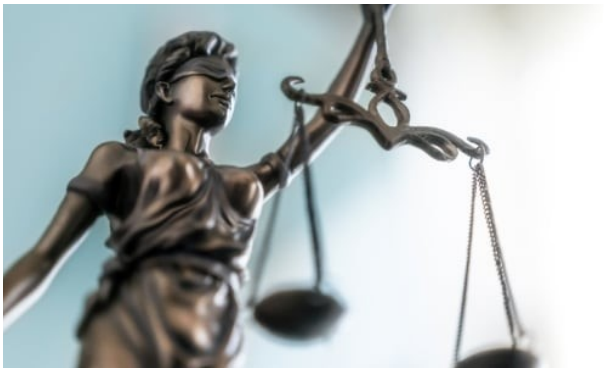
> "With unprecedented power over the civilian population in hand, and emboldened by the PREP Act, DOD rushed a mass medical experiment on the American population consistent with the way it experiments on soldiers."



'The crown could not be sued without consent'

The DOD said the court has no jurisdiction over the Watts case because sovereign immunity protects the DOD from being sued and the PREP Act does not provide an exception waiving that immunity.

According to the DOD, sovereign immunity is constitutional and the constitutional framers did not intend to upset the royal tradition.

"When the Constitution was ratified, it was well established in English law that the Crown could not be sued without consent in its own courts," the DOD claimed, citing Alden v. Maine.

But according to the plaintiff, sovereign immunity in this case is unconstitutional and therefore "severable," meaning it could be cut out of the PREP Act while still leaving the law intact as an operable statute.

"The PREP Act requires DOD to defend itself in court," the plaintiff said. Granting sovereign immunity, in this case, would violate the family's Fifth Amendment right to just compensation.

"A statute that creates a claim and then does not allow anyone to prosecute such a claim is unconscionable as well as unconstitutional," according to the memorandum.

Further, the motion to dismiss dismisses all of the allegations in the complaint, which legally the court must accept as true. In doing so, the DOD asserts there is no material difference between the experimental and licensed COVID-19 vaccines and that it never misled the

American public as to the safety and efficacy of those vaccines.

The DOD also ignores its own history of human experimentation with anthrax vaccine mandates for the military that were previously found to be illegal, the memo states.

SUGGEST A CORRECTION

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Brenda Baletti Ph.D. is a reporter for The Defender. She wrote and taught about capitalism and politics for 10 years in the writing program at Duke University. She holds a Ph.D. in human geography from the University of North Carolina at Chapel Hill and a master's from the University of Texas at Austin.