

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HAZLEHURST,)
)
 Petitioner,)
)
 v.) Docket No. 03-654V
)
 SECRETARY OF HEALTH AND)
 HUMAN SERVICES,)
)
 Respondent.)

Courtroom 6330
 North Carolina Superior Court
 832 East Fourth Street
 Charlotte, North Carolina

Monday,
 October 15, 2007

The parties met, pursuant to notice of the
 Court, at 9:00 a.m.

BEFORE: HONORABLE PATRICIA CAMPBELL-SMITH
 Special Master

APPEARANCES:

For the Petitioner:

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 Webb, Webb and Guerry
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 P.O. Box 1768
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For the Respondent:

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C O N T E N T S

WITNESSES:	DIRECT	CROSS	REDIRECT	RECROSS	VOIR DIRE
For the Petitioner:					
Angela Hazlehurst	17	42	--	--	--
Anne Garrard	49	--	--	--	--
Aud Hazlehurst	68	86	--	--	--
Rolf Hazlehurst	90	121	--	--	--

P R O C E E D I N G S

(9:00 a.m.)

1
2
3 THE CLERK: All rise. The United States
4 Court of Federal Claims is now in session.

5 THE COURT: Good morning. Please be seated.
6 We are on the record in the matter of Hazlehurst v.
7 Secretary of the Department of Health and Human
8 Services, Case No. 03-654V. The purpose of this
9 week's proceeding in Charlotte, North Carolina, is
10 twofold. The first purpose of this proceeding is to
11 hear fact and expert testimony concerning the claim
12 brought under the Vaccine Act by Mr. and Mrs. Rolf
13 Hazlehurst on behalf of their now seven-year-old son,
14 Yates.

15 The Hazlehursts have alleged that the
16 vaccinations Yates received within his first year of
17 life caused his gastrointestinal condition and his
18 autism. Consistent with the requirements of the
19 Vaccine Act, this claim has been assigned to me,
20 Special Master Patricia Campbell-Smith, to determine
21 whether the Hazlehursts are entitled to compensation
22 under the Vaccine program for Yates' injuries, and I
23 alone will decide Yates' particular case.

24 While the Hazlehursts are bringing a
25 specific claim on behalf of their son, they have

1 agreed to permit their case to be heard as a test case
2 in the joint proceeding known as the Omnibus Autism
3 Proceeding, or OAP. The OAP is an efficient method of
4 proceeding on the nearly 5,000 individual vaccine
5 claims filed by families on behalf of their children,
6 who have autism or a similar condition.

7 The OAP permits the hearing of expert
8 medical and scientific testimony within the context of
9 an actual case that also serves as a test case on the
10 general causation issue of whether routinely
11 administered childhood vaccinations can cause autism.
12 The test case is decided on its particular facts, and
13 the general causation evidence that is heard may be
14 applied later in other specific cases.

15 Because the Hazlehursts have agreed to
16 permit their case to be heard as a test case, the
17 second purpose of this hearing is to hear additional
18 general causation evidence on the first theory of
19 causation asserted by petitioners in the OAP. The
20 first theory of general causation advanced by
21 petitioners is that the combination of thimerosal-
22 containing vaccines and the MMR vaccine can cause
23 autism, and three test cases will be heard on this
24 general causation theory.

25 The first test case was the Cedillo case,

1 which was heard in June of this year. This case, the
2 Hazlehurst case, is the second test case, and the
3 third test case is the Snyder case, which will be
4 heard in just a few weeks in November.

5 Because general causation evidence will be
6 heard in this proceeding that may be applied in later
7 autism cases, my colleagues, Special Master George
8 Hastings and Special Master Denise Vowell, will be
9 present in the general seating area of the courtroom
10 during part of this proceeding. We will commence this
11 proceeding each day at 9:00 a.m. On Thursday, October
12 18 however, we will commence at 10:30 a.m. to
13 accommodate the late night international travel of
14 both of Respondent's anticipated experts on that day.

15 Each day we will break an hour for lunch and
16 take two 15-minute breaks, one in the morning, and one
17 in the afternoon. We will adjourn each day at the
18 conclusion of the scheduled testimony. At this time,
19 I remind all to power down your noisemaking electronic
20 devices and will commence with brief opening
21 statements from counsel. Petitioner's counsel, please
22 begin introducing yourself first for the record.

23 MR. WEBB: I am Curtis Webb of Twin Falls,
24 Idaho. Here at counsel's table with me are Mr. and
25 Mrs. Hazlehurst, the Petitioners in this matter. Mr.

1 Hazlehurst's father is here as is his sister, who is
2 Anne Garrard, one of our witnesses today. Mr.
3 Hazlehurst's mother will also be testifying, but she
4 can't sit for very long because of medical conditions,
5 so she'll be joining us before her testimony.

6 THE COURT: Thank you. Mr. Webb to begin.
7 Just a reminder to counsel, there is no podium, so
8 counsel will be presenting and speaking from counsel
9 table at all times.

10 MR. WEBB: That works fine for me. We hope
11 to demonstrate that the thimerosal that Yates
12 Hazlehurst received through his vaccinations and/or
13 his February 8, 2001, MMR vaccination caused him to
14 develop regressive autism. Today's testimony will
15 present facts specific to Yates Hazlehurst. The
16 important facts are Yates developed normally until
17 spring of 2001.

18 Yates received thimerosal-containing
19 vaccines throughout his first year of life and
20 received an MMR, HIB, hepatitis B and Prevnar
21 vaccination on February 8, 2001, just before his first
22 birthday. Yates was sick when he received the
23 vaccinations. He had an ear infection for which he
24 was prescribed amoxicillin. Yates remained sick for
25 about two weeks after the vaccination.

1 On February 20, 2001, he developed a rash,
2 fever and cough, which was reported to his
3 pediatrician. At the time, the pediatrician
4 prescribed another antibiotic. The first symptoms of
5 Yates' autism were less interest in other persons, for
6 example, his parents and his cousins, who were then
7 six and three years old, and wild behavior, running
8 away from his caregivers as soon as, whenever he got a
9 chance.

10 These began in late March or early April
11 2001. The next symptoms of Yates' autism was self-
12 limiting his diet. This began in early June of 2001.
13 The next symptom of Yates' autism was a change in his
14 speech. He stopped using functional language, please,
15 juice, bye-bye and things like that, and instead
16 excelled in recognition and reciting numbers and
17 letters. This began in late June and early July of
18 2001.

19 By early 2002, Yates had stopped speaking
20 altogether. By August 2001, Yates' regressive autism
21 also featured pronounced self-stimulatory behaviors,
22 winding toys up, spinning wheels and hand flapping.
23 There was some of this behavior earlier, as early as
24 June. Yates developed chronic diarrhea in late June
25 or early July. This was during the Norway trip that

1 you'll hear something about. The diarrhea persisted
2 until 2004, when it was treated by Dr. Buie.

3 Actually, it improved when changes were made
4 in his diet in 2002, and it improved again in 2003
5 when Dr. Buie first saw Yates, but it really didn't
6 entirely clear up until the parents began using the
7 current regimen of enzymes and medication in 2004.
8 Yates' autism today is characterized by delayed
9 speech, more severely delayed in expression and
10 reception. By wild behavior, he still will run away
11 if not constantly supervised and inhibited from
12 running away.

13 Limited self-stimulatory behavior has been
14 limited through radiotherapy over the last years, and
15 the need for medication. If he didn't take
16 medication, he would never sleep, and also the
17 medications limit aggressiveness. We believe that
18 these facts implicate thimerosal and/or the MMR
19 vaccination as significant contributing factors in his
20 regressive autism.

21 Tomorrow's testimony will present additional
22 medical evidence for a causal relationship between
23 thimerosal and/or the MMR vaccination and Yates'
24 autism. The evidence we present and that previously
25 presented in the Cedillo hearing

1 demonstrate that regressive autism is a result of a
2 genetic predisposition and environmental exposure.

3 That when trying to understand a child's
4 regressive autism it makes sense to look at
5 environmental exposures temporally associated with the
6 first symptoms or manifestations of the child's
7 autism. The evidence demonstrates that exposure to
8 thimerosal can cause a genetically predisposed child
9 to develop autism. Thimerosal contains mercury, a
10 potent neurotoxin.

11 Some children are less able to excrete
12 mercury and are therefore at greater risk of being
13 injured by exposure at low levels of mercury, and
14 thimerosal in vaccines causes motor and language tics.
15 The evidence will also demonstrate that MMR
16 vaccination can cause a genetically predisposed child
17 to develop autism. The measles virus causes acute and
18 chronic neurologic illness. Mild or subclinical
19 measles infection can cause neurologic illness.

20 That is to say that the presence or severity
21 of neurologic illness is not related to the severity
22 of the rash or fever a child suffers as a result of
23 measles. Measles RNA has been found in biopsies taken
24 from the gut and the cerebral spinal fluid of children
25 with autism both in the lab in Ireland, in the

1 Unigenetics lab, and by a lab here

1 in the United States, at Wake Forest University.

2 The measles virus probably causes or
3 triggers the chronic intestinal inflammation in most
4 children that develop autism and chronic bowel
5 inflammation within six months of MMR vaccination.
6 And then that last statement is based primarily on the
7 testimony of Dr. Krigsman from the Cedillo hearing.
8 We have in this case evidence about the specific
9 symptoms of Yates' gastrointestinal complaints.

10 The evidence also demonstrates that
11 inflammation in the gut can cause inflammation of the
12 brain and therefore neurologic symptoms and neurologic
13 illness. And neurologic symptoms of inflammatory
14 bowel disease and neurologic symptoms of celiac
15 disease. This ataxia and the other neurologic
16 symptoms are an indicia of this relationship between
17 inflammation and the intestines and the brain.

18 Together, the facts specific to Yates
19 Hazlehurst's illness, and the medical testimony about
20 thimerosal and the MMR vaccination and autism provide
21 a reliable medical theory causally connecting the
22 vaccinations to Yates' regressive autism. They
23 provide a logical sequence of cause and effect showing
24 the vaccinations were the cause of his regressive
25 //

1 autism, and they provide a showing of a proximate
2 temporal relationship between vaccination and injury.

3 In the broader context as a test case, Yates
4 Hazlehurst's case provides a reliable set of criteria,
5 which the Court can apply to determine which children
6 with autism were injured by thimerosal and/or the MMR
7 vaccine. One thing that sets the Hazlehurst case
8 apart from the other two test cases is we do not have
9 a Yates Hazlehurst-specific identification of RNA in
10 the intestines or the cerebral spinal fluid.

11 We believe that clinical indicia of vaccine-
12 related autism is sufficient, and we hope to provide
13 the kind of criteria the Court would apply in other
14 cases in which the children were not able to have
15 their samples tested. Thank you.

16 THE COURT: Thank you. Respondent's
17 counsel, please introduce yourself for the record.

18 MR. MATANOSKI: Thank you, Your Honor, Vince
19 Matanoski for the United States. First, I'd apologize
20 that I have to sit while addressing you. I far prefer
21 and am more comfortable if I were to be able to speak
22 while addressing you, ma'am, but as you know, we're
23 forced by the technology here to be sitting when
24 addressing you.

25 This has been designated -- this Hazlehurst

1 case has been designated as

1 a test case. That is, it's supposed to serve as a
2 paradigm under the PSC's profession -- this is
3 supposed to serve as a paradigm for a majority of
4 other cases that are currently pending before you and
5 the other two Special Masters. Now, it's curious that
6 this case as a paradigm offers no cohesive theory of
7 cause and effect. Not a cohesive theory of cause and
8 effect as to how a combination of thimerosal-
9 containing vaccines and MMR would cause autism or how
10 either thimerosal-containing vaccines or MMR singly
11 would cause autism.

12 Rather, what you've been presented with is a
13 series of hypotheses. Hypotheses that have been put
14 forward by those who seek to implicate vaccines as a
15 cause of autism. These hypotheses have been
16 unsupported and unproven.

17 The testimony that you're going to hear from
18 Dr. Corbier is going to essentially recount these
19 hypotheses that there's been a rise in the incidence
20 of autism that's unexplained, the hypothesis that
21 mercury accumulates in a special category of
22 genetically susceptible children, another unsupported
23 claim, that somehow the measles virus creates
24 inflammation in the gut and that that inflammation in
25 turn creates some sort of problem in the brain that in

1 turn leads to autism.

2 Again, a hypothesis that's unsupported.

1 Finally, what you're going to hear from Dr. Corbier is
2 that thimerosal-containing vaccines and MMR are simply
3 one amongst other contributing factors as a cause of
4 autism. You are going to be left with no cohesive
5 theory that you could apply to this case or any other
6 that it's supposed to serve as a paradigm for.

7 Regardless of whether there's a cohesive
8 theory articulated, you've already heard evidence by
9 virtue of the Cedillo case that discounts and
10 disproves each of these hypotheses in their several
11 parts. Moreover, you're about to hear expert
12 testimony from Respondent's experts that's going to
13 again reveal that those hypotheses are unsupported.
14 They're essentially simply uninformed speculation
15 without any basis in reliable science.

16 You'll also hear that in a factual context
17 of this case there's no basis for a finding that Yates
18 Hazlehurst's autism is either caused by the
19 thimerosal-containing vaccines or the MMR vaccine
20 singly or in concert. The bases of Dr. Corbier's
21 opinion will be removed one by one. First, Yates had
22 no immune impairments, either before or at the time he
23 received his vaccinations or at the time that his
24 autism manifested itself.

25 There's no clinical or diagnostic evidence

1 to support the claim of immune impairment. Second,
2 there is no medical contraindication to administering
3 the vaccine at the time Yates was ill. The
4 pediatrician isn't to blame for Yates' autism. Third,
5 the timing of Yates' autistic symptoms, whether they
6 first appeared at 12 months or 18 months has no
7 bearing at all on the cause of his autism.

8 His clinical course including the timing of
9 his symptoms and the symptoms themselves are precisely
10 the type, they're no different than the type of
11 symptoms and the kind of symptoms you'll see in
12 regressive autism cases regardless of vaccination
13 status. Fourth, there is no evidence of inflammatory
14 bowel disease in this case. Autistic enterocolitis is
15 not a recognized disease entity. Rather, it's a
16 fiction that's been initiated by Andrew Wakefield and
17 perpetuated by him and his collaborators.

18 Finally, you're going to hear Dr. -- you'll
19 find that Dr. Corbier has no support for his claim
20 that thimerosal-containing vaccines have any role in
21 the causation of autism. They do not impair immune
22 systems, and there is no basis for concluding that
23 thimerosal in the amount received in vaccinations
24 causes autism. I started by observing that what
25 you're going to hear from the Petitioners is simply a

1 review of the various

1 hypotheses that have been put forward by those who
2 seek to implicate vaccines as a cause of autism.

3 It's appropriate to end my comments on a
4 further observation. Dr. Corbier separated what he
5 called the conventional view from hypotheses that he
6 champions. On one hand, he says there's the
7 conventional view, and on the other hand, he says
8 there are hypotheses. The conventional view -- what
9 he calls the conventional view is the view shared by
10 the majority of scientists, clinicians and other
11 medical professionals who research and treat autism.

12 He contrasts that view with what he terms
13 are "parental hypotheses." Now, you are charged under
14 law with deciding this case based on reliable science.
15 That's the mandate provided by the Supreme Court in
16 Daubert. I ask you. Could parental hypotheses
17 possibly provide that scientific basis for deciding
18 this case? Aren't such unverified guesses the very
19 pseudoscience banned from this courtroom?

20 Even apart from the legal strictures that
21 bind you in making this decision, common sense
22 dictates that complex medical questions of causation
23 they must be decided on reputable, reliable science,
24 the science that Dr. Corbier calls conventional view.
25 Thank you, Your Honor.

ANGELA HAZLEHURST - DIRECT

1 THE COURT: Thank you, counsel. Mr. Webb?

2 MR. WEBB: We'll call our first witness.

3 THE COURT: Please.

4 MR. WEBB: That first witness will be Angela
5 Hazlehurst, and at this time, I'll ask the additional
6 witnesses that are in the courtroom to step out.

7 THE COURT: Thank you. Do you have water?

8 MRS. HAZLEHURST: (Angela) I do. Thank
9 you.

10 THE COURT: Okay.

11 Whereupon,

12 ANGELA HUGHES HAZLEHURST

13 having been duly sworn, was called as a
14 witness and was examined and testified as follows:

15 THE COURT: Thank you.

16 DIRECT EXAMINATION

17 BY MR. WEBB:

18 Q Can you give us your name and address for
19 the record, please?

20 A Let me see if I can scoot up. Does this
21 chair move?

22 THE COURT: It doesn't move.

23 THE WITNESS: Okay. Angela Hughes
24 Hazlehurst. Address 102 Woodhaven Drive, Jackson,
25 Tennessee, 38301.

ANGELA HAZLEHURST - DIRECT

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BY MR. WEBB:

ANGELA HAZLEHURST - DIRECT

1 Q Now, you'll need to remember to keep your
2 voice up both for the recording and for my benefit,
3 because my hearing aid doesn't seem to be working
4 today.

5 A Okay.

6 Q And also when you're answering yes or no
7 questions, make sure you say yes or no because the
8 recording doesn't pick up nods and shaking of the head
9 or gestures.

10 A Okay.

11 Q Are you Yates Hazlehurst's mother?

12 A I am.

13 Q I'd like to begin by talking about Yates'
14 current condition, his strengths and weaknesses and
15 how autism affects him. Will you describe Yates'
16 current language development?

17 A Yates can currently express needs. For
18 example, he can say I want juice, I want chip, I want
19 to go bye-bye. The longest sentence that Yates can
20 express is about five words. However, he can't
21 express what he did for the day. I can't ask Yates
22 what did you do today, and he could not recall that
23 language. I would describe his language as
24 expressively very delayed and receptively delayed as
25 well.

ANGELA HAZLEHURST - DIRECT

1 Q When Yates says something, typically how
2 long is the sentence?

ANGELA HAZLEHURST - DIRECT

1 A His first initial response is usually one to
2 two words. With prompting, or I can hold an object
3 away from him, we can usually get him up to five or
4 six words in a sentence.

