

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DR. MARK GEIER, *et al.*,

Plaintiffs,

vs.

DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

Case No. 05-CV-1749(TFH)

**DEFENDANT AMERICAN ACADEMY OF PEDIATRICS’
STATEMENT OF MATERIAL FACTS NOT GENUINELY IN DISPUTE**

Pursuant to Local Rules 7(h) and 56.1, Defendant American Academy of Pediatrics (“AAP”), in support of its motion for summary judgment, respectfully submits the following statement of material facts as to which there is no genuine dispute:

1. AAP is a non-profit association organized under the laws of the State of Illinois. Its membership is comprised of approximately 60,000 pediatricians, pediatric medical subspecialists, and pediatric surgical specialists. Declaration of Roger F. Suchyta, M.D. ¶ 2.
2. AAP publishes *Pediatrics*, its official monthly journal. *See id.* ¶ 3.
3. Copies of each issue of *Pediatrics* are distributed to each of AAP’s members and various other subscribers via the United States Postal Service. *See id.*
4. The issue of *Pediatrics* dated September 2004 included the article titled “Thimerosal-Containing Vaccines and Autistic Spectrum Disorder: A Critical Review of Published Original Data,” which is the article that is the subject of this action. *See id.* ¶ 4.

5. Each issue of *Pediatrics* is printed, bound and prepared for mailing by Cadmus Professional Communications (“Cadmus”), located in Easton, Maryland. *See id.* ¶ 5. Cadmus delivers the copies for subscribers to a United States Post Office. *See id.*

6. Once these copies are delivered to the Postal Service, neither AAP nor Cadmus has any further control over them. *See id.* ¶ 6.

7. This regular practice was followed for the September 2004 issue of *Pediatrics*. *See id.* ¶ 7.

8. On August 30, 2004, Cadmus delivered 62,641 copies of the September 2004 issue to the Postal Service. *See id.* ¶ 7-8 & Ex. A.

Dated: December 1, 2005

Respectfully submitted,

LEVINE SULLIVAN KOCH & SCHULZ, L.L.P.

By: /s/ Jay Ward Brown
Jay Ward Brown (D.C. Bar No. 437686)
Adam J. Rappaport (D.C. Bar No. 479866)
1050 Seventeenth Street, N.W., Suite 800
Washington, DC 20036
(202) 508-1100

*Counsel for Defendant
American Academy of Pediatrics*

CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2005, I caused true and correct copies of the foregoing Defendant American Academy of Pediatrics' Statement of Material Facts Not Genuinely in Dispute to be served by the Court's Electronic Case Filing System upon all parties scheduled for electronic notice, and on the following counsel via first-class mail:

James A. Moody, Esq.
THE CULLEN LAW FIRM, P.L.L.C.
1101 30th Street, N.W.
Suite 300
Washington, DC 20007

/s/ Adam J. Rappaport
Adam J. Rappaport