PRESS RELEASE
March 17, 2002

The Dallas-based law firm of Waters & Kraus announced today that it has received documents as a result of the discovery process in the case of Counter v. Eli Lilly & Company, et al, currently pending in Brazoria County, Texas that come from the archives of Eli Lilly & Company. The documents clearly demonstrate that Lilly's thimerosal product, the mercury-based vaccine preservative implicated in a number of recent law suits as causing neurological injury to infants, was known as early as April 1930 to be dangerous.

In its apparent eagerness to promote and market the product, in September, 1930, Eli Lilly secretly sponsored a "human toxicity" study on patients already known to be dying of meningococcal meningitis. Senior partner Andrew Waters stated that, "Lilly then cited this study repeatedly for decades as proof that thimerosal was of low toxicity and harmless to humans. They never revealed to the scientific community or the public the highly questionable nature of the original research."

While Eli Lilly made every effort to corrupt the medical and scientific literature, the process of arranging to publish the results of its questionable secret study, other researchers have provided Lilly with numerous articles since the 1930's indicating concerns about thimerosal and its potential hazard to humans who might be exposed or injected with the substance. The evidence clearly demonstrates that Eli Lilly was advised repeatedly that their conclusions of low toxicity were not warranted and that they failed to pass the information on to appropriate federal and public health authorities. The following time line illustrates some, but by no means all, of the documentary evidence on this point from Lilly's internal files:

1947 Article received by Lilly: "No eruptions or reactions have been observed or reported to merthiolate internally, but it **may be dangerous to inject a serum** containing merthiolate into a patient sensitive to merthiolate."

1948 Article received by Lilly: "Merthiolate is such a commonly used preservative for biologicals, plasma, cartilage, etc., that **it would seem important to determine whether harm would result following its subcutaneous or intravenous injection in skin sensitive individuals."**

1950 New York Academy of Science article, "Mercurials as Antiseptics:" "It (merthiolate) is **toxic when injected** parenterally and therefore cannot be used in chemotherapy."

1963 Article received by Lilly: "There is another point of practical significance: does the parenteral injection of merthiolate-containing fluids cause disturbances in merthiolate-sensitive patients?" "It is known that persons that are contact sensitive to a drug may tolerate the same medications internally, but **it seems advisable to use a preservative other than merthiolate for injections in merthiolate-sensitive people."**

8/17/67 Medical/Science department requests that the claim "non-toxic" on thimerosal labels be deleted in next printing run.

8/29/67 Draft label changed to "non-irritating to body tissues," non-toxic omitted.

1972 British Medical Journal reports case of skin burns resulting from the chemical interaction of thimerosal and aluminum. "Mercury is known to act as a catalyst and to cause aluminum to oxidize rapidly, with the production of heat." "The manufacturers who supply us with thimerosal have been informed." [Thimerosal is being used in vaccines which also contain aluminum].

1972 Article received by Lilly: **Merthiolate in vaccines caused six deaths** – "The symptoms and clinical course of the six patients suggest subacute mercury poisoning."

4/27/76 Lilly responds to Rexall Drug Company's efforts to place the following warning on Merthiolate product: "Frequent or prolonged use or application to large areas may cause mercury poisoning." Lilly objects to this proposed warning, stating:

> "We object to the connection of our trademark with the unjustified alarm and concern on the part of the user which the statement is likely to cause… . We are not aware of any instance of 'mercury poisoning' after decades of marketing this product. This is because the mercury in the product is organically bound ethylmercury as a completely non-toxic nature, not methylmercury."

1/5/82 FDA's advance notice of proposed rule making regarding thimerosal:

> "At the cellular level, thimerosal has been found to be more toxic for human epithelial cells in vitro than mercuric chloride, mercuric nitrate, and merbromim (mercurichrom)." "It was found to be 35.3 times more toxic for embryonic chick heart tissue than for staphylococcus areus." 1950 study showed that thimerosal was no better than water in protecting mice from potential fatal streptococcal infection."
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> **"The Panel concludes that thimerosal is not safe** for OTC topical use because of its potential for cell damage if applied to broken skin and its allergy potential. It is not effective as a topical antimicrobial because its bacteriastatic action can be reversed."

4/7/83 Additional language added to **some** Lilly labels: "As with any drug, **if you are pregnant or nursing a baby**, seek the advice of a health professional before using this product."

1991 Lilly ceases manufacture/sale of thimerosal. Licensing agreements demonstrate continued profits from the product until at least 2010.

12/8/99 Lilly MSDS regarding thimerosal:

> "Primary Physical & Reproduction Effects: Nervous System and Reproduction Effects"

"Effects of exposure include fetal changes.

"Mercury poisoning may occur."

"Exposure in children may cause mild to severe mental retardation... ."

"Hypersensitivity to mercury is a medical condition aggravated by exposure."

CERCLA Hazardous substance – toxic waste disposal.

Waters & Kraus is litigating a growing number of individual cases across the country involving infants that sustained serious neurological injuries from the thimerosal contained in their pediatric vaccines. Waters & Kraus is leading the following coalition of firms in bringing these cases to trial:

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