5 Q So give us an example of a typical first try
6 from Yates?

7 A Mommy go bed. Go bed, and I might prompt
8 him mommy can I go to bed, please?

9 Q Do you have any idea of how many words he
10 knows?

11 A Yates can identify probably over 100 items
12 if you were to present a prop and show him, but his
13 meaningful speech is not there.

14 Q He uses fewer words than he can actually
15 identify?

16 A Correct. I'm sorry.

17 Q I'm sorry?

18 A He doesn't actually use the words that he
19 can identify. He can just identify if shown a photo
20 or an actual object.

21 Q Can he follow simple instructions?

22 A Yates can follow two-step directions,
23 certainly one step and sometimes two-step directions.
24 For example, I might say Yates, go get mommy's shoe
25 and bring it back to me. He could do that if I

ANGELA HAZLEHURST - DIRECT

1 pointed and prompted him to do so.

2 Q How does Yates interact with you and his
3 father and his sister?

4 A Yates tolerates his sister. He knows that
5 she's there. If she were to hug him, he would not
6 engage, but he might look at her and just be there.
7 Yates interacts with Rolf and I in a more need basis.
8 For example, he is affectionate. He will sit in our
9 laps, but his communication with us is more to express
10 his needs of if he's hungry, if he wants to go bye-
11 bye, if he wants to take a bath.

12 Q Does Yates play?

13 A Yates -- um -- I would not consider it play
14 like I see with typical children. He can work a
15 puzzle if it's presented, but as far as play, I can't
16 think of a toy in our house that Yates typically -- or
17 would -- you'd call typical play. He might spin a CD
18 or spin a toy, but I wouldn't necessarily consider it
19 play.

20 Q How does he interact or does he interact
21 with other children?

22 A Yates does not typically interact with other
23 children.

24 Q What kind of -- what other challenges does
25 Yates present because of his autism?

ANGELA HAZLEHURST - DIRECT

1 A Yates is very hyperactive, and there are
2 times when he might run away. He's a child that -- we
3 call it the Fort

ANGELA HAZLEHURST - DIRECT

1 Hazlehurst home because there's deadbolts on every
2 door so that he won't be able to get out. If he
3 would, he would be across town or across the street,
4 so we have to watch Yates 24/7, and even if we're in
5 the home with him, if 10 to 15 minutes go by, where's
6 Yates? We've got to find Yates.

7 What's Yates doing because if it's quiet,
8 you know Yates is into something or if there's a sink
9 running upstairs, or a flood is about to occur in the
10 house, something's about to go wrong.

11 Q Does that represent a problem for the school
12 as well?

13 A Not so much for the school. I think Yates'
14 behavior is probably more severe at home, but at
15 school, he has a full-time aide that is with him the
16 entire time he is at school.

17 Q Tell us a little bit about Yates' school
18 program. What kind of classroom is he in?

19 A Yates is in a special education classroom.
20 There are approximately six children in this
21 classroom. I would consider Yates the most severe.
22 It's supposed to be a model ABA classroom. However,
23 last year that did not come into fruition, so the
24 school system is actually flying an ABA expert from
25 California to train the classroom for this upcoming

ANGELA HAZLEHURST - DIRECT

1 year to be a model ABA classroom, and ABA is Applied
2 Behavior Analysis, which is a --

3 Q Now, you said several times ABA?

4 A ABA, Applied Behavior Analysis.

5 Q Does Yates engage in self-stimulatory
6 behaviors?

7 A Yes, and very frequently. Yates is
8 constantly trying to find some object in the home.
9 Many CDs have been ruined. Yates likes to spin CDs.
10 The one thing he will do is watch Thomas Train. I
11 think he stims upon the movement and the songs and the
12 train. He flaps. He loves to stim with water or
13 watching the water go down the tub or the sinks.

14 Q I forgot to ask you about the school. What
15 kind of material, what kind of skills are they working
16 on in his classroom?

17 A Right now, they're just trying to meet goals
18 until the new ABA specialist in the program comes in.
19 I know they're just working on basic coloring and
20 trying speech therapy and trying to get Yates to play
21 more, motor skills, to talk more.

22 Q How are Yates' gross motor skills, walking,
23 running, climbing steps, things like that?

24 A At one point, Yates had lost almost complete
25 motor skills, and at this point, he can ride like a

ANGELA HAZLEHURST - DIRECT

1 big wheel. He can catch a large ball and throw it

ANGELA HAZLEHURST - DIRECT

1 back. He can run. It's with an odd gait. He doesn't
2 run like a typical little boy. There's just something
3 odd about the gait of his walk and his run. I would
4 consider Yates' motor skills delayed and because of
5 his communication or lack of, obviously would not be
6 able to participate in any kind of structured sport.

7 (Away from microphone.)

8 Q How about fine motor skills, coloring --

9 A Fine motor skills actually were once
10 considered one of Yates' strengths, but he still has
11 trouble coloring within the lines. It looks a little
12 more like scribble. He can write his name. It is
13 legible, but it's nowhere near the strength of my
14 five-year-old, who writes her name.

15 Q Can he feed himself?

16 A Yates can feed himself. He's left-handed.
17 He does a nice job. He's a little messy sometimes,
18 but he can do that.

19 Q How about dress himself?

20 A Yates does not dress himself. He can dress
21 with assistance. For example, if we get him started,
22 he can kind of finish. If we put the shirt over the
23 head, he can put his hands through, but he does not
24 initiate dressing himself.

25 Q Is Yates on any medication, and if so, what

ANGELA HAZLEHURST - DIRECT

1 kind of medication?

2 A Yates is on two antipsychotic medications,
3 Risperdal and Remeron, and we're thankful. Without
4 those, Yates would not sleep, so with the aid of these
5 medications, he can at least sleep lightly. He's also
6 on digestive enzymes that were prescribed by Dr. Buie,
7 and I'm thankful for those. Without the digestive
8 enzymes, he would not be able to absorb his food. At
9 one point, Yates looked like what you would consider
10 an Ethiopian.

11 His stomach was very distended, and you
12 could see his ribs, and I'm thankful for the digestion
13 that he has now because I no longer fear that Yates
14 will die. There was a point where he looked like he
15 would starve to death and die.

16 Q Is he on any other medication for his
17 gastrointestinal problems in addition to the enzymes?

18 A Yes. He's on pancreatic enzymes. I think
19 they're MT-16. I believe I'm saying that correctly.
20 He's also on Pentasa, and he's also on omeprazole,
21 which is generic for something like Prilosec.

22 Q Does Yates receive any other medications?

23 A He also receives daily sub-Q Lupron
24 injections as well as Lupron intramuscular injections
25 //

ANGELA HAZLEHURST - DIRECT

1 twice a month.

2 Q What's the purpose of that?

3 A The purpose of that? Yates has high
4 testosterone levels that were not appropriate for his
5 age. It made sense of some of his aggressive and out-
6 of-control behavior. Since the Lupron injections,
7 Yates has been a much calmer little boy, and there's
8 been more of a connection with Yates.

9 Q And who is the doctor that prescribes that
10 medication?

11 A That's Dr. Mark Geier.

12 Q What are some of Yates' strengths?

13 A Yates is potty-trained. He is affectionate
14 to Rolf and I. He recently learned to give an Eskimo
15 kiss. Yates continues to make progress.

16 Q Does he like school?

17 A He likes school. He seems happy at school.
18 Another strength, again to go back to -- he's not
19 self-limiting with his diet. He seems to have a
20 pretty happy and healthy appetite at this point, and
21 the sleep has been such a huge strength for Yates and
22 for our family.

23 Q How is his general health now?

24 A I think with the aid of all the medications,
25 the changes in the diet, again I go back to the

ANGELA HAZLEHURST - DIRECT

1 fear of his death, I feel that Yates is in general a
2 lot more healthy.

3 Q I'd like to talk about Yates' first year
4 now. What was Yates' first year like?

5 A Yates was born February 11, with Apgar
6 scores of eight and nine. He was just the light of
7 our lives. Our first child. We brought him home, and
8 he had what I would consider a typical colic for six
9 weeks. That was resolved, and by nine weeks, Yates
10 was sleeping through the night. Within the first
11 month of Yates' life, he smiled. He later went on to
12 laugh and coo. He rolled over appropriately.

13 Around six and a half months Yates sat up.
14 He played with appropriate toys. I remember blocks
15 and a little alligator music -- um -- xylophone. I
16 can't remember what it's called. You play it. He had
17 that. He crawled at seven months. At 11 months, he
18 walked, and my mother used to say that Yates would
19 light up a room because he smiled so big. He was the
20 most joyful child, and that could be seen in a six-
21 month Christening picture, photo. He just had this
22 enormous ability to light up a room.

23 Q Can you tell us a little bit about his
24 speech development during his first year of life?

25 A What I recall is specifically I can remember

ANGELA HAZLEHURST - DIRECT

1 Christmas the most because it was just such a joyful
2 occasion. Around Christmas, in December, Yates was
3 saying peas in reference to please; tank you, thank
4 you; juice, bye-bye, dada, patty cake. December 5 -- I
5 remember being a little concerned because he was
6 saying all these words before he said mama, but on
7 December 5, 2000, he said mama.

8 Q Did he say mama or dada first?

9 A He said dada first. I just wrote the
10 December 5 down because that was important to me.

11 Q How did Yates use those words you've
12 described?

13 A Very appropriately. It was very meaningful
14 speech. If he said please, it was appropriate in that
15 he wanted something. If he said thank you, it was
16 appropriate in that something was given to him. And
17 if he said bye-bye, it was he knew we were going bye-
18 bye, and he would wave his little hand.

19 Q What was Yates' play like during his first
20 year?

21 A Yates' play, and I can only compare it to my
22 second child, who is typical, was very similar,
23 actually more advanced than her play. He would play
24 with a ball. He would bring toys to you to play. He
25 would bring books. He would play with his cousins,

ANGELA HAZLEHURST - DIRECT

1 and they would chase and laugh, and they would play
2 peekaboo. It was very appropriate and meaningful
3 play. He was starting -- he imitated very, very well.

4 For example, Yates got a drum for Christmas,
5 and if I took the drum and went boom, boom, boom,
6 Yates would imitate boom, boom, boom, or if I looked
7 at Yates and made just a silly noise like (noise), he
8 would go (noise), he would imitate that interaction.
9 And, around January, Yates had -- well, for Christmas
10 Yates had gotten a blue car, a little police car that
11 you put your feet in and you go, and I can remember
12 him playing in that car.

13 And he was obviously imitating mommy on her
14 cellphone because he went and got a cellphone and got
15 in his car and he put his phone up to his ear and he
16 was driving around talking on the telephone in his
17 little blue car. So, I think that was the beginning
18 of what we would call pretend play and imitation.

19 Q How did he interact with you and your
20 husband and your extended family during that first
21 year?

22 A He was a very loving and expressive child.
23 He, um, he interacted -- I remember in the mornings he
24 would be waiting for us in his crib, smiling with his
25 arms stretched out ready to be picked up. He

ANGELA HAZLEHURST - DIRECT

- 1 interacted beautifully with Rolf's mother. She was
- 2 probably one person who kept

ANGELA HAZLEHURST - DIRECT

1 Yates the most, and they had a very deep connection
2 early on, and they played very well together, and he,
3 uh, interacted, the cousins would love to play with
4 Yates.

5 If Yates was not at the grandmother's house
6 when they were there, they would be deeply
7 disappointed because they had so much fun playing
8 peekaboo. They would all sit in a circle and spread
9 their legs and roll the ball between each other, and
10 Yates was able to communicate and roll the ball back
11 and forth.

12 Q Did he share things with you and others?

13 A In the first year?

14 Q Yes.

15 A I would -- you know that was a little early
16 for sharing, but he would give things back and forth,
17 if that's considered sharing.

18 Q Would bring you a toy, for example?

19 A Yes, absolutely. He would bring books and
20 toys, whatever Yates wanted to play with at the
21 moment.

22 Q Let's talk briefly about the doctor's visit
23 and the vaccinations on February 8, 2001. What
24 brought Yates to the doctor that day?

25 A Yates had been sick for two weeks with a

ANGELA HAZLEHURST - DIRECT

1 fever, and I remember it being somewhat of a high
2 fever, and it wasn't a documented visit. We came in
3 because Yates had been sick for two weeks. On that
4 day, Yates was prescribed penicillin and diagnosed
5 with a bilateral ear infection.

6 Q Who brought Yates to the doctor that day?

7 A I brought Yates with my cousin, Miss Tammy
8 McCoy.

9 Q Now, did the doctor also give vaccinations
10 at that visit?

11 A Yes. He did give Yates several vaccines
12 that day. We questioned the nurse as to whether Yates
13 should be vaccinated because he had been so ill and
14 was also prescribed an antibiotic at the same time,
15 and we were told that it was fine.

16 Q How was Yates the rest of that week after
17 the vaccinations?

18 A The vaccinations were February. February 11
19 was Yates' birthday party. In looking at the video,
20 Yates seems still somewhat typical, but very dazed,
21 not, not the same, just kind of dazed.

22 Q And how about the second week after the
23 vaccinations? How was he?

24 A Somewhere around 12 days after the
25 vaccinations, Rolf and I were very concerned because

ANGELA HAZLEHURST - DIRECT

1 Yates broke out in a rash of tiny welts, tiny red
2 welts. Rolf immediately called the clinic because we
3 were concerned. We were told by the physician on
4 call, he did not see Yates or treat Yates, that it was
5 a reaction to the penicillin although he had already
6 been on it for 12 days. So instead of seeing Yates,
7 they switched him to another antibiotic altogether.

8 Q I'm not sure I know what tiny welts mean?
9 Welts, would you describe the rash in a little bit
10 more detail?

11 A Just tiny red dots, welts. They were red on
12 his body, on his --

13 Q Where were the dots?

14 A I remember them more so on his torso.

15 Q How long did the rash last?

16 A Curtis, that I don't remember.

17 Q Did there come a time when the behavior you
18 described during Yates' first year change?

19 A In retrospect looking back, Yates' behavior
20 significantly changed in March of 2001.

21 Q In what way did his behavior change?

22 A He suddenly became very hyperactive,
23 difficult to take places, you had to constantly watch
24 Yates. Between March and April, and April would have
25 been Easter, because it was a holiday, I specifically

ANGELA HAZLEHURST - DIRECT

1 remember certain events of that day as well.

2 Q Can you describe that in a little bit more
3 detail?

4 A Sure. Just in the previous months we had
5 had Yates' picture taken at Christmas, and he jollily,
6 gladly sat up for a beautiful Christmas photo. I
7 could put him on my hip, I could hold him, or he could
8 sit in my lap, and there wasn't a problem. He was
9 just content. By Easter, we were concerned of even
10 leaving Yates in the nursery just because he just
11 didn't seem to be quite as consoled, and after church
12 we went to the front altar to have photos made.

13 My little boy that once sat on my lap, he
14 just wanted to run, and you can see in those photos
15 we're actually holding him down to get a photo.

16 Q Did the way he interacted with you change at
17 that time as well?

18 A At some point in that spring that I felt
19 gosh, Yates just doesn't seem to be into me, and I
20 made a note of it, and I thought well, maybe it's
21 because he's sickly. He seems sick, and he's walking
22 now, and I'd been told little boys when they walk,
23 they're busy, and that's normal behavior, but I felt
24 something in my heart that he's not into me right now.
25 You know, is this typical behavior, and I kind of blew

ANGELA HAZLEHURST - DIRECT

1 it off as,

ANGELA HAZLEHURST - DIRECT

1 oh, he's a boy.

2 Q Did he sometimes get away from you and your
3 husband or other people that were caring for him?

4 A He actually had mentioned that it got
5 difficult to go to church. There was one Sunday Yates
6 was in the nursery, and he actually did get away from
7 the nursery, and they had to put out whatever, a red
8 alert. They found him across the church in the
9 preacher's office having a big time.

10 Q How long did this behavior where he was
11 trying to get away from people last?

12 A It started then, and gosh, it's still today
13 to some degree.

14 Q Did -- were there any other changes in
15 Yates' behavior or developmental skills in 2001?

16 A By the midsummer, into summer, Yates had
17 lost all meaningful speech. Bye-bye, mama, patty-
18 cake, please, thank you, were gone, and they were
19 replaced with unmeaningful speech such as an obsession
20 with numbers and letters.

21 Q When did this happen?

22 A Sometime between early spring -- it was a
23 gradual change, but early spring to end of summer
24 Yates lost meaningful speech.

25 Q Were there any changes in Yates' health in

ANGELA HAZLEHURST - DIRECT

1 2001?

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1 A I can specifically pinpoint a trip to Norway
2 the end of June. Just to go back to the
3 hyperactivity, and I'll go on to explain the other
4 behaviors, or the other conditions that changed.
5 Yates was so wild and hyper that we had to purchase a
6 harness to keep him with us, so on this trip there's
7 photos, and Yates is always in a harness because he
8 would run so wildly. During this time because we were
9 on vacation and not home, I have specific memories of
10 diarrhea. We could not purchase enough diapers in
11 Norway.

12 There were also a few screaming episodes in
13 Norway where Yates was inconsolable. I remember also
14 the flight home from Norway. We were on a long
15 flight, and the lady in front of us was so annoyed,
16 and I couldn't figure out why she was so annoyed, and
17 Yates was kicking the seat in front of her. He was so
18 out of control on this 9- or 10-hour flight, and Rolf
19 and I were just helpless.

20 We didn't know what to do, and people around
21 us I could tell were very agitated, but I thought
22 there was something wrong with them, not me or Yates
23 by any means. In the trip, we flew in from Norway to
24 Boston. And from Boston to Memphis Yates had a very
25 explosive diaper on that trip because it soiled his

ANGELA HAZLEHURST - DIRECT

1 clothes, and we again were out of diapers.

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1 And I just remember this because there was a
2 little girl on the plane, and we had to borrow a
3 little girl pink pullup, and we laughed about it. But
4 those are the specific memories of Yates'
5 gastrointestinal diarrhea that began.

