


ADJUDICATORY ISSUE
(Information)

SECY-00-0136

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FOR: The Commission
FROM: John F. Cordes, Jr. Solicitor
SOLICITOR: LITIGATION REPORT - 2000 - 4


[National Whistleblower Center v. NRC](#) , Nos. 99-1002 & 99-1043 (D.C. Cir., orders issued June 15, 2000)

In late 1998, the Commission ruled that the National Whistleblower Center's failure to submit timely or adequate contentions justified dismissal of the Center's petition to intervene in the Calvert Cliffs license renewal proceeding. In April a 3-judge panel of the United States Court

of Appeals for the District of Columbia Circuit (Edwards, C.J., Williams & Sentelle, JJ.) upheld the Commission's decision as lawful and rejected the Center's challenge to it. See *National Whistleblower Center v. NRC*, 208 F.3d 256 (D.C. Cir. 2000). The Court expressly approved the Commission's decision to toughen its usual approach to extension-of-time requests in the Calvert Cliffs proceeding.

The Center subsequently sought rehearing before the panel or, in the alternative, rehearing en banc before the full 10-judge court of appeals. On June 15, in separate one-page orders, the court of appeals denied the Center's petitions. The Center now has until September 13 to file a petition for certiorari seeking Supreme Court review. The Center's attorneys have stated that they plan to file such a petition.

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[Massachusetts Institute of Technology v. United States](#) , No. 00-292 C (United States Court of Federal Claims, filed May 22, 2000)

This lawsuit, a companion to *Sweet v. United States*, No. 00-274 C (U.S. Court of Federal Claims), seeks reimbursement of attorney's fees and costs incurred in defending a tort suit, *Heinrich v. Sweet*, arising out of alleged medical misuse of a research reactor at the Massachusetts Institute of Technology (MIT). MIT relies on a 1959 indemnity agreement between MIT and the Atomic Energy Commission under the Price-Anderson Act -- an agreement that requires the government, according to MIT, to reimburse MIT's legal expenses exceeding \$250,000. MIT says that it incurred more than one million dollars in expenses in defending the Heinrich suit.

We are working with the Department of Justice on the defense of both the MIT and Sweet lawsuits.