

## ADJUDICATORY ISSUE INFORMATION

June 9, 2000

SECY-00-0128

**FOR:** The Commission

**FROM:** John F. Cordes, Jr. */RA/*  
Solicitor

**SUBJECT:** LITIGATION REPORT - 2000 - 3

Sweet v. United States, No. 00-274C (U.S. Court of Federal Claims, filed May 11, 2000)

This lawsuit arises out of medical research and treatment, known as "boron neutron capture therapy" (BNCT), conducted by Dr. William Sweet during the 1950s and 1960s. The BNCT procedure involved use of AEC-licensed research reactors at MIT and at the Brookhaven National Laboratory. The families of several of Dr. Sweet's patients filed tort lawsuits for damages against Dr. Sweet and others on the claim that the administration of BNCT caused radiation-related injury and death to loved ones. See Heinrich v. Sweet, 62 F.Supp.2d 282 (D. Mass. 1999).

Late last year a federal district court jury in Boston entered multi-million dollar judgments against Dr. Sweet and against Massachusetts General Hospital. Those verdicts have not yet been reduced to judgments due to the pendency of post-trial motions.

Dr. Sweet now has filed a lawsuit against the government in the Court of Federal Claims where he maintains that the government must indemnify him for the legal expenses he has incurred thus far (about \$300,000) and for any actual judgments that are entered against him in this or in future similar lawsuits. According to Dr. Sweet, when the AEC licensed the MIT and Brookhaven reactors, it entered indemnity contracts agreeing, under the Price-Anderson Act, to pay any damages for "public liability" arising out of a "nuclear incident" -- terms that, says Dr. Sweet, cover lawsuits and potential liability against him for his medical use of the MIT and Brookhaven reactors.

We are working with the Department of Justice in defending this lawsuit.

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Patel v. Miller & United States, No. 99-cv-3938 (E.D. Pa., filed May 31, 2000)

This is a Federal Tort Claims Act suit for damages arising out of an automobile accident in Pennsylvania. The United States Attorney's office has principal responsibility for defending this case, but we are providing support and information.

CONTACT: Donald F. Hassell  
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