6 Q How long does his diarrhea last?

7 A Yates' diarrhea -- sometime in June of '01
8 we made some dietary changes, and those changes helped
9 somewhat with the diarrhea. I would say the diarrhea
10 continued up until we saw Dr. Buie, which is why we
11 went to see Dr. Buie was because we were concerned of
12 the distended gut and the diarrhea. It was up until
13 that point medications were prescribed.

14 But it wasn't until 2004 or sometime around
15 in there that we became very consistent with Pentasa,
16 the pancreatic enzymes, the omeprazole that Yates
17 finally, I would say the majority of the time now has
18 somewhat solid stools.

19 Q Now, the dietary changes, were they made
20 when?

21 A Initially, in June of '01, we began a
22 gluten-free, casein-free diet.

23 Q 2001?

24 A 2001.

25 Q So at the time of the Norway trip?

ANGELA HAZLEHURST - DIRECT

1 A I'm sorry. 2002. I'm sorry. June of 2002.
2 It was after Yates' diagnosis. I apologize.

3 Q So those dietary changes were made at about
4 the time he was diagnosed?

5 A Probably three to four weeks after
6 diagnosis.

7 THE COURT: Diagnosis of?

8 THE WITNESS: I'm sorry. Diagnosis of
9 autism. It was in June of 2002.

10 BY MR. WEBB:

11 Q Did Yates' play change as well in 2001?

12 A Yates' play in 2001 consisted of an
13 obsession with letters and numbers. He no longer
14 really played with --if he did play with toys, it was
15 inappropriate play. For example, in the summer he
16 went to his cousins' house. His form of play was to
17 turn their baby doll strollers over and spin the
18 wheels, and his form of play at home was to maybe line
19 things up or consistently build blocks, but it
20 wasn't -- his social play, his interaction with his
21 cousins began to significantly deteriorate.

22 Q Do you know when this change in play began?

23 A I would have to go back. It pretty much
24 goes back to the spring of 2001 when he just wanted to
25 run.

ANGELA HAZLEHURST - DIRECT

1 Q In spring of 2001 when Yates began to be

ANGELA HAZLEHURST - DIRECT

1 less interested in you and became extremely
2 hyperactive, what did you think?

3 THE COURT: Ms. Hazlehurst, take your time.

4 THE WITNESS: I thought there was something
5 wrong with me. I thought I was a bad mother because I
6 was so tired, and I didn't understand why. My sister-
7 in-law, my friends, who had children, they just seemed
8 to have it together. And they seemed to go to parties
9 and have fun, and we couldn't go places without me
10 being stressed to the limit. I thought there was
11 something wrong with me.

12 BY MR. WEBB:

13 Q I'm sorry this is difficult. You're doing
14 well. When Yates' speech became all numbers and
15 letters, what did you think?

16 A We thought our little boy was a genius. We
17 were so proud. Friends would come over and they would
18 say Angela, my child can't do that, and they're three
19 years old, and Yates is one and a half. He's a
20 genius, and we were able to kind of look past the
21 social inter -- I mean, we just thought Yates is
22 going to find a cure for cancer. He's so smart.

23 Q Did you report the hyperactivity or the
24 change in Yates' speech to his pediatrician at Yates'
25 18-month checkup in August?

ANGELA HAZLEHURST - DIRECT

1 A The pediatrician asked how many words Yates
2 had. I don't remember how I might have expressed it,
3 but I did agree that Yates had four to 10 words. It
4 wasn't the initial words, but he did have four to 10
5 words. It was just letters and numbers, and I may
6 have expressed how smart I thought Yates was at that
7 visit.

8 Q Did you report that Yates had diarrhea?

9 A Yes. Actually, I believe I reported several
10 concerns regarding Yates. He had chronic lymph node
11 -- his lymph nodes were swollen, and I reported that I
12 had a concern with that as well as I believe his
13 gastrointestinal system. I think it was reported in
14 that that he had loose stools.

15 Q When did you begin to worry that the changes
16 you've described, the extreme hyperactivity, the
17 change in speech and the change in play might be a
18 problem?

19 A By September and October, my sister-in-law
20 pulled me to the side and questioned Yates' behavior,
21 and that maybe we needed parenting classes because
22 Yates was so out of control, and obviously he didn't
23 appear to have any type of discipline, and she also
24 mentioned a condition called dyslexia, which is a
25 fascination with numbers and letters.

ANGELA HAZLEHURST - DIRECT

1 I had another friend, who mentioned
2 Asperger's, and that's probably the first time maybe
3 some thought crossed my mind, but my initial reaction
4 was there may be something wrong with you, but not my
5 baby, perfect little boy.

6 Q Did anything specific happen that finally
7 made you feel like you needed to have a doctor address
8 these changes that had occurred?

9 A By January, I was really starting to feel in
10 my gut this is not right, this is -- and I began to
11 look at other children Yates' age, and I began
12 wondering. Yates had stopped answering to his name,
13 and my first intuition was something is not right.
14 Yates is a genius, but Yates can't hear.

15 THE COURT: This was January 2002?

16 THE WITNESS: Yes. Of course, I had the
17 health concerns that I had shared with the physician
18 as well about Yates' immune system. That had been
19 talked about as well, so by February when it was time
20 for Yates' two-year checkup, I knew in my heart I
21 could not deny this one more minute, that something
22 was terribly, terribly wrong.

23 BY MR. WEBB:

24 Q When do you believe that Yates' impairment
25 was most severe?

ANGELA HAZLEHURST - DIRECT

1 A From March to June the lights were off.

2 Q In which year?

3 A Of 2002. He would not respond to anyone.
4 He would not respond to his name. He did not appear
5 to recognize me or Rolf. He cried a lot. He would
6 sit in one spot for hours and stack toys as if he were
7 playing, but he would scream at the same time. I
8 remember putting him in a swing and pushing him,
9 singing to him and just Yates look at me, please look
10 at me, and he was, it was like the sparkle in his eye
11 was gone.

12 Q At that time, was he sleeping at all?

13 A That was I believe around the point where we
14 were having great difficulty with Yates at night.

15 Q Now, did he still have diarrhea at that
16 time?

17 A During those three months of the worst?

18 Q Yes.

19 A Yes.

20 Q Apart from diarrhea, were there other things
21 that made you think that his stomach or his intestines
22 or otherwise were not well?

23 A The thing that I remember, and we have
24 photos of Yates' stomach so distended, and we thought
25 he was going to waste away. It was characterized I

ANGELA HAZLEHURST - DIRECT

1 think at Pfeiffer Clinic as malabsorption, and I can
2 remember him being in the bathtub, and I was so scared
3 because I could see his ribs all the way down, and his
4 little legs. He got skinny, and I was very scared.

5 Q Since 2002, have medication or therapy
6 seemed to help Yates?

7 A Yes.

8 Q Could you tell us some of the things that
9 you've done, or medications he's received that have
10 made a difference for him?

11 A Rolf and I have gone to the end of the world
12 to help Yates and tried many, many, many things. The
13 things that -- the medications and therapies that
14 stick out to me the most that have helped Yates have
15 been the gluten-free, casein-free diet, the applied
16 behavior analysis, the therapy one on one, speech
17 therapy. Again, without the aid of the antipsychotic
18 drugs of Risperdal and Remeron and also melatonin
19 Yates would not be sleeping.

20 The gastrointestinal digestive enzymes, the
21 Pentasa that's used for gastrointestinal inflammation
22 and the omeprazole have helped tremendously in
23 somewhat in the healing I hope of his intestines, and
24 I still don't think we're 100 percent there. And the
25 Lupron has helped tremendously with some of the

ANGELA HAZLEHURST - DIRECT

1 hyperactivity and some of the aggressive behaviors

ANGELA HAZLEHURST - CROSS

1 seen by Yates.

2 Q What kind of ultimate progress do you hope
3 Yates can make?

4 A Yates is so restricted with his language.
5 It's almost like he's trapped. He's a two-year-old
6 trapped in a seven-year-old body. One day, I want to
7 have a conversation with my little boy.

8 Q Do you have any idea when this might happen?

9 A No.

10 MR. WEBB: That's all the questions I have.

11 THE COURT: Thank you. Respondent's
12 counsel?

13 CROSS EXAMINATION

14 BY MS. RICCIARDELLA:

15 Q Good morning, Mrs. Hazlehurst.

16 A Good morning.

17 Q My name is Lynn Ricciardella, and I'm one of
18 the counsel for Respondent, and I really don't have
19 that many questions for you today, but before I do
20 start, I wanted to say the same thing to you that I
21 said to Mrs. Cedillo, and it's vitally important that
22 everybody here at counsel table knows how much you,
23 your husband and your whole family have done for
24 Yates. It's readily apparent in the medical records,
25 in the videotapes we watched, through your testimony

ANGELA HAZLEHURST - CROSS

1 today.

ANGELA HAZLEHURST - CROSS

1 I think you said you had gone to the ends of
2 the earth, and it's apparent, and you, your husband
3 and your family should be commended for it, and that's
4 one of the most important things we'll say here today.
5 I just have a few questions. You wrote an affidavit
6 in this case dated August 28, 2007. Do you recall
7 that?

8 A Somewhat, yes.

9 Q Sure. And for the record, I'm referring to
10 Petitioners' Exhibit 28, and in paragraph 8 of that
11 affidavit you state that sometime after February 8,
12 2001, it was still the winter, you remember feeling
13 that Yates wasn't interacting with you and your
14 husband as he had previously, and I believe today you
15 said you thought it was around March of 2001, is that
16 correct?

17 A Somewhere after vaccination, spring.

18 Q Okay. And you say that he also became very
19 busy and hyper, and I think that was reflected in your
20 testimony this morning. When was the first time, and
21 you may have said this in your direct, and I apologize
22 if I didn't hear it, when was the first time that you
23 reported your concerns about his behavior and
24 development to a healthcare professional?

25 A The first time I reported the concern with

ANGELA HAZLEHURST - CROSS

1 development?

2 Q You said, his lack of interaction and his
3 hyperactivity.

4 A Correct. That would have been February --
5 I'm sorry, that would've been the two-year checkup in
6 2002.

7 Q At two years? Okay. And what did you
8 tell -- who did you report it to?

9 A Dr. Carlton Hayes.

10 Q And what did you tell him?

11 A I believe I expressed concerns with Yates'
12 immune system as well as concerns of his speech not
13 progressing.

14 Q And you also in your affidavit at paragraph
15 22, you stated that just before your trip to Norway in
16 June of 2001 he became, and this is you say, a picky
17 eater?

18 A Yes.

19 Q What did you mean by that?

20 A Yates had self-limited at that point himself
21 to the three foods I remember the most, Cheetos,
22 hotdogs, peanut butter, and almost an obsession with
23 milk. The memory I have in Norway was not only could
24 we not find diapers, we could not find enough milk,
25 and we constantly on that trip, even though maybe he

ANGELA HAZLEHURST - CROSS

- 1 shouldn't have been on a bottle, we were constantly
- 2 finding milk to put in the bottle to help console

ANGELA HAZLEHURST - CROSS

1 Yates.

2 Q And you also say in your affidavit that
3 during the trip to Norway, Yates began to have
4 diarrhea, is that correct?

5 A That's the first time, only simply because
6 it's an occasion. It's easier to remember when you're
7 not at home, but that was the first time I recall
8 diarrhea, and again there are other instances when
9 were not at home that I recall diarrhea simply because
10 we weren't at home.

11 Q And you mentioned that you went to see Dr.
12 Buie. He's in Boston, is that correct?

13 A Correct.

14 Q And he's a pediatric gastroenterologist?

15 A Yes, he's a board-certified pediatric
16 neurologist -- I'm sorry, gastroenterologist.

17 Q Correct. Why did you go to see Dr. Buie?

18 A That is, it's actually quite a story. My
19 husband can probably share this a little bit better.
20 My father-in-law is a gastroenterologist, a board-
21 certified gastroenterologist. He has done training in
22 England. Dr. Hazlehurst contacted Dr. Christopher --
23 I can't remember his last name, Christopher Wells,
24 maybe, something like that, and wanted to know who is
25 the best gastroenterologist in the United States

ANGELA HAZLEHURST - CROSS

1 because I

ANGELA HAZLEHURST - CROSS

1 want my grandson there.

2 The names that were given, I can't remember
3 how many, but Dr. Timothy Buie was one of the top
4 names given. At that point, my father-in-law pleaded
5 with Dr. Tim Buie and wrote a very nice letter urging,
6 and begging Dr. Buie to help his grandson.

7 Q Were you also in contact with a Dr. Simon
8 Murch in England?

9 A I have not been in contact with Dr. Simon
10 Murch, no. Although, that may have been someone my
11 father-in-law could have contacted too, but I'm not
12 for sure.

13 Q You mentioned that Yates is currently being
14 treated by Dr. Mark Geier, is that correct?

15 A That is correct.

16 Q How did you -- how were you put in touch
17 with Dr. Geier?

18 A Let's see. Rolf and I first met Dr. Geier
19 at an Autism One conference. We had also read some of
20 Dr. Geier's publications that had been published in
21 famous and reputable journals, so we had read some of
22 his data. We actually began treatment with Dr. Geier.
23 I hope I explain this correctly.

24 There's another family in Jackson,
25 Tennessee, that was being treated by Dr. Geier, and

ANGELA HAZLEHURST - CROSS

1 their son was making remarkable progress. And after

ANGELA HAZLEHURST - CROSS

1 speaking with the mother, we began to research the
2 protocol, the significant improvements that the
3 children under Dr. Geier's care were making and
4 decided at that point to contact Dr. Geier to
5 interview to see if Yates might be a candidate for
6 their treatment, and Yates was indeed a candidate.

7 Q Does Dr. Geier charge for his service?

8 A Very minimal.

9 Q Do you know how much he charges?

10 A The only charge that Dr. Geier has charged
11 for us have been for phone consults, and I don't think
12 they've ever been over \$100.

13 Q Has he personally seen Yates?

14 A He has not personally seen Yates.

15 Q Has Dr. Buie seen Yates more than that one
16 time in April 2003?

17 A No. We have continued treatment with Dr.
18 Buie through phone consults.

19 Q Has Yates ever seen a pediatric
20 gastroenterologist in Tennessee?

21 A No.

22 Q And the records reflect that at one point
23 you were trying to get Yates to be seen by Dr. Arthur
24 Krigsman. Did that ever come to fruition?

25 A That did not.

ANGELA HAZLEHURST - CROSS

1 MS. RICCIARDELLA: Okay. I have no further
2 questions. Thank you very much.

3 THE WITNESS: Thank you.

4 THE COURT: Mr. Webb?

5 MR. WEBB: I don't have any further
6 questions.

7 THE COURT: Ms. Hazlehurst, I do. You
8 referred to an incident that you recall vividly that
9 Yates was sitting on the floor, and he appeared to be
10 playing, but he was screaming at the time during this
11 window of time that was the most difficult between
12 March and June 2001. Was he regularly screaming when
13 he appeared to be playing, or is this just one
14 particular instance that you recall?

15 THE WITNESS: No. It was consistent temper
16 tantrums at this point, and it just, it was so hard to
17 figure out is my baby in pain, is this a tantrum, and
18 looking back and learning what we found out about the
19 gastrointestinal system, I could say that the tantrums
20 and the consistent screaming would probably be a
21 combination of both. But there were behaviors during
22 this time that were very odd. Yates would roll over
23 on the couch. We didn't understand why he would do
24 that, but it was actually --

25 THE COURT: Roll over onto his --

GARRARD - DIRECT

1 THE WITNESS: Well, the arm of the couch,
2 and you could roll over and put pressure on your
3 stomach. Yates did that quite often.

4 THE COURT: Thank you. Any further
5 questions of Ms. Hazlehurst?

6 MR. WEBB: Not from me.

7 MS. RICCIARDELLA: Not from Respondent.

8 THE COURT: You're excused.

9 THE WITNESS: Can I thank the Court for
10 allowing us to share our story today? Also, the
11 people at home, who are keeping our children while
12 we're away and to Rolf's parents and Tammy McCoy for
13 their generosity and lifelong work for us to be here.
14 We appreciate it, and we want to say thank you.

15 THE COURT: Thank you.

16 (Witness excused.)

17 MR. WEBB: We'll call Anne Garrard -- if I
18 may step out and -- at this time.

19 Whereupon,

20 ANNE HAZLEHURST GARRARD

21 having been duly sworn, was called as a
22 witness and was examined and testified as follows:

23 THE COURT: Thank you.

24 DIRECT EXAMINATION

25 BY MR. WEBB:

Heritage Reporting Corporation
(202) 628-4888

GARRARD - DIRECT

1 Q Can you give us your name and address for

GARRARD - DIRECT

1 the record, please?

2 A Anne Hazlehurst Garrard, 37 North Wood
3 Avenue, Jackson, Tennessee, 38301.

4 Q Are you Yates Hazlehurst's aunt?

5 A Yes, I am.

6 Q You're Rolf Hazlehurst's sister?

7 A That's right.

8 Q Big sister or little sister?

9 A Big sister.

10 Q Do you have any children?

11 A I have three girls.

12 Q And what are their names?

13 A Ann Elizabeth, Mary Caroline and Eleanor.

14 Q And how old were your girls when Yates was
15 born?

16 A The third one was not born, but the other
17 two were two and three and a half.

18 Q Did you and your girls see a lot of Yates
19 during his first year of life?

20 A We did. We lived about five minutes apart.
21 We saw him frequently. From the time he was a
22 newborn, my girls just loved to be with him. He was a
23 like a baby doll to them. Frequently, we would just
24 be in town, just driving by. Let's go see Yates.
25 Let's go see Yates, so we saw him -- I couldn't put a

GARRARD - DIRECT

1 number on it, but he was just part of the family, and
2 we saw him all the time.

3 Q Can you estimate how often? How many days
4 would you have been there?

5 A Several days. Probably five out of seven,
6 sometimes twice a day, you know, and then you might go
7 a week you didn't see him, but we saw him very
8 frequently, uh huh.

9 Q Did your girls play with Yates?

10 A They did. From the time that he was just
11 even an infant. I want to hold him. I want to hold
12 him. They would start interacting with him very
13 young, and like I said treated him like it was their
14 own baby doll. They, even when he was little, you
15 know, gave him a bottle. Then as he got a little
16 older, we put a little thing to support him. He would
17 sit up with them, play, just be right there in his
18 face.

19 He would you know, just interact, you know,
20 do what a baby does, and then as he got a little
21 older, crawled around on the floor, you know, played
22 chase. Just did everything -- that they -- everything
23 you could do with a baby they did, yes.

24 Q Let's talk a little bit about that because
25 not all of us have had babies as recently as you have.

GARRARD - DIRECT

- 1 What kind of things -- did Yates interact with your
- 2 girls as well as your girls enjoying him?

GARRARD - DIRECT

1 A Absolutely. When he got a little bit older,
2 obviously he knew who they were. When he would see
3 them -- they had a long hallway, and at the end of the
4 hall was his bedroom, and there was his baby bed, and
5 you'd see him walking down the hall, and if he was in
6 his crib, he'd stand up and just start jumping up and
7 down with excitement, there were his cousins, you
8 know, put his arms out. We'd get him out, sit on the
9 floor, you know, once he got a little older, old
10 enough to sit up and interact, give Mary the ball.

11 He'd give her the ball. Give this to Ann
12 Elizabeth. He knew who Ann Elizabeth was and would
13 give that to her. My girls couldn't read, but they
14 would pretend to, get the little hard books that are
15 about this size and look at the books. There's a
16 dinosaur, you know, and he was very involved, intense
17 on watching what they were doing. Let's see.
18 Peekaboo was a big one. We could put a towel or
19 blanket, anything we had over his head, and we'd say
20 where's Yates? Where's Yates, and he'd pull that
21 down.

22 His face would light up. I mean, we could
23 do this again and again and again. He'd just -- then
24 he'd have my girls do it. He'd put it over their
25 head, and we'd pull it down, so he was very much a

GARRARD - DIRECT

1 part of playing

GARRARD - DIRECT

1 with them.

2 Q When you were playing with the ball, and you
3 said give the ball to Mary Elizabeth, would he roll it
4 to Mary Elizabeth?

5 A Absolutely, yes. Yes, he would, and then
6 they would roll it back, and then we'd say pass it to
7 Aunt Anne, and he could pass it to me. So he, um,
8 often, if the ball rolled off, he would go get it,
9 bring it back, um --

10 Q What was Christmas of 2000 like in
11 connection with Yates and the way he was interacting
12 with people?

13 A Well, Christmas is like in any family a big
14 time, and our Christmas celebration is Christmas Eve.
15 And with all the different cousins and everyone
16 growing up and having their own children, there's
17 probably 25 of us that get together Christmas Eve
18 night. And someone dresses up like Santa Claus, and
19 it is a wild, you know, it's just a lot of noise, a
20 lot of I want to hold Yates. I mean, he was passed
21 around that night, the noise level was loud, and
22 nothing seemed to bother him.

23 He was just a happy, carefree baby. With
24 all the toys that were being opened, you know, he
25 seemed to want to play with everybody. He just was in

GARRARD - DIRECT

1 the center of everything and didn't seem to have a
2 care in the

GARRARD - DIRECT

1 world. He was just a -- he was just a joy to be with.
2 He really was. He was the youngest in the family, and
3 we all love babies, so we especially enjoyed passing
4 him around. He was the focal point I guess, and he
5 was fun to be with.

6 Q Can you describe any of the things that
7 Yates and your girls did for play say in January of
8 2001?

9 A By this time, he could stand up. They loved
10 to see if they could teach him to walk, so we would
11 all sit together and hold his hands and then let go,
12 and he'd take some steps a little bit, fall down and
13 take some steps some more. So at this age, he was
14 even more fun because they could really interact with
15 him. He had gotten a blue police car on Christmas
16 Day, and they, one of them would drive, and they'd put
17 him in the passenger seat.

18 They didn't have any furniture in the living
19 room, so we'd go around in a circle. Then there was a
20 little plastic phone that was in the car, and he would
21 pick that up, and he would just, we'd say, oh look,
22 he's mimicking his mother talking on the phone. So he
23 would just babble into the phone and talk and say hi,
24 but he loved that car. And he had a little xylophone
25 that he had gotten for Christmas, and they would hit

GARRARD - DIRECT

1 that and play with that.

GARRARD - DIRECT

1 Then in January, one day I remember, it was
2 snowing, and so we had to go share that with him, too.
3 So we came over and had a little snowsuit that my
4 girls had outgrown, put it on him, went out in the
5 front yard. There's the snow coming down. The girls
6 showed him how to lay on the grass and make a snow
7 angel, you know pretend, throwing snowballs very
8 gently, playing in the snow. So that was a special
9 day because it doesn't snow much in Tennessee, but we
10 had to share that with him, and he did. We were out
11 in the front yard.

12 Q This is a silly question because you've
13 answered it, but I'm gonna ask it anyway.

14 A Sure.

15 Q Did your girls enjoy playing with Yates?

16 A Loved Yates. They did. I mean, they would
17 ask can we go to Yates' house, and when my mother
18 would babysit my children, they would ask her let's go
19 to Yates' house. What's Yates doing? Let's go see
20 Yates, so he was a vital part of their having fun. I
21 mean, probably one of their favorite people to play
22 with, really was. Yes.

23 Q Did Yates enjoy playing with your girls?

24 A Yes, he did. He has the most beautiful
25 smile, and you could tell when he was with them, it

GARRARD - DIRECT

1 was just as much fun for him as it was for them. I

2 guess

GARRARD - DIRECT

1 when you're little, and somebody else little comes
2 along, they're on their height, and he would light up,
3 and we'd say yay. Yes, we had a real big time and
4 looked forward and found every reason to go over there
5 to play. Like I said, we would stop by unannounced
6 often, just knocking on the door. What's Yates doing?

7 Q What do you remember about Yates' speech
8 development during his first year of life?

9 A Very normal, said da and later associated
10 that with my brother. I could remember him bye-bye,
11 you know, as we would leave -- as they would leave our
12 house, we would leave his house, bye-bye. Hi was a
13 word. We're real big on please and thank you in my
14 house and their house, and those were one of his first
15 words. It didn't come out exactly please and thank
16 you, but peas, thank you, juice.

17 We have a word for bottle that we started
18 with my younger sister, and that stuck around. A
19 bottle is a bubba, and that's all my children call it,
20 so he referred to his bottle as bubba, but you knew
21 what he wanted. You did, and he was able to come out
22 with these words and knew what he wanted.

23 Q Did he use those words like bye-bye when
24 people were leaving?

25 A Yes, he used them appropriately. Yes, he

GARRARD - DIRECT

1 did. Yes.

2 Q Before Yates' first birthday, did you ever
3 think that Yates' behavior was unusual or abnormal?

4 A It never, ever, ever crossed my mind. No I
5 did not. No. I thought he was just a perfect little
6 boy.

7 Q Did that change after his first birthday?

8 A Absolutely. He went from being just a joy
9 to see, to just being a terror. It was like a three-
10 ring circus when we were with them out, everyone
11 commented oh, he's in the terrible twos. Well, he had
12 just turned one, so that's kind of how he was labeled.
13 I guess the word that was used to describe Yates was
14 wild. Oh, he's just wild, and he would, he just
15 didn't want to be with the girls anymore. He just
16 wanted to run, not to go see anybody or not at a
17 certain destination, but he would just take off.

18 So, yes, it wasn't a lot of fun to be with
19 him anymore like you would have thought it I guess
20 should have been. Yeah we were, why isn't Yates
21 playing with me is what my children would say, you
22 know, Yates won't do this with me anymore.

23 Q When did this change occur?

24 A It was definitely by March because it's
25 vivid in my mind because Easter was in April, and my

GARRARD - DIRECT

1 mother had said let's all go to the country club for
2 lunch after Easter, which is a hectic day anyway with
3 Easter Bunny and getting ready for church, followed by
4 that lunch, and I thought I absolutely love my family,
5 and we spend a lot of time together, but I did not
6 want to spend that meal together.

7 I knew we would be in a big dining hall,
8 lots of other people around, and at that time, I had
9 been with Yates enough over the past several weeks to
10 know that he wasn't going to sit in his highchair. He
11 was going to scream and just want to run around, and
12 it would be disruptive, and he was going to cause a
13 scene, and I just wasn't up for it. I just thought,
14 oh, it's all right to do that at home, but I really
15 don't want to go out in public, but we went ahead and
16 we -- I couldn't tell my family that.

17 I kept it to myself, and we went. And of
18 course, my husband and I felt the same way, and we
19 thought oh, here we go. He's just going to run around
20 the whole time and scream, and that's exactly what he
21 did. We left there thinking well, this is what we
22 expected.

23 Q Did Yates' interest in toys change at the
24 same time?

25 A Yes. He didn't seem interested in toys at

GARRARD - DIRECT

- 1 all, including swingsets. Just normally -- like when
- 2 he would come to

GARRARD - DIRECT

1 our house, and my mother would babysit. Oh, let's go
2 see your cousins, and she would bring him over, and we
3 have a wonderful swingset, a slide, a playhouse that
4 most children love to go see. All he wanted to do was
5 just open and close the window. Most boys would maybe
6 learn they could climb in and out the window, that's
7 what they would do, but He just -- he didn't want to
8 play with anything in the back yard.

9 He didn't want to play with anything in our
10 playroom, which had plenty of toys in it, and the toys
11 were everywhere and very accessible. All he wanted to
12 do is -- I remember saying where's Yates? Where's
13 Yates? He would find the door, out the door and start
14 running, and it was just this crazy running, not like
15 a marathon runner. He was just going with no
16 destination, and you'd bring him back, and then you'd
17 try to, here let's play this. Let's play this, and he
18 had absolutely no interest interacting or playing with
19 my children.

20 Once again we just thought terrible twos,
21 and I guess I kind of commented, and I remember my
22 mother saying well, he's a boy, and you've got two
23 girls, and they're real sweet, and you don't know what
24 it's like to raise a boy. But I just remember
25 thinking this is so odd that he will not play with

GARRARD - DIRECT

1 anything that's put in front of him.

GARRARD - DIRECT

1 The one thing that he did like to do when he
2 came into our house is turn our little doll stroller
3 upside down, and he'd take those wheels, and he'd just
4 do this motion and want to spin those wheels. And
5 then we had a little Scooby Doo van, and he would turn
6 that upside down, and he'd just want to spin those
7 wheels, and that was -- we thought well, that's a
8 strange thing to do with a toy, but that's what he
9 enjoyed doing, so we let him do it.

10 Q Did your daughters notice this change in
11 Yates?

12 A Oh, yes, and were extremely disappointed.
13 They could not understand why he might not want to
14 play store with them. They had a cash register, a
15 little cart for shopping. Come on Yates, play with
16 us. Play with us, but he, like I said, he had no
17 interest in playing with what they had, none. They
18 encouraged it. They really did want him to play with
19 them because that's what they had done for an entire
20 year. Now that he was older, it could be even more
21 fun. The playtime wasn't there.

22 Q What did you think about this change?

23 A Well, I just thought he was most unruly
24 child I had ever been around. I kept it to myself for
25 a while, and then when he would come over, I was

GARRARD - DIRECT

1 pregnant with my third child, very pregnant. They

GARRARD - DIRECT

1 called me big mama because I was so large, and when I
2 found myself running after him, you know, just with
3 everything that I had trying to go get him, I thought
4 this is wearing me out.

5 This is not right for me to be chasing my
6 nephew up the street when he could be playing. Then
7 my other neighbors, we have a wonderful street, lots
8 of young people would come out and they would be
9 yelling for Yates, so everybody in the neighborhood
10 Yates, Yates. I guess I talked about it amongst my
11 neighbors how gosh, what can we do for him.

12 He's just running wild, so I guess I talked
13 about it with them, and then Angela was selling
14 pharmaceuticals at the time, and her partner was a
15 friend of mine, and she noticed Yates' irrational
16 behavior, and so we talked about it amongst ourselves,
17 so there were just a few people. Finally, I just
18 thought I wonder why he acts like this? This is just
19 not right.

20 Finally, after several months of it, and one
21 incident in particular, I just kind of lost it and
22 thought I can't keep this to myself anymore. They're
23 not going to have any friends because nobody is going
24 to want to be around their child. People were now
25 starting to talk about him, so I said to Angela one

GARRARD - DIRECT

1 night you all need some parenting classes. It was
2 that bad, and my husband and I were going to something
3 called Growing Kids God's Way.

4 I really thought that if they had some
5 really good discipline, they could turn him around. I
6 knew children weren't perfect, and mine sure weren't
7 perfect, but I could communicate and say no to them.
8 They knew what no meant, and they might rebel a little
9 bit, but I knew with the right type of discipline it
10 could be turned around, and with Yates, when you said
11 no to him, it's like he didn't even hear it. He just
12 went on, and I thought no, they need -- you know --

13 It took a lot for me to say you need some
14 parenting classes because I'm extremely laid back.
15 I'm non-confrontational. It took about six months of
16 just seeing him go absolutely nuts, and just like I
17 said it was a three-ring circus when he was around,
18 and that was kind of a breaking point. I know the
19 night. It was the first Thursday in September, and
20 that's when I said I can't keep it in any longer.
21 People are noticing, and it's not just me that's
22 noticing.

23 THE COURT: September of what year?

24 THE WITNESS: '01.

25 BY MR. WEBB:

GARRARD - DIRECT

1 Q You mentioned that he would come to your
2 house and want to spin the wheels?

3 A Yes.

4 Q When was that behavior -- when did you
5 observe that behavior?

6 A That was probably more summertime. It
7 really kicked up a notch later in the fall, but I
8 started noticing it in the summer. I had a brandnew
9 baby on July 10, so I wasn't getting out as much, so
10 my mom would bring him over, and Angela would come
11 over and see Eleanor. To keep him entertained so he
12 wouldn't run around, that's what he did is turned that
13 pram over and just spun those wheels.

14 It was that same summer that I know we would
15 go swimming at the country club, and he had no
16 interest in swimming, which that's okay. That's
17 normal if a child doesn't want to swim, but didn't
18 even want to walk around the pool like most of them do
19 and have a snow cone or whatever. He would want to
20 run to the parking lot and touch the wheels, and we
21 all commented on how odd it was that he didn't do
22 anything when he got to the car, but he just touched
23 the top of the wheel and did as many as he could.

24 My husband even commented that he's going to
25 just wear your mother out. I mean, all my mother did

GARRARD - DIRECT

1 is just, she was in motion all the time running after
2 him,

GARRARD - DIRECT

1 Yates, Yates and have his hand. She just ran that
2 parking lot with him while he touched all the wheels,
3 which we found very odd, and my husband thought your
4 poor mother. This is just going to completely wear
5 her out that he runs so much, and you could -- if
6 Yates wanted something, he would take your hand, and
7 he would walk you to it.

8 Well, I wouldn't say walk, run you to it. I
9 mean, he was just always, just in motion, and he was
10 always leading somebody where he wanted to go.

11 Q Did you observe any change in Yates' speech
12 in 2001?

13 A Yes. I don't really remember him talking.
14 There really was not much verbal conversation. Like I
15 said, it was take the hand. If he wanted something in
16 the refrigerator, he would walk you to the
17 refrigerator. If he wanted something else, he would
18 take you to it. He did not -- he didn't really say
19 what he wanted anymore, but one thing that really
20 stuck out in my mind is that fall.

21 It would have been maybe late August, I know
22 early September because my daughter was now -- let's
23 see. She was two and a half, and she was in play
24 school, let's see, is that right? Let me think. No.
25 She was two. She was now three and a half, she was

GARRARD - DIRECT

1 now three and a half, and he was one and a half, and
2 my

GARRARD - DIRECT

1 mother would say what a genius, what a genius, he's so
2 smart. Look. If you took him somewhere, and he saw a
3 license plate, he would say XYQ134.

4 And he would point to all the numbers of the
5 license plate, and he was a year and a half, and they
6 were bragging on him, and I thought well, yes. He is
7 really smart because my three and a half doesn't know
8 these letters or these numbers, excuse me, and I
9 thought well, but she's normal. This is what my child
10 who was two and a half years older than her, she
11 developed the same way that the second child is. Why
12 is it that Yates knows all these letters and numbers,
13 and my children didn't?

14 So, I found that extremely odd, and I
15 thought, yes. He must be a genius because this is not
16 normal, but that was really all that he would do. You
17 could dump an alphabet puzzle. He had a floor-size,
18 huge. He had a small one. They knew he liked that,
19 so they kept him entertained with this puzzle. You
20 would dump all of the 26 letters out, and he would
21 look at it for a split second, and he could just put
22 them A to Z.

23 If one was upside down, turned around,
24 immediately, it didn't matter. He was able to just
25 put that in its correct spot, and I thought there's no

GARRARD - DIRECT

1 way my children could do that. I just -- we labeled
2 him as a genius, and the

GARRARD - DIRECT

1 same thing with numbers. He could identify all of his
2 numbers the same way, but that was really his limit of
3 I guess speech.

4 Q Do you have any recollection of him using
5 the words that he had used before his first birthday
6 like please and thank you?

7 A No. There was no please and thank you or no
8 hello and goodbye, no.

9 MR. WEBB: That's all the questions I have.

10 THE COURT: Thank you. Respondent's
11 counsel?

12 MR. WEBB: You need to stay there for a
13 moment.

14 THE COURT: Just one second.

15 THE WITNESS: I'm sorry. Excuse me. First
16 time.

17 THE COURT: That's okay. Hold on.

18 MS. RENZI: We have no questions for this
19 witness. Thank you.

20 THE COURT: Thank you very much. You are
21 excused.

22 THE WITNESS: Thank you, Your Honor. Thank
23 you. Sorry.

24 THE COURT: No worries.

25 (Witness excused.)

1 MR. WEBB: Mrs. Hazle -- or Aud Hazlehurst,
2 Yates' grandmother, is our next witness, and we've
3 been more efficient than we thought. I told her to be
4 here at 11:00.

5 THE COURT: That's perfect. I think that
6 will afford us perfect timing for a 15-minute break.
7 We are off the record.

8 (Whereupon, a short recess was taken.)

9 THE COURT: We are back on the record.
10 Please be seated. Mr. Webb, please call your next
11 witness.

12 MR. WEBB: We call Aud Hazlehurst.

13 THE COURT: Thank you.

14 MR. WEBB: In the chair.

15 MS. HAZLEHURST: (Aud) I'm sorry.

16 THE COURT: Right here, ma'am. There should
17 be water there.

18 MS. HAZLEHURST: (Aud) Yes, there is.
19 Thank you.

20 THE COURT: Okay. Can you raise your right
21 hand?

22 Whereupon,

23 AUD HAZLEHURST

24 having been duly sworn, was called as a
25 witness and was examined and testified as follows:

AUD HAZLEHURST - DIRECT

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. WEBB:

4 Q Could you give us your name and address for
5 the record, please?

6 A My name is Aud Hazlehurst. My address is
7 106 Oakmont Place in Jackson, Tennessee.

8 Q Are you Yates Hazlehurst's paternal
9 grandmother?

10 A Yes, I am.

11 Q How often did you see Yates during his first
12 year of life?

13 A When Yates was born, I saw him all the time
14 because I was not working, and I lived only five
15 minutes away from Angela and Rolf, so having a lot of
16 time on my hands, I enjoyed being with Yates.

17 Q Will you describe for us some of your
18 interaction with Yates during that first year?

19 A Yes. Yates was a good little boy, and he
20 loved to be played with. From the time he was little,
21 I would pick him up and put him in my lap, and we
22 would talk. When I say we would talk, I'm Norwegian,
23 so I would speak to Yates in Norwegian. When it was
24 just Yates and myself, we would have a wonderful
25 conversation. He would coo and smile. Once he

AUD HAZLEHURST - DIRECT

1 learned to smile, he would smile and babble, and so I
2 would say oh, he's talking Norwegian already, that
3 would --

4 Now, of course when others were around, I
5 did not speak to him in Norwegian, but one on one we
6 had a lot of conversations right here in my lap. As
7 he got a little older, we started playing peekaboo.
8 He loved to play peekaboo. Of course, I taught him
9 peekaboo in Norwegian, and we also did patty-cake, and
10 he would patty-cake, and when I would tickle his
11 stomach, he would just laugh, so most of the time
12 Yates was, he was very good.

13 He had some colic, but I had four children
14 of my own, so I had some experience comforting Yates,
15 and he would quickly quit crying, and of course I was
16 very happy because they would say oh, mother has the
17 magic touch. So I loved to try to comfort Yates
18 whenever I could, and it was very easy to do for me.

19 Q Did Yates recognize and greet you?

20 A Most definitely. Once he heard my voice, if
21 he was in his crib, and he could pull up, I could hear
22 his babble, babble, babble, and if I didn't go and
23 pick him up right away, he would let me know. I had
24 managed to spoil Yates I'm sure. I probably could be
25 accused of spoiling him because I did interact with

AUD HAZLEHURST - DIRECT

1 him a lot, and we bonded at a very, very young age

AUD HAZLEHURST - DIRECT

1 Yates and I, and we still have a good bond thank
2 goodness.

3 As he got a little older, when I would walk
4 in the door, he would come crawling to me and reach
5 his hands up, and of course I would pick him up and
6 one of the things we loved to do was to look out the
7 window and look at the birds. He loved to look at the
8 birds outside because he was little bit older then
9 before he started saying beep, beep, beep, beep, and
10 that meant pick me up and take me to look at the
11 birds, so we would do that.

12 He walked early. It was before he was a
13 year old, so then once he would hear me -- once he
14 would come to my house, he would immediately, I would
15 say Yates, and could hear his little feet just running
16 towards me, so we had a lot of interaction in his
17 first year. As I said, I was not working, so I had a
18 lot of time to play with him.

19 Q How did he interact with his cousins?

20 A The first year he loved to be with his
21 cousins, and of course they loved to be with him. If
22 he was not at my house, they would say Mimba, that's
23 Norwegian for grandmother, can we go and see Yates,
24 and I would say sure. Being just five minutes away.
25 We'll get in the car, and they played with him like it

AUD HAZLEHURST - DIRECT

1 was his real baby doll and hold him and he was

AUD HAZLEHURST - DIRECT

1 little, and he loved to see them. They would teach
2 him to go burble, and he would go burble.

3 They just played a lot. When the girls were
4 there, I could do whatever I needed to do because he
5 would interact with the girls, and I could go and
6 start dinner or whatever I needed to do because he was
7 entertained. It was good for them to come over
8 because he interacted with them really, really well.

9 Q Would he bring you toys during that first
10 year?

11 A Oh, definitely he did. His favorite one was
12 probably a ball. I was having a lot of leg problems,
13 so I would sit on the floor, and we would all get down
14 on the floor, and I would roll the ball to him, and if
15 he didn't get it, he would get up on his knees and go
16 get that ball and bring it to me.

17 They had a lot of Fisher Price toys, and
18 he'd like to go get the cow and the horse and all the
19 little Fisher Price toys and bring them to me, and
20 then he wanted me to get down on the floor and play
21 with him, so he played a lot of games. I think the
22 girls like to put the blocks up high and then knock
23 them down, and they thought that was funny, and he
24 thought it was funny, too.

25 Q What do you remember about Yates' speech

AUD HAZLEHURST - DIRECT

71B

1 during

AUD HAZLEHURST - DIRECT

1 his first year?

2 A Of course, the first word he said was da,
3 da, da, da, and I can remember Angela saying why is he
4 saying dada? I'm spending a lot of time with him, and
5 I said Angela, that's what all babies do. They say
6 da, da, da, da before they say ma, ma, ma. Then he --
7 the two English words that I worked with him on was to
8 say please and thank you because I felt like that's
9 something that is important to know, so when he wanted
10 his bottle, he didn't call it bottle.

11 He said bubba. Peas, bubba, peas? Then
12 when I would hand it to him, he'd say thank you.
13 Thank. No, he didn't say thank you. He said thank,
14 thank, which meant thank you, and he would just go and
15 take his little bubba and be happy. As he was almost
16 one, he got a car for Christmas, and I can remember
17 him saying ca, ca.

18 He went in that car, and he would get on the
19 cell phone and blah, blah, blah, blah, blah, you know,
20 and talk, so I would joke with Angela. I said Angela,
21 he's watching you talking too much on that telephone.
22 He's mimicking you. Let's see. Ma, da, thank you.
23 Gosh, it's been so long since he was a year old. I'm
24 not so sure I can remember all the words that he could
25 say, but he said mama, dada, thank, patty, peas, ca,

AUD HAZLEHURST - DIRECT

1 beep beep for bird.

2 He probably said some more words, but I'll
3 be honest. It's been a long time since he was a year
4 old, but I never thought he didn't have a good
5 vocabulary.

6 Q Did you babysit Yates during his first year
7 of life?

8 A I did. That was a lot of fun. I told
9 Angela and Rolf whenever they needed a babysitter,
10 remember I'm just right around the corner, so they
11 would take me up on it. He would spend the night, and
12 he slept through the night, so that is not a problem.
13 I didn't keep him until he slept through the night,
14 but once he slept through the night, it was fun to
15 keep him.

16 Q Did Yates' behavior change after his first
17 birthday?

18 A Yes, it did. Yates -- at Christmastime, we
19 had noticed how he played with his toys. Of course,
20 he wasn't a year old then, but he was running around,
21 getting into packages, unwrapping them but at a normal
22 speed. After -- on his first birthday I can remember
23 saying isn't it sad, he's sick. He doesn't interact
24 with us like he did, but he had a runny nose and
25 pulling on his ear and a slight fever, so I thought

AUD HAZLEHURST - DIRECT

1 well, he'll

AUD HAZLEHURST - DIRECT

1 be better soon.

2 From then on, it seemed like he just kept on
3 staying sick. He was not as healthy as he had been
4 the first year. He, he would um -- of course, he
5 walked early. He was about 11 months old when he
6 walked, so on his birthday, he was an accomplished
7 walker, and it wasn't long after that that he started
8 to be very busy and running around. He just never
9 seemed to have recovered. I guess I get sort of a
10 lump in my throat because he never seemed to be the
11 same Yates after his first birthday.

12 Q Did he become difficult to care for after
13 his first birthday?

14 A After his first birthday, yes. He was a lot
15 harder to keep. He seemed to lose interest in his
16 cousins. They would say why won't, he won't play with
17 us today, and I would say Yates, play with Mary
18 Caroline and Ann Elizabeth, and their play would be
19 they would say no Yates, no Yates because Yates wanted
20 to run, and they wanted to play, and Yates, it was not
21 as easy to comfort him either shortly after his
22 birthday. He just, he still would come to me, but not
23 in the same happy little fellow that he had been his
24 first year.

25 Q Did you ever have trouble with him running

AUD HAZLEHURST - DIRECT

1 away from you?

AUD HAZLEHURST - DIRECT

1 A Yes. I will never forget Ed, my husband,
2 walking into the breakfast room saying Aud, I just
3 took Yates down -- I took him out of the car seat, put
4 him down, and reached for his diaper bag, and the next
5 thing I knew was Yates was out the driveway and
6 started up the street. He said I called Yates, and he
7 didn't turn around. He kept saying stop Yates, and he
8 just kept on going, so when he came in with Yates
9 tightly under his arm, he said Aud, I don't know if we
10 should take Yates to Norway in August.

11 I'll just backtrack a little bit -- of
12 2000 -- my sister had called and had given us the
13 great news that my nephew was getting married in
14 northern Norway. So we started talking about what a
15 wonderful opportunity it would be for my children to
16 get with my whole family that they had not seem for
17 quite some time, and of course we said Yates is such a
18 wonderful baby, he's such a good baby. This was in
19 August of 2000. I couldn't wait to show him off.

20 When Ed walked in, he had this concern on
21 his face saying I don't know about taking Yates, you
22 know, I just put him down. He had not -- I had
23 noticed that he was beginning to be more I called it
24 independent thinking he's into the terrible twos
25 really, really young. Then we thought well, it's Rolf

AUD HAZLEHURST - DIRECT

1 and Angela's first baby. We

AUD HAZLEHURST - DIRECT

1 better just take him.

2 I started looking for a harness for Yates
3 because I was concerned with all the relatives getting
4 together, if Ed could just put him down for one
5 second, and he was gone, I had observed his running,
6 but not to the extent that he was just taking off. My
7 solution was to get a harness, and we would just visit
8 with the relatives and have Yates in a harness. I
9 couldn't find one, but my sister did in Norway.

10 She called me and she said Aud, I got a
11 harness for you, but I don't think she quite
12 understood what I was talking about when I say he's
13 really, really busy. This was in March that he was
14 running away from Ed. We didn't leave for Norway
15 until June, but it wasn't long after she had met Yates
16 that she said Aud, I can understand your concern.

17 I have never seen a child like this before,
18 and he would, we would -- there were a lot of us, and
19 we would just hold on to him, and he would run around,
20 and we just said oh well, he's a little boy. He's
21 busy. That was my excuse for his running. I just
22 said oh well, he's just into the terrible twos early.

23 Q When did this incident occur that you
24 described where your husband took him out of the car
25 seat and went back to get the diaper bag, and he was

AUD HAZLEHURST - DIRECT

1 out of there? When did that happen?

2 A That was in March of 2000. That was in
3 March of 2000.

4 Q When did he lose interest in playing with
5 his cousins?

6 A That was -- we noticed it the most was -- of
7 course, Easter was a special occasion, and I always
8 had everyone over for Easter brunch, and there was no
9 interaction between Yates and the cousins. And I had
10 noticed some of it before, but that particular time it
11 was very, very obvious because they were upset, and it
12 was like where's Yates? Where's Yates, so it started
13 Easter or probably in March of that year, but it was
14 definitely noticeable by April that he had no interest
15 in his cousins or his toys. We tried to introduce him
16 to the toys, but he was not interested in his toys.

17 Q Did Yates' speech change after his first
18 birthday?

19 A Yes, it did. What was probably the most
20 noticeable change was in the fall. I can remember
21 being a proud grandmother because I would take Yates
22 to Kroger, and he would spell Kroger. He would look
23 at the sign, and I was thinking gosh, this is a
24 genius. He could spell. He was just spelling Kroger,
25 although he was not saying "mama" much I don't

AUD HAZLEHURST - DIRECT

1 believe. I'm almost sure he wasn't, but I was so

AUD HAZLEHURST - DIRECT

1 fascinated with the fact that this little boy knew his
2 alphabet.

3 I would write an A, and he would say A, and
4 we would do B, and he would say B, and he also did his
5 numbers. That was another thing. We put out this big
6 pad on the floor, and he would go one, two, three. He
7 would just mention these numbers, but as far as
8 vocabulary, no. He was not forming sentences, but I
9 blamed that on the fact that I had spoken Norwegian to
10 Yates all this time, and I probably confused him, but
11 I kept thinking I want him to be bilingual, so I'm
12 going to keep on speaking Norwegian.

13 Actually, I did the same to Anne, my
14 daughter, and she didn't talk until well until she was
15 past two when I quit speaking Norwegian. About a week
16 after I quit speaking, she started communicating in
17 English, so I just knew that it was the fact that I
18 wanted him to learn Norwegian that his language was
19 not improving because I was spending a lot of time.
20 We were talking a lot of Norwegian at that time.

21 Q Did Yates' eating habits change in 2001?

22 A Yes, they did. As a baby, he was the best
23 little eater. Any baby food that we would introduce
24 to him he would just eat it. He would not spit it
25 out. As he got a little older, like in 2001, he put

AUD HAZLEHURST - DIRECT

1 his hand up. He just wasn't going to eat all the food
2 that we were introducing to him. He became rather
3 picky. He became a very picky eater, and I can
4 remember Anabelle that had helped me with Rolf a lot
5 was also helping me some with Yates, and she said oh,
6 you know, he used to love to eat.

7 Where's my little boy? Why won't he eat
8 because she loved him too, and she said why won't
9 Yates eat? I said Anabelle I don't know. I guess
10 he's not hungry. He's just not hungry today.

11 Q When in 2001 did Yates become a picky eater?

12 A Pardon me?

13 Q When in 2001 did he become a picky eater?

14 A It went in 2001. Right before we left for
15 Norway in June is when I would say he became very
16 picky because I had this conversation with Aunt Bert,
17 and she packed him special foods that she knew he
18 would eat because being a grandmother, I was worried
19 that Yates was just not going to eat what he was
20 introduced to, so we packed him certain foods that we
21 knew -- although, he probably didn't eat all of that,
22 but we were concerned about it at that time.

23 Q Did Yates develop a problem with diarrhea in
24 2001?

25 A Yes. I specifically remember the instance

AUD HAZLEHURST - DIRECT

1 in Norway. I had told Angela and Rolf that I knew the
2 toilet paper was really thick, but I had seen the
3 diapers. They would definitely give you the diaper
4 rash I thought because they were very hard, so I said
5 bring lots of diapers, so they did. I did not realize
6 that they had gone through all these diapers, and when
7 we were getting ready to fly back from northern Norway
8 to Oslo, the rest of the family was staying in
9 northern Norway longer after the wedding.

10 Rolf was saying we're low on diapers, so I
11 said, could you please run and get us some diapers.
12 We gonna be on the bus so we will not miss the bus
13 that goes to the airport. Thank goodness, he threw a
14 big box of diapers aboard the bus for us, and if he
15 hadn't, I don't know what would have happened. I
16 guess we would have managed somehow, but that was --
17 when it sticks out in my mind that his diarrhea was
18 picking up.

19 Q How long did the diarrhea last?

20 A Unfortunately, it lasted for a very long
21 time. I believe Yates had been diagnosed with autism
22 when I was getting very, very, very concerned that he
23 was getting skin and bones. It really hurt me to put
24 him in the bathtub. His belly was large, and I
25 probably drove my husband crazy. I said Edward, would

AUD HAZLEHURST - DIRECT

1 you please look at Yates' belly? It's so big, and

AUD HAZLEHURST - DIRECT

1 look at his ribs. He's so thin. We've got to do
2 something. I'm trying to feed him, but it just goes
3 right through him, and I was a frantic grandmother.

4 So I had heard -- I guess at that point, I
5 had heard about all the findings in England, so I
6 said, Ed, could we please call Christopher Williams,
7 which was a colleague of my husband. He's a well-
8 renowned gastroenterologist that came to the United
9 States frequently, but he does practice in London. We
10 called Dr. Williams, and he says well, let me get you
11 in touch with Simon Murch, who is up on children with
12 gastrointestinal problems.

13 We called. We did not know Simon Murch, but
14 I called and introduced myself and said I'm a
15 desperate grandmother. I need help. I need the help
16 bad because I can't stand to look at Yates being so
17 thin. He said my recommendation would be to get in
18 touch with Dr. Buie at Harvard, and he also mentioned
19 Dr. Krigsman also I believe at the time. He said
20 personally he knew Dr. Buie, so I called Harvard.

21 At Harvard, they were telling me that there
22 was a very long waiting list. I can't remember
23 exactly how long, but it was a long time, like nine
24 months. It was a long waiting list, so I called
25 England again being persistent. I said please, if you

AUD HAZLEHURST - DIRECT

1 have any connection

AUD HAZLEHURST - DIRECT

1 or pull, can you just please call Dr. Buie for me
2 because I can't stand to see Yates get so thin, so he
3 must have called Dr. Buie because when I called back,
4 I got an appointment within six weeks.

5 At that time, I did not go to Harvard with
6 Yates. My husband went. Angela and Rolf, they all --
7 they went. My husband needed some extra help at the
8 office, so I volunteered to stay and get HIPAA
9 updated, so I stayed and did all the computer work.
10 While they -- I thought well, I can't do anything any
11 more. I have done all I can do. I've gotten Yates an
12 appointment to see Dr. Buie, so I felt comfortable
13 staying behind looking after the office while he was
14 gone.

15 But that would have been into the spring of
16 2003 probably. I believe it was in the spring. I
17 should have checked my dates before I got over here,
18 but I believe that's when it was. I believe I'm
19 correct. I might have to correct myself, but I
20 believe that's correct.

21 Q Apart from the diarrhea that you described,
22 how was Yates' health after his first birthday?

23 A After his first birthday, Yates seems to
24 stay sick all the time. I remember Mary Caroline and
25 Ann Elizabeth, although he wasn't really interested in

AUD HAZLEHURST - DIRECT

1 playing with them, they still wanted to play with

AUD HAZLEHURST - DIRECT

1 their little baby doll. I said you know he's sick
2 today, and Anne, my daughter had a baby in July, and I
3 would always say, oh you know maybe you shouldn't come
4 over because Yates is sick, and I don't want Eleanor
5 to get sick.

6 She is just a baby, so he just seemed to
7 have a green runny nose, and what concerned me a lot
8 was every time I would give him a hug, or I would hold
9 him, which I did quite a bit because he didn't seem to
10 feel very well, so I would just love on him. His head
11 was always hot, and that was another concern I had. I
12 would feel his lymph nodes and feel his head, and then
13 I would tell my daughter and everyone gosh, Yates is
14 so hot.

15 I just don't know why he's so warm. He's
16 just warm all the time. I just couldn't get it off my
17 mind that he was so warm all the time. I know they
18 probably got tired of hearing me, but he was just warm
19 all the time because my other children were not hot
20 like that or my grandchildren. He was just much
21 warmer than they were.

22 Q How long was he warm all the time?

23 A How long was he warm all the time? He
24 seemed to stay warm for a long, long time. He -- when
25 I feel him now, he seems normal, but he stayed warm

AUD HAZLEHURST - DIRECT

1 for I would say several years. He just seemed to stay
2 warm. It was like he was just warm, and I don't know
3 whether it -- I didn't know

AUD HAZLEHURST - DIRECT

1 if it had anything to do with the explosive diarrheas,
2 whether he had a virus all the time. I don't know.
3 He just stayed warm, and when I asked a doctor about
4 that, he said, oh, you know, that's just very common.

5 That's a common problem of children with
6 autism, and I was very disappointed when Dr. Zimmerman
7 told me that because I thought there has to be
8 something that they can do with little children that
9 are warm all the time, but he said it's just a common
10 problem.

11 Q In 2001 -- in the spring of 2001 and the
12 fall of 2001, did you think that Yates' running away
13 when he got a chance was a sign of abnormal
14 development?

15 A No, I did not. I just thought he was a busy
16 little boy that was into the terrible twos at an early
17 age. It never entered my mind that he was abnormal.
18 I just thought he was busy.

19 Q In the fall of 2001, did you think that the
20 naming the letters was a sign of an abnormal speech
21 development?

22 A No. I thought he was a genius.

23 Q When did you begin to worry that something
24 might be seriously wrong with Yates?

25 A Once I quit after he was two, I was telling

AUD HAZLEHURST - DIRECT

1 everyone I'm going to stop talking Norwegian

AUD HAZLEHURST - DIRECT

1 to Yates because he's probably confused, so I stopped
2 talking to him in Norwegian. I would strictly talk to
3 him in English. He didn't start to talk. That made
4 me a little concerned. Why was he not doing what Anne
5 did when I quit talking Norwegian.

6 Everyone else seemed to be getting concerned
7 maybe a little bit sooner than I was, and one of my
8 friends said do you think he might have autism? I was
9 saying what is that? I didn't know what it was at
10 that time, and I thought he's busy, and she had
11 noticed, this was one of the girls in the office.
12 Liberty had noticed that Yates would go and close the
13 examining doors, and she said I have a friend, who has
14 an autistic child, and he wants the doors closed, and
15 my heart started pounding.

16 Then I thought, oh I dismissed it from my
17 mind, and I at least decided he probably couldn't hear
18 well, so he was tested, and then his hearing came back
19 normal. I then became very, very concerned that somet
20 hing was wrong with Yates, and I had to admit to
21 myself that. It wasn't just the genius little boy
22 that did ABCs or terrible twos. It was something
23 else, but it was not until he was a little over two
24 years old that I even was willing to be concerned that
25 anything was wrong with him.

AUD HAZLEHURST - CROSS

1 He was hard to take care of, but I would
2 always make excuses for him why he was hard to take
3 care of. I didn't want to think that he was -- there
4 was anything wrong with him.

5 MR. WEBB: That's all the questions I have.

6 THE COURT: Thank you. Respondent's
7 counsel?

8 MS. RENZI: I have just a few questions.

9 THE COURT: Please.

10 CROSS EXAMINATION

11 BY MS. RENZI:

12 Q Good morning. My name is Linda Renzi, and I
13 represent the Respondent. Mrs. Hazlehurst, when did
14 you first notice that Yates was warm all the time?

15 A I noticed that after his first birthday.

16 Q Do you recall what month?

17 A Yes. It would have been the end of February
18 -- in February. Of course, he had been vaccinated,
19 and he was sick, so he actually seemed -- he was warm
20 at that time, but he never quit. I guess I should say
21 I noticed it right around his first birthday, but at
22 that time, I thought that it was the fact that he had
23 been vaccinated and that he had a cold and runny nose
24 and ear infections when he was vaccinated, so I wasn't
25 concerned about it then. It was probably about a

AUD HAZLEHURST - CROSS

1 month later before I started

AUD HAZLEHURST - CROSS

1 getting obsessed with this warm head.

2 Q Did you ever take his temperature?

3 A I tried to take his temperature, but he
4 would wiggle around, and I didn't want to do a rectal,
5 so when they took him to the doctor, I was almost
6 surprised that the doctor didn't take the temperature
7 because I would ask what's his temperature when they
8 would walk in the door. I don't know. I don't think
9 they took his temperature, so I would think oh no, but
10 I did try. Yes, I did. I would put it under his arm,
11 but I was afraid to do rectal. I don't know. I just
12 didn't feel comfortable doing that.

13 Q So you never got a reliable temperature?

14 A No.

15 Q You just felt his head?

16 A I just felt his head, and I knew that his
17 head was much warmer than mine and warmer than any
18 child that I had ever loved on before.

19 Q Now, you also testified that your husband
20 contacted Dr. Christopher Williams in London?

21 A Yes, yes.

22 Q Why did he contact a GI in London?

23 A Because I had at that time heard about the
24 gastrointestinal problem of children, and he was a
25 good friend that was world-renowned, and I felt like

AUD HAZLEHURST - CROSS

1 if anyone could get to the bottom of this diarrhea
2 that Yates was having, he would be able to help us.
3 And so that's why I think I was just a real desperate
4 grandmother looking for the very best that I could
5 find for Yates and his diarrhea.

6 Q Do you recall when that was?

7 A That would have been in -- he was two. It
8 would have been that summer, that he was, after he had
9 been diagnosed with autism. He was diagnosed that
10 spring I believe, and it would have been that summer
11 that we called Dr. Williams.

12 Q And how did you learn about the children
13 with the gastrointestinal problems?

14 A How did I -- I started after Yates was
15 having all these diarrheas, being a very curious
16 person, I started asking. I especially asked Dr.
17 Williams if he -- what he knew about children with
18 gastrointestinal problems, and he told me yes, that
19 had been a problem.

20 Q And then you contacted Dr. Murch you said?

21 A Simon Murch was his name. That's the one
22 that Christopher Williams put me in contact with. I
23 did not know him personally. I just called him, and
24 he gave me the name of Dr. Buie, and being at Harvard,
25 I felt like he would be someone that I would like

AUD HAZLEHURST - CROSS

1 Yates to see, and I wanted him to be seen that day,

2 but --

3 Q You said you did some research on the

AUD HAZLEHURST - CROSS

1 children with the gastrointestinal problem. Did you
2 read it? Did you go on the internet? How did you
3 hear about it?

4 A I heard about it through I guess just I was
5 telling everyone that Yates was having these
6 diarrheas. It just kind of became part of my
7 conversation with people that Yates was having
8 diarrhea all the time, and people would say, you know,
9 I have heard of so and so, and so and so, but I did
10 not get on the internet because I wasn't really that
11 familiar with the internet at that time. I had no --
12 I don't think I even knew how to get on the -- I knew
13 how to get on the internet, but I never used it. That
14 tells you my age.

15 Q So, did you know anything about any of the
16 findings in London, of the research going on in London
17 when you contacted Dr. Williams?

18 A I don't know if I knew about the research or
19 if he told me about the research. I'm not certain to
20 be honest with you. I can't remember.

21 MS. RENZI: Thank you. I have no further
22 questions.

23 THE COURT: Okay. Mr. Webb?

24 MR. WEBB: I don't have anything further.

25 THE COURT: Thank you very much. You're

AUD HAZLEHURST - CROSS

1 excused.

R. HAZLEHURST - DIRECT

1 THE WITNESS: Thank you.

2 (Witness excused.)

3 MR. WEBB: We'll call Mr. Hazlehurst now.

4 I'll go out -- for the record, Aud Hazlehurst is

5 A-U-D.

6 THE COURT: Thank you. Mr. Hazlehurst,

7 would you raise your right hand, please?

8 Whereupon,

9 ROLF HAZLEHURST

10 having been duly sworn, was called as a

11 witness and was examined and testified as follows:

12 THE COURT: Thank you.

13 DIRECT EXAMINATION

14 BY MR. WEBB:

15 (Away from microphone.)

16 Q Mr. Hazlehurst, can you give us your name

17 and address for the record?

18 A Rolf Hazlehurst, 102 Woodhaven Drive,

19 Jackson, Tennessee.

20 Q How is your name spelled?

21 A R-O-L-F.

22 Q And your last name?

23 A H-A-Z-L-E-H-U-R-S-T.

24 Q Thank you. Are you Yates Hazlehurst's

25 father?

R. HAZLEHURST - DIRECT

1 A I am.

R. HAZLEHURST - DIRECT

1 Q We filed with the Court Exhibits 54 and 55.

2 Have you watched the video on Exhibits 54 and 55?

3 A I have.

4 Q Who took the video on Exhibits 54 and 55?

5 A You'll have to refresh my memory of which

6 one is 54 and which is 55.

7 Q 54 is before the vaccination excerpts, and

8 55 are the excerpts that I named some early

9 manifestations of autism. Between the two of them are

10 10 or 12 minutes of videotape.

11 A 54 I took. Of 55 -- I believe I took all of

12 the videos with the exception of the one in Amsterdam.

13 Q And who took the one in Amsterdam?

14 A My brother, Edward.

15 Q Does the video on 54 and 55 accurately

16 reflect Yates' activities at the time that the video

17 was taken?

18 A They do.

19 MR. WEBB: I'd like at this time to play

20 Exhibit 54. Now, does that have speakers as well?

21 MALE VOICE: No, but it should be pretty

22 loud.

23 MR. WEBB: Okay. I'm going to play it.

24 (Whereupon, a video was played.)

25 MR. WEBB: Okay.

R. HAZLEHURST - DIRECT

1 THE COURT: That's it?

2 MR. WEBB: Mr. Hazlehurst, did you have any
3 concerns about Yates' health or development during his
4 first year of life?

5 That's it for the computer. You might as
6 well put 55 in. We'll do that after lunch.

7 BY MR. WEBB:

8 Q Did you have any concerns about Yates'
9 health or development during his first year of life?

10 A I did not have any concerns at all about his
11 development during the first year of life. There was
12 one episode where I had some concerns about his
13 health. That was following the six-month vaccination,
14 but he seemed to bounce back from that. After a
15 few -- other than that incident, I didn't have any
16 concerns about his health during the first year of
17 life.

18 Q What happened after the six-month
19 vaccination?

20 A I believe it was the day after. It's
21 possible it could have been the day of, but I'm almost
22 certain it was the day after he received his six-month
23 vaccines. I came home. My wife was in distress.
24 Yates has been crying. He's been crying. I can't get
25 him to stop crying. He's crying all afternoon, and as

R. HAZLEHURST - DIRECT

1 soon as I walked in the door, I can hear him just
2 screaming, and it wasn't like any other scream I'd
3 heard him scream before.

R. HAZLEHURST - DIRECT

1 I mean, he was just beet red, just screaming
2 unconsolably. He just screamed and screamed, and I
3 tried to console him and tried to calm him down and
4 bounce him and do everything that normally in the past
5 I could do to make him stop crying, and he just kept
6 crying and kept crying. I didn't know what to do
7 except for what I always do in a bad situation. I
8 called my mom because she raised four children and a
9 couple of grandchildren.

10 She'd know what to do, so I called my mom,
11 and she came over, and usually Mimba, that's what we
12 call her, she's got the magic touch, and she can get
13 any of the children to quit crying, but he wouldn't
14 quit crying. He just kept on and kept on. We're like
15 what do we do? We wondered whether it could possibly
16 be the vaccines because I mean I had no concept that
17 it could have been what I later learned was
18 encephalitis or swelling of his brain.

19 But, we were more concerned where they
20 injected him in his leg. Did that cause like a
21 soreness or pain because I couldn't remember if he
22 still had the bandaids on the upper outside of his
23 thigh. And then, we were like no, it can't be the
24 vaccine because the doctor said if he had a reaction,
25 it would be "almost immediate." He had told us within

R. HAZLEHURST - DIRECT

1 15 minutes, and so this is at least the next day,

R. HAZLEHURST - DIRECT

1 and we were discussing what to do.

2 We -- should we take him to the emergency
3 room? What do we do? About that time, he fell
4 asleep, and then we put him down, and he was asleep,
5 and he seemed fine then, and that was the screaming
6 episode. I mean, it had gone on for several hours
7 before I got there. It was a screaming like I had
8 never heard before. I don't think I ever heard
9 anything like it since, but then he went to sleep, and
10 he seemed fine. The next morning he seemed fine, and
11 for the next couple of days, I didn't notice anything.

12 So, a couple of days later my wife called
13 and she said that Aunt Bert was concerned that Yates
14 had these tremors or shakes, and then he was kind of
15 staring off. Had I seen that? No, and she again
16 asked do you think it could have been the vaccines,
17 and I was like no. I started counting on my fingers
18 how many days ago it was. It was I would say
19 approximately five days or less afterwards, and we
20 just thought, oh, Aunt Bert, you'd have to know Aunt
21 Bert, she worries about everything.

22 Maybe he's just kind of trembling because
23 they keep the air conditioner down low. I never saw
24 one of the shaking episodes. After that, he seemed
25 fine, and from that point on, and those went on for,

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1 maybe about approximately three weeks.

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1 THE COURT: What went on for approximately
2 three weeks?

3 THE WITNESS: The reports of this shaking
4 episodes. I'm not sure how many Angela saw. Maybe
5 one or two. I know Aunt Bert saw one or two, and --
6 but I would look at him when I'd get home, and he's
7 interacting with me, and he seemed perfectly normal,
8 so I'm like no, there's nothing wrong with him. Then
9 after that time period, he did develop typically from
10 then on until he was vaccinated a couple days before
11 his first birthday when he was sick and on penicillin.
12 From after the shaking episodes to that incident, he
13 was normal.

14 MR. WEBB: This might be a good time to take
15 lunch?

16 MS. RICCIARDELLA: Special Master, we really
17 don't have that many questions of the witness.

18 MR. WEBB: I have some more questions. If
19 you want, we can go ahead through this.

20 MS. RICCIARDELLA: How much longer do you
21 think you'll be on direct? We're happy to go to 1:00.

22 MR. WEBB: I would say that Mr. Hazlehurst
23 altogether will be about somewhat similar of the time
24 of his wife, and if we went straight through and
25 finished, we'd certainly be done by 1:00.

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1 MS. RICCIARDELLA: We have no problem with
2 that.

3 MR. WEBB: I don't have any problem with
4 that either.

5 THE COURT: Mr. Hazlehurst, can your stomach
6 manage this?

7 THE WITNESS: I'm ready to get done.

8 THE COURT: Let's keep going.

9 BY MR. WEBB:

10 Q Did Yates babble as an infant?

11 A He did.

12 Q When did he begin to say words?

13 A I can't put an exact date on it, but I would
14 say in the late fall, early winter, approximately
15 November? October/November. I think his first word
16 he said was dada. Then he said -- he didn't have an
17 extensive vocabulary, but he had a few words, and it
18 was a meaningful vocabulary, dada of course and he's
19 say peas for please if he wanted something, and after
20 you'd give him something, tank you, which was thank
21 you.

22 I believe he said juice and bubba, and Bubba
23 meant bottle like a milk bottle. Let's see. He'd say
24 ca for car. He had this little blue police car, and
25 he'd like for me to -- he'd like to get in it, and

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1 he'd like me to push him all around the house. I'm
2 sure there's -- there's a couple other words

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1 that he probably knew. It's kind of escaping my mind
2 at the moment, but I know he probably said mama in
3 December.

4 I think Angela might have got her feelings a
5 little hurt he said dada first and then a couple of
6 other words before he said mama. I know by Christmas
7 he was saying bye-bye, bye-bye and then hi. He'd hi.
8 Or hello.

9 Q You started to answer this question, but how
10 did he use these words? Did he use please and thank
11 you in the context of asking or thanking people for
12 things?

13 A Appropriately, meaningful communication.

14 Q How did Yates interact with you during his
15 first year?

16 A Very well. I mean, he was just a happy
17 little bundle of joy kind of like you saw in the
18 video. If I called his name he'd look at me and run
19 up to daddy and hold his arms out. He'd like for me
20 to play with him. One of the things he liked to do is
21 play ball. He liked for me to push him around in the
22 car. He liked -- liked to interact. He was a
23 typical, normal child in every way as far as
24 interaction.

25 Q How did he interact with other people?

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1 During that first year?

2 A It depends on whether or not he knew them.
3 Like if my mom came in, Mimba, and he'd go running up
4 to her, Angela, you know, people that he knew, his
5 cousins Ann

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1 Elizabeth, Mary Caroline. He loved to play with them,
2 Aunt Anne, Uncle Edward -- people that he knew he
3 interacted with appropriately and have eye contact and
4 play with them, bring you a toy, that type of thing.

5 If he didn't know you, you know kind of a
6 stranger, he'd kind of get maybe behind my leg or put
7 his head down. Again, typical behavior for a child if
8 he didn't know somebody.

9 Q Did you have any concerns about Yates'
10 behavior during his first year of life?

11 A None at all.

12 MR. WEBB: Now I'd like to play the video
13 from Exhibit 55.

14 (Whereupon, a video was played.)

15 MR. WEBB: Thank you. That was Exhibit 55.

16 BY MR. WEBB:

17 Q Did Yates' behavior change after February 8,
18 2001?

19 A It did.

20 Q How did his behavior change? What was the
21 first change that you noticed?

22 A Well, part of this is in hindsight because
23 the changes did not occur overnight. He didn't become
24 autistic like he got the shots, and he was autistic.
25 It didn't happen that way. It was a slow downward

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1 spiral. It's kind of like watching grass grow. It's

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1 happening, but you don't really notice it. Some of
2 the changes that I can remember after he was
3 vaccinated, and shortly before he turned one, he
4 seemed to have less interaction with us.

5 His -- I don't really recall him remembering
6 or learning any new meaningful words other than say
7 letters and colors. Later he developed sort of a
8 fascination for those. He started what I call just
9 running wild. Before he'd sit down, and he'd play
10 with you, but by that spring, he's just -- he didn't
11 want to be still. I mean, if he were here right now,
12 he'd be knocking all the cups off the table. He'd be
13 knocking your microphone over, running around the
14 room.

15 That started in that spring. Let's see. He
16 was less in tune to us, less wanting to, like bringing
17 us a toy or wanting to play with us. That slowly,
18 gradually disappeared over the spring and the summer,
19 and this running wild started to escalate. I will
20 give you a couple of examples. I took him down where
21 I work at juvenile courthouse, and went to the Judge's
22 chambers, not the chambers, but the secretary's
23 office.

24 He goes in there, you know, I want to show
25 off my cute little child. He runs up to the

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1 secretary's desk and just slings everything off the

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1 desk, and notecards and important papers going
2 everywhere. He liked to get things and just throw
3 them or more or less drop them and watch them fall. I
4 later realized he's visually stimming off of that. I
5 guess the running wild --

6 THE COURT: For the record, visually
7 stimming is visually stimulating?

8 THE WITNESS: Well, in the autistic world
9 they call it stimming, which I guess it's short for
10 stimulating. It's what he does, and he's got
11 different stims, auditory stims, visual stims, things
12 that excite him. He loves spinning objects. Anything
13 that spins, he just loves. Unfortunately, he likes
14 tires on a car, hubcaps that go around and around and
15 around when a car stops. I hate those because I'm
16 just in fear he's going to get killed by one of those
17 one day, but anyway.

18 I got off on a tangent there, but an
19 obsession with spinning objects, running wild, less
20 sleep. He started to become more of a picky eater.
21 Those are the main things that are coming to me at the
22 moment.

23 BY MR. WEBB:

24 Q I'm trying to get a sense of the
25 chronological order if in your mind there is a clear

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1 chronological order among those changes you described.
2 What was -- was there something that you noticed first
3 that was a change? I think if you can separate it
4 from what you now know about autism and tell us what
5 you saw that was different about Yates after his first
6 birthday, that you first had -- not this is a problem
7 or this is autism, but this is different.

8 A Change in his language, going from
9 meaningful language. The meaningful language that he
10 had he started to lose -- use that less and less
11 often. As far as behavior, the running wild that I
12 previously described. Less interaction with us, not
13 wanting to play with toys. He started to become more
14 fascinated with TV and videos. And like -- his
15 favorite TV show is the preview channel where the
16 channels are just moving on the screen. He liked to
17 watch those.

18 Q If I could interrupt you, Mr. Hazlehurst.
19 I'm still trying to get a sense of chronological
20 order. Of those things you listed -- you listed the
21 change in speech first. Is that the first thing that
22 you noticed as far as a change?

23 A Not at the time.

24 Q What would be the first thing you noticed,
25 the change at the time?

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- 1 A Running wild.
- 2 Q What do you mean by running wild?

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1 A I mean, he would not sit still. You'd put
2 him down and he's running around the room and
3 destructive behavior. Just wanting to push everything
4 off the tables. Starting in that time period he
5 became obsessed with flushing the toilet.

6 Q When did that, when do you first remember
7 that kind of behavior?

8 A Running wild started in the spring and
9 escalated into the summer.

10 Q Okay. What was the next of the behaviors
11 you've described as the changes that happened that
12 second year. Can you tell us, if you can, what the
13 second of those changes would have been?

14 A I don't know that I could put it in
15 chronological order because they're all intertwined
16 together. It's this slow gradual process. All of
17 those things were occurring during that time period,
18 the spring and summer.

19 Q When did you begin to notice the change in
20 how he used speech if you can place that in time?

21 A In hindsight, it's clear by the time we went
22 to Norway in June. He wasn't saying mama, and he
23 wasn't saying dada. He wasn't saying peas, thank you,
24 but what he was doing is starting his obsession with
25 numbers. I remember flying on the airplane, and he

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1 would count not only in English, but we started

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1 playing with him, counting in Norwegian. He was
2 counting on his fingers, ,n, to, tre, fire, fem, which
3 is one, two, three, four, five.

4 He could say ,n, to, tre, and he'd say f for
5 fire and fem. He couldn't quite say those, but as he
6 was doing it, he was doing it on my hand. He was
7 actually counting the fingers. That's a distinct
8 memory that sticks out in my mind, and after that
9 point, he's not really saying mama, dada, peas, tank
10 you. It's more of this strange kind of a cross
11 between babbling and squealing. He was losing his
12 language except for the numbers, which by the fall, he
13 was one, two, three, four, five, six. I think you can
14 start to see that on the video.

15 Q Let me see if I understand some things.
16 One, did you say that he was counting to ten in
17 Norwegian as well as English?

18 A Yes. And a little bit of experimenting with
19 a little bit of Spanish and French, but he didn't, he
20 was just repeating what we said, he did not, he didn't
21 learn those.

22 Q At the time, during the trip to Norway when
23 you noticed that he was counting to ten in Norwegian
24 and as well as English, did you think that, about the
25 fact that you, well in your mind asked, did you note

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1 also this change in how he used functional words, like
2 please and thank you. At that time, did you in your
3 mind say this is happening?

4 A Not at the time, no. It was happening. But
5 to go back to -- it happened gradually, I didn't pick
6 up on it. It didn't register with me.

7 Q When did it register with you that the
8 functional use of language had stopped?

9 A Started kind of in the fall, but I was
10 reluctant to admit it at all to myself. By the
11 wintertime, it was beginning to be more of a concern,
12 but I reluctantly did not want to admit it to myself.
13 By the spring there was no way I could ignore this
14 anymore.

15 Q So by spring of --

16 A Spring of 2002.

17 Q In summer and fall of 2001, what did you
18 think about the language with numbers and letters?

19 A He was a genius.

20 Q In the spring of 2001 and into the summer,
21 what did you think about what you now call running
22 wild?

23 A Boys will be boys.

24 Q When did you start to be worried about what
25 you now call running wild?

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1 A When he started to be able to get out of the
2 house, and it became a danger.

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1 Q And when was that?

2 A By at least I'd say the winter of 2001. We
3 put these little knobs on all the doors to keep him
4 from being able to get out of the house, and then
5 later we started deadbolt locking the doors. That's
6 when that kind of began.

7 Q I'm sorry. Your hand, your hand was in
8 front of your mouth when you said when.

9 A I'm sorry.

10 Q When was that?

11 A In the winter -- fall or winter. About the
12 time he got to the point where he could start opening
13 doors.

14 Q That would have been the fall or winter of
15 2001?

16 A Yes, but it was more closer I'd say to the
17 winter.

18 Q Did Yates' eating pattern change in 2001?

19 A They did.

20 Q When did that happen?

21 A Before we went to Norway. So it would have
22 been -- I can't put an exact timeline on it, but it --
23 I would say that spring of 2001. One of the reasons,
24 I could give an example. The lady that helped raised
25 me. She also helped raise Yates. She would bring

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1 him -- Annabelle would go to McDonald's and get
2 sausage and biscuit and a hashbrown, and that was kind
3 of their routine every morning. She'd get him in the

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1 highchair, and she'd feed him.

2 She'd always talk about how he was just the
3 best eater she ever had and talking about she ever had
4 of me, my brother and my sisters, and then about the
5 spring, she noticed that he'd become a picky eater,
6 and it was a surprise because it was like kind of one
7 of their bonding things that they did was eat
8 breakfast every morning, and now he's getting to be a
9 fussy, picky eater.

10 It really became obvious by the time we were
11 in Norway in June. He really didn't want to eat
12 anything, that he wanted bottles of milk, and it's
13 hard to get him, to find anything to eat. He'd just
14 push it off the table. It became -- it was obvious he
15 was a picky eater by the summer of 2001.

16 Q Now you mentioned self-stimulatory
17 behaviors.

18 A Mmm-hmm.

19 Q When did those begin?

20 A I know that I can remember some incidents of
21 it in hindsight by the time we were in Norway. One of
22 the things was riding in the stroller. When he was
23 riding in the stroller, he looked down, and he'd just
24 stare at the wheels spinning around. It didn't become
25 obvious until the fall of 2001, but you could see it

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1 by the time we went to Norway, which would be June of
2 2001, and he very easily could have been doing it
3 before then. It's just, it's difficult to have a --
4 it's been six years ago.

5 Q When -- do you remember the dates, the
6 beginning to the end of that trip to Norway and
7 Scandinavia in 2001?

8 A I would say approximately -- I think we went
9 about two, maybe three weeks, maybe the last 10 days
10 of June, the first -- I know we were over there on the
11 4th of July. I would say approximately the last two
12 weeks of June, first week of July.

13 Q Did you notice any other changes about the
14 time of the Norway trip in Yates' health or
15 development?

16 A That's the first time I can recall the
17 gastrointestinal. First starting the loose stools,
18 and then diarrhea, and it may be that I'm remembering
19 it because we were in pretty tight quarters. We were
20 on a ship. This -- to say it was a cruise ship would
21 be an overexaggeration. It was more a public form of
22 transportation in Norway. Anyway, it's a small cabin,
23 and it tends to be more noticeable when there's three
24 of you piled into this small room, and then he's
25 frequently having bowel movements.

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1

A couple of specifics I can recall. I think

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1 we filed, and the government requested, his first year
2 notebook or baby book. If you look in there, you'll
3 see a picture. This lady, actually the bartender, but
4 she's holding Yates, and we took that picture. I can
5 remember he had diarrhea episode, right after, when
6 that picture was taken, and it was embarrassing, and I
7 kind of remember that.

8 What's also interesting about that picture
9 if you look over her shoulder, you can see a carton of
10 milk. It's red and white. That's kind of how we got
11 to know her, how Yates really got to know her, because
12 that was the one place on the ship that you could go
13 to get milk, and that goes back to the dietary
14 changes. He was -- what he wanted was milk. He
15 didn't want to eat. He wanted milk, milk. Anyway,
16 that's a memory I have. The other is all the episodes
17 in the small cabin, and then on the flight back, well,
18 we ran out of --

19 We had packed a whole suitcase of diapers,
20 but we ran out of those. We had to buy some more in
21 Europe, and we still ran out of those, and we had to
22 borrow some on the flight I think going from Amsterdam
23 to I can't even remember where we changed planes in
24 the United States. We borrowed a little girl's
25 pullup, and then he had another diarrhea episode on

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1 the plane, and we didn't have any more diapers.

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1 I never would have remembered it, had it
2 not -- it's kind of an episode that sticks out in your
3 mind I guess when you're trapped on the airplane with
4 a child with diarrhea.

5 Q How long did Yates have diarrhea?

6 A It got better when we put him on the casein
7 and gluten-free diet, but it really did not clear up
8 until we took him to see Dr. Buie.

9 Q Now, when did Dr. Buie see Yates?

10 A I'm sorry?

11 Q When did Dr. Buie see Yates?

12 A We saw him I believe it would have been
13 April of 2003.

14 Q Was the diarrhea -- was it constant, or was
15 it off and on?

16 A I wouldn't say constant in the beginning.
17 In the spring or summer, it's less frequently, spring
18 of 2001. By the fall 2001, it is more intense in both
19 number of times and the severity, and there's some
20 constipation mixed in there as well.

21 Q When did you become worried that something
22 might not be right about Yates' development?

23 A To myself, late fall, early winter of 2001,
24 but I kept that to myself. I had difficulty admitting
25 there's something wrong with my child.

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1 Q Was there something that made you, made you
2 face that possibility?

3 A I don't know, other than, I guess, I guess
4 my personality, it's difficult for me to acknowledge
5 there's something wrong with my child. He's not
6 normal, and I, like I say, it was kind of a slow
7 gradual thing. It wasn't this dramatic episode after
8 age one. Well, let's just wait. He'll get better.
9 He'll get better, and then when I started getting
10 concerned, I was convinced it's his hearing because he
11 was gone, he started to get more and more kinda out
12 into his own world.

13 He didn't want to interact with us, and it
14 made sense that also his speech had declined at that
15 point. Well, if you can't hear, you can't speak. I
16 did talk with a well-respected ENT doctor in Jackson,
17 Dr. Cox, who I had complete trust in, and still do.
18 He said that his language, that could be consistent
19 with hearing problems, so that's the first thing we
20 started to check out was his hearing.

21 Q So was it -- now, this is something I'm not
22 100 percent clear on. In the spring of 2002, what was
23 Yates' speech like? Was he still saying the numbers
24 and letters?

25 A I know by the last visit that we went to Dr.

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1 Kirkland, which I believe is in late April, he stopped
2 talking. He didn't talk again until 4th of July

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1 weekend of 2002. He said one word, "star." He had
2 been diagnosed. We started him on a diet, and we
3 drove up to Chicago and back, which is nine, 10 hours
4 all the way up there and all the way back. We were
5 doing little nursery rhymes trying to get him to talk.
6 We were singing Twinkle, Twinkle Little Star.

7 Je finally said -- we would sing twinkle,
8 twinkle little, and he finally said "star," and that
9 was like a huge milestone. He finally said something
10 and said a word for the first time in about three
11 months.

12 Q When were Yates' symptoms at their most
13 severe?

14 A Right before he was diagnosed. I mean,
15 he -- it's a slow downward spiral, but by May of 2002,
16 Angela and I had gone out of town on vacation. We'd
17 gone down to Florida. At this point, she's convinced
18 there is something wrong with her. I was, I guess I
19 kind of knew, but didn't want to admit it. I just
20 felt like I needed to be the strong one. I kept
21 trying to reinforce to her that he's all right. He's
22 okay.

23 While we were gone, that's when he had what
24 Tammy McCoy believed to be seizure episodes and called
25 my mother, and they took him to the emergency room, so

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1 that would be May, and then all during this time, even
2 before we went to Florida in May, Angela was trying to

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1 get him into Vanderbilt, I know by April, probably
2 before then, and then he was diagnosed June 3, 2002,
3 and I'd say that during that time period, right before
4 he was diagnosed, and before we started, Angela really
5 started doing research, and we started doing treatment
6 intervention.

7 In particular, the diet at first. Then he
8 slowly started to get better, so I know I'm long-
9 winded, but to answer your question, he hit rock
10 bottom right before or at the time he was diagnosed.

11 Q What were his symptoms then?

12 A He was in his own little world. There's a
13 video. It's my brother's birthday, which is March 9.
14 It's a classic example of it, and it's something I
15 remember. I'm just letting the Court know in case you
16 want to watch the video.

17 THE COURT: I have watched the video, Mr.
18 Hazlehurst.

19 THE WITNESS: Okay. Sorry if I took too
20 many. He's standing in front of the TV set, and he's
21 just -- I think it's probably the preview channel
22 running, and he's just doing like this, and he's
23 oblivious to everybody around him, and his little
24 cousin goes up and grabs him by the chin, and he turns
25 Yates' face to her, and I said Ann Elizabeth, don't do

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1 that. Well, that's how you make him look at you
2 because by that

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1 point, he had completely lost all eye contact, and eye
2 contact, I'm sorry it may have been something I missed
3 before, because as I was describing is something that
4 gradually disappeared. I'm sorry. I forgot your
5 question. I got to rambling.

6 MR. WEBB: If I can have just a moment? I
7 plugged my computer into apparently something that's
8 not a live outlet. I need to find a live outlet so
9 that I have this thing in front of me. Can I just
10 have five minutes?

11 THE COURT: We'll take a five-minute recess.

12 (Whereupon, a short recess was taken.)

13 BY MR. WEBB:

14 Q Mr. Hazlehurst, were you with Yates when he
15 went to the doctor on February 8, 2001?

16 A No.

17 Q How was Yates during the week after that
18 doctor visit and set of vaccinations?

19 A Well, he was sick before he went to the
20 doctor's visit, and then he was sick at the time of
21 the doctor's visit, and he was sick after the doctor's
22 visit, so he was sick at his first birthday party on
23 February 11, and I believe it was -- I think it was
24 February 20, and the only reason I know that is from
25 looking at the pharmacy records, is when we had

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1 discovered the rash on him. He threw up like one
2 time.

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1 It wasn't like a violent vomiting, but he
2 did spit up, on me, but it was a vomit onto the
3 kitchen floor, and he felt warm. It wasn't a high,
4 high fever, but he had a low-grade fever, so I
5 unzipped his one-piece flannel pajamas to kind of cool
6 him off, and that's when I saw the red rash. It was
7 kind of like tiny little red dots. I remember them
8 being on his chest and his stomach.

9 He could have had them elsewhere, but that's
10 what I remember, and then I know my wife and my mom
11 took him in about three days after that. He kind of
12 had sort of a hoarseness or a bronchial congestion,
13 and they put him on albuterol. That's the only time
14 he ever had any sort of respiratory problem. I don't
15 know how far you want me to go.

16 Q Could you describe the rash?

17 A Yes. As I said, it was tiny red dots that
18 were raised. They were not like a rash as in
19 clustered together like poison ivy. It's more like
20 rashes and the dots are spread out over him.

21 Q Did he have a fever?

22 A As I said, I believe he did have a low-grade
23 fever. Exactly what his temperature was, I don't know
24 because I didn't take it.

25 Q Was he any warmer on the 20th than he would

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1 have been on the 15th or the 8th?

2 A Yes. Yes, I think so. Yes, yes. It was
3 enough -- I mean, I noticed that it's warmer than he
4 had been.

5 Q When you saw this, what did you do?

6 A I called the pediatrician's office.

7 Q And what did the pediatrician's office do?

8 A Well, the pediatrician that normally treated
9 him was not there, so I talked to the pediatrician on
10 call and explained to him Yates' symptoms. The
11 pediatrician on call did not have Yates' medical
12 records in front of him, so he's asking me what
13 medications, and somehow I told him he's just, you
14 know, he's been vaccinated, and he was a little
15 confused about that he was vaccinated before he was
16 one, and he asked me well, what vaccines did he get.

17 I was like I don't know. Whatever you get
18 when you're age one, and I think he was a little
19 confused about the MMR, whether he had gotten that or
20 not, but he's made the diagnosis that it was an
21 allergic reaction to penicillin and wrote him another
22 prescription for a different antibiotic with --
23 although the interesting thing is Yates had finished
24 the penicillin.

25 The 10 days had passed since he was

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1 originally put on penicillin, and I think he diagnosed

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1 him as being allergic to penicillin because he didn't
2 think he had received the MMR. He made the comment
3 something about 15 months, and you don't get it before
4 you're one. Although, I realized it's only three days
5 before one, but it was still before he was one, but
6 anyway.

7 The pediatrician on call did not have a copy
8 of his records in front of him. He said he must be
9 having a reaction to the penicillin, and he wrote him
10 another antibiotic, and I don't remember what the
11 antibiotic was.

12 Q Were you with Yates when you saw the doctor
13 on August 17, 2001?

14 THE COURT: Before you go on, Mr.
15 Hazlehurst, if you remember that second course of
16 penicillin, do you recall whether or not you
17 administered that?

18 THE WITNESS: The second course of
19 antibiotics?

20 THE COURT: That's right. Antibiotics.
21 That's it.

22 THE WITNESS: Yes, ma'am. Excuse me. Yes,
23 Special Master, we did give him that antibiotic.

24 THE COURT: Okay. Proceed.

25 BY MR. WEBB:

R. HAZLEHURST - DIRECT

1 Q I'm not sure I asked this. I meant to. How
2 long did that rash last?

3 A Two to three days. I would say
4 approximately two days. I think that it had cleared
5 up by the time that Angela and my mom took Yates to
6 his regular pediatrician, but I'm not certain, but it
7 didn't last very long. Few days at most.

8 Q And, um -- how long had he been off the
9 penicillin on the 20th?

10 A Well, it was written to him on the eighth.
11 I assume we probably filled it that day and gave it to
12 him. I don't know how many -- I think it was for 10
13 days, but I'm guessing. I don't know. I'd have to
14 look at the pharmacy record to know.

15 Q Okay. Now let's go to the August visit to
16 the pediatrician. You were there?

17 A Are you referring to the 18-month well-baby
18 checkup?

19 Q That's right.

20 A Okay.

21 Q Was there a particular reason why you were
22 there that day?

23 A No. I believe that was just a well-baby
24 visit -- he had these periodic well-baby visits.

25 Q Did you have any concerns about Yates'

R. HAZLEHURST - DIRECT

1 health at that time?

2 A August? No, not really. Angela did. I
3 didn't.

4 Q Did he have the diarrhea at that time?

5 A He had had those episodes in Norway, and he,
6 yeah he was having loose stools, but I wasn't that
7 concerned about it.

8 Q Was Angela?

9 A Yes, and the reason I can say that I
10 remember sitting in the doctor's office in the waiting
11 room, and there's a pediatric questionnaire that you
12 fill out, and I specifically remember her sitting
13 beside me, filling it out and her going this is not
14 normal. He should not be having -- he's sick all the
15 time. He should not be having all this diarrhea.
16 Well, write it down. That's what she did. If you
17 look at the pediatric questionnaire, she's written
18 "sometimes" beside respiratory, gastrointestinal,
19 lymph nodes, something else. I don't remember the
20 other things.

21 He constantly was having his lymph nodes
22 were swollen by this point, and the pediatrician -- we
23 told the pediatrician about it. It's in his medical
24 records. He's just kind of, well, that's normal for
25 little children to have lymph nodes. But Angela was,

R. HAZLEHURST - DIRECT

1 like, it's not normal for them to constantly be
2 swollen like

R. HAZLEHURST - DIRECT

1 this, so that's why -- she was catching on faster than
2 I was.

3 Q Did Angela tell the pediatrician at that
4 visit that Yates had --

5 A Yes, yes.

6 Q Let me finish.

7 A I'm sorry.

8 Q I'm sorry. Did Angela tell the pediatrician
9 at the August visit that Yates had diarrhea?

10 A Yes. Yes, I interrupted you because I heard
11 her tell the pediatrician about everything on that
12 list.

13 Q Did you have any concerns about Yates'
14 development when you saw the pediatrician in August?

15 A I had a little bit, but I was still in that
16 boys will be boys. Boys develop a little later than
17 girls. He's a genius. It wasn't until a little bit
18 after that 18-month visit that I started to get
19 concerned, but at that 18-month visit, I was not
20 concerned.

21 Q Now, did the pediatrician ask you about
22 Yates' development?

23 A Yes.

24 Q Did you report that -- did you tell the
25 pediatrician that Yates walked up to people and said

R. HAZLEHURST - DIRECT

1 hi?

2 A I believe I answered that question that yes,

3 he would say hi. Yes.

R. HAZLEHURST - DIRECT

1 Q Do you believe that your answer to the
2 doctor's question was accurate?

3 A Not at that time. It was something that he
4 used to be able to do, but he wasn't really doing it
5 that time, but -- and he didn't do it again for a long
6 time down the road. How that occurred the
7 pediatrician has this sort of list of what the child
8 should be doing, and I wish I could remember
9 everything that he asked us, but I just can't. It's
10 so long ago, and about the first two questions he
11 asked, Angela and I are looking at each other and
12 well, no he doesn't do that.

13 Well, does he do this? Well, no. Well,
14 does he greet people with hi or hello? Yes. Yes, he
15 does that. I guess I was taking up for my little boy.
16 Yes, he can say "hi" because at one point he could.
17 That's how that got in there.

18 Q But today, you don't think he was doing that
19 in August?

20 A No.

21 Q Why would you give the doctor bad
22 information?

23 A At the time, I had no idea what was coming
24 down the road, or that there really was something
25 wrong with him. By August, which I would characterize

R. HAZLEHURST - DIRECT

1 as late summer, he's all right. There's nothing wrong
2 with

R. HAZLEHURST - DIRECT

1 him. He's just a typical little boy. Maybe perhaps I
2 was in denial. Hindsight is 20/20. I can see yes, he
3 had gone in that slow downward spiral, which the best
4 way I can describe it, he develops typically, hits
5 that plateau at his first birthday.

6 Then in the spring he's slowly going down
7 spring and summer, and it wasn't until the fall that
8 he just drops like a rock, and that's the point it
9 becomes obvious. That's the point I started to get
10 concerned.

11 Q Did you tell the pediatrician that Yates
12 hugged dolls?

13 A I did.

14 Q Was he doing that?

15 A I don't know what you'd call hugging a doll.
16 I guess yes, technically he was hugging it -- he used
17 to -- he had two favorite dolls: Curious George and
18 Robbie the Rabbit, and Curious George was his
19 favorite, but then he lost all interest in Curious
20 George, but he still kind of held on to Robbie Rabbit,
21 but in hindsight what he was doing with Robbie the
22 Rabbit was chewing on Robbie Rabbit's tail, and he'd
23 walk around with his doll, chewing on Robbie Rabbit's
24 tail.

25 One as an example of that. When we were in

R. HAZLEHURST - DIRECT

1 Norway, his self-limiting his diet, one of the
2 things -- he'd pick one

R. HAZLEHURST - CROSS

1 food, and that's all he wanted to eat. One of the
2 things was black licorice. He would chew on that, and
3 then he'd chew on Robbie Rabbit. By the end of the
4 trip, Robbie Rabbit's tail went from being kind of,
5 well, he's blue on one side and fluffy white on the
6 other, and it was just black like the licorice where
7 he'd just walk around chewing on Robbie Rabbit's tail.

8 Technically, he's hugging the rabbit if that
9 answers your question.

10 MR. WEBB: That's all the questions I have.

11 THE COURT: Is this a good time for a break?

12 MS. RICCIARDELLA: I probably only have
13 about five or six minutes worth of questions.

14 THE COURT: Okay. Let's proceed. Would you
15 like a break?

16 CROSS EXAMINATION

17 BY MS. RICCIARDELLA:

18 Q Mr. Hazlehurst, today you testified under
19 direct, and you also wrote an affidavit in this case
20 dated August 28, 2007, do you recall that affidavit?

21 A I recall -- I haven't looked at it in a
22 while, but yeah, I recall the affidavit, yes.

23 Q I'm referring to Petitioners' Exhibit 29,
24 and in your affidavit and today during your
25 examination you stated that Yates screamed for several

R. HAZLEHURST - CROSS

1 hours following his six months' vaccinations, is that

R. HAZLEHURST - CROSS

1 correct?

2 A That is correct.

3 Q And I believe that you said that it was the
4 day after, during the afternoon that your wife called
5 you, and you came home from work?

6 A To the best of my recollection, the
7 screaming was the day after.

8 Q Do you recall how long Yates screamed?

9 A I don't know how long he screamed before I
10 got home other than my wife had said he'd been
11 screaming all afternoon, several hours. I probably
12 tried to console him for about 15 minutes before I
13 called my mom, and she lives three minutes away, and
14 she rushed over. He probably kept screaming for her
15 while she was there 10, 15 more minutes, and then he
16 went to sleep. He screamed for several hours nonstop.

17 Q Did you ever call a doctor about the
18 screaming?

19 A No.

20 Q Did anyone in your family ever call a
21 doctor, a healthcare professional, about that
22 screaming?

23 A No, well, other than my dad. We mentioned
24 it to him after the fact.

25 Q Did you ever later report the episode to a

R. HAZLEHURST - CROSS

1 doctor?

2 A I believe that Angela did at his next well
3 baby visit when she reported the shaking episodes.

4 Q To whom did she report the shaking episodes?

5 A She would have reported it to Dr. Carlton
6 Hayes.

7 Q At his next -- at Yates' next well-baby
8 visit?

9 A Yes. She may have reported it after that,
10 but I don't know.

11 Q And how was Yates the day after the
12 screaming episodes?

13 A The best I could recall he seemed fine.

14 Q Mr. Hazlehurst, when did you first hear of
15 Dr. Corbier?

16 A It would have been I would say approximately
17 the late summer of 2002. It would have been after his
18 diagnosis. I think the first time we saw him was in
19 September, but I could be wrong, but I think that's
20 about right.

21 Q How did you hear of him?

22 A My wife found him.

23 Q Was Yates ever seen by a pediatric
24 neurologist in Tennessee?

25 A A pediatric neurologist in Tennessee?

R. HAZLEHURST - CROSS

1 Q Correct.

R. HAZLEHURST - CROSS

- 1 A No.
- 2 Q Has Yates ever been seen by any other
3 pediatric neurologists besides Dr. Corbier?
- 4 A Dr. Zimmerman at Johns Hopkins.
- 5 Q Is Dr. Corbier still following Yates?
- 6 A Yes, he is.
- 7 Q Has he seen -- when was the last time he saw
8 him?
- 9 A I think it was May.
- 10 Q Of this year?
- 11 A He's seen him this year. I don't remember
12 the exact date. Late spring/early summer of this
13 year.
- 14 Q Since he moved his practice to Charlotte?
- 15 A Correct.
- 16 Q Do you drive Yates to Charlotte?
- 17 A Yes.
- 18 Q Do you know how your wife heard of Dr.
19 Corbier?
- 20 A I believe she received a list of DAN
21 practitioners from Bernard Rimland.
- 22 Q From who?
- 23 A Bernard Rimland.
- 24 Q Who is Bernard Rimland?
- 25 A He's the founder of the Autism Research

R. HAZLEHURST - CROSS

1 Institute, and I believe he's one of the founders of

R. HAZLEHURST - CROSS

1 DAN.

2 Q Now today you testified a little bit about
3 the swollen lymph nodes that Yates had. In your
4 affidavit at paragraph 28, you used the word
5 "chronically" swollen from the spring of 2001 until
6 the fall of 2004, is that correct?

7 A Yes.

8 Q I have a copy of the affidavit if you'd like
9 to look at it.

10 A No. I'm just thinking for a moment.

11 Q Sure. Take your time.

12 A To the best of my recollection, yes.

13 Q So to your understanding that Yates had
14 chronic swollen lymph nodes for three and a half
15 years? Is it your understanding that Yates' lymph
16 nodes were chronically swollen for three and a half
17 years?

18 A Yes.

19 Q And how many times during this three-and-a-
20 half-year period did you take Yates to a doctor
21 specifically for the chronic swollen lymph nodes?

22 A We took him several times, and usually it
23 was when he was sick, and we'd always mention he's got
24 these chronic swollen lymph nodes. Little children
25 have lymph nodes.

R. HAZLEHURST - CROSS

1 Q That was to the pediatrician?

2 A Pediatrician, pediatric neurologist, I'm not
3 sure what type. We'd take him to Convenient Care, all
4 those doctors. Some of them were pediatricians, and
5 some of them were internal medicine, just whoever was
6 on call, but we reported it to the pediatrician
7 several times.

8 Q And what did they tell you?

9 A It's normal. Little children have swollen
10 lymph nodes.

11 Q And you also state that Yates seemed to have
12 a low-grade fever during this three-and-a-half-year
13 time period, is that correct?

14 A Yes.

15 Q Did you ever take his temperature?

16 A Yes.

17 Q And what was it?

18 A I couldn't remember at this time. One of
19 the difficulties -- I do know this. It was
20 frustrating trying to take his temperature because
21 when he's running a low grade fever he's doing this
22 running wild series, so doing a rectal is about out of
23 the question. Putting it in his mouth was, that
24 didn't work, so we used where you put it in his ear.
25 And he'd get these -- I don't think the ear

R. HAZLEHURST - CROSS

1 thermometers are very good. That's just my personal
2 opinion, but what I would do is I'd check

R. HAZLEHURST - CROSS

1 him, and I'd check me, and his would normally be --
2 his was consistently higher than what mine was.

3 Sometimes it would read mine at 95 degrees,
4 which I don't think I was running three degrees below
5 normal, but he consistently ran a low-grade fever when
6 he had these lymph nodes. That went on for a long
7 time.

8 Q Did you report that to the doctor?

9 A Yes.

10 Q And what did he say?

11 A My mother reported it to Dr. Zimmerman. He
12 just said well, that's one of the symptoms of autism.
13 We don't know why that is. Just kind of -- he didn't
14 know, so there's nothing we could do about it.

15 Q In this three-and-a-half-year period though
16 did you ever report it to his pediatrician?

17 A Yes.

18 Q And what did the pediatrician say?

19 A Same thing. Little children have swollen
20 lymph nodes. Well, then I take it -- that back.
21 There was one point in the medical records where the
22 pediatrician talked about, well he's specifically
23 talking about yeast being a sign of Yates' possible
24 immunodeficiency, but I think that they also discussed
25 lymph nodes at that same time.

R. HAZLEHURST - CROSS

1 Q Do you recall who discussed yeast being a

R. HAZLEHURST - CROSS

1 sign of Yates' immunodeficiency?

2 A His pediatrician.

3 Q Dr. Carlton Hayes?

4 A Yes.

5 Q Do you recall when that was?

6 A Give me a moment. I could probably remember
7 it.

8 Q Just general timeframe. I'm not -- this is
9 not trying to --

10 A After two thousand and -- early 2002 I
11 believe.

12 MS. RICCIARDELLA: Okay. Thank you. I have
13 no further questions. Thank you.

14 THE COURT: Mr. Webb.

15 MR. WEBB: I don't have any further
16 questions.

17 THE COURT: Do you we anticipate any
18 additional questions from or further presentation from
19 Mr. Hazlehurst?

20 MR. WEBB: I'm sorry?

21 THE COURT: Do we anticipate any further
22 presentation from him?

23 MR. WEBB: No.

24 THE COURT: That's it. You're excused.
25 Thank you.

R. HAZLEHURST - CROSS

1

THE WITNESS: Thank you.

R. HAZLEHURST - CROSS

1 (Witness excused.)

2 MR. WEBB: We're finished earlier than I had
3 anticipated it is our plan to call Dr. Corbier
4 tomorrow.

5 THE COURT: Okay.

6 MR. WEBB: So we're done for the day.

7 THE COURT: We're done for the day. We will
8 resume at 9:00 tomorrow morning to hear the testimony
9 of Dr. Corbier.

10 MR. WEBB: Thank you.

11 MS. RICCIARDELLA: Thank you.

12 (Whereupon, at 1:05 p.m., the hearing in the
13 above-entitled matter was adjourned, to reconvene at
14 9:00 a.m. on Tuesday, October 16, 2007.)

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REPORTER'S CERTIFICATE

DOCKET NO.: 03-654V
CASE TITLE: Hazlehurst v. HHS
HEARING DATE: October 15, 2007
LOCATION: Charlotte, North Carolina

I hereby certify that the proceedings and evidence are contained fully and accurately on the tapes and notes reported by me at the hearing in the above case before the United States Court of Federal Claims.

Date: October 15, 2007

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