

# *Chapter* **22:**



*Interview with*  
**Michael R. Hugo, Esq**



**Michael:** There were several phases of history. The oldest going back to the beginning was when the truth was being told. The medical establishment was beginning to notice that following, mostly it was the DPT vaccine, which was the diphtheria, pertussis, and tetanus vaccine.

They noticed that following the administration of the shots, a pretty high number, much more than they wanted to see, of children started to have strange things happen. They would scream at a very high pitched cat-like scream.

They would start to go into a hypotonic shock which would be where they would become basically like a limp rag. They would cry for days on end without sleeping and only taking a short cat nap and wake up screaming from that.

There was an incidence of seizures that was being noted in all of the medical journals following this particular shot. Then once the journals started to report the prevalence of these really severe reactions, the lawyers, we picked up on the fact that there was a problem.

We had some phone calls from parents because everybody in society was hearing that there might be something wrong with some of these vaccinations. That they're causing some very, very bad reactions. The question was whether the reactions were worth continuing to go forward with the immunization programs in this country.

In the early 1980s, starting actually 79 or so, there was a paper that was released that showed a pretty high incidence of seizures and these hypotonic collapses. Along with the lawyers finding out, a number of parents started to look at their kid and say that's exactly what happened to my child. They would call their doctors.

The doctors—the medical establishment has a history that I'm sure that other people in your film will talk about. The medical establishment has a history of trying to deny and bury certain things when it doesn't fit their needs at the time. Many doctors were minimizing, underplaying, downplaying—your child is colicky, don't worry about it. It's a stage of development and—

**Interviewer:** You think colic is caused by vaccines?

**Michael:** I don't know. I never really studied whether that was. But the doctors were confusing what the parents were telling them. Primarily because I think that doctors don't listen to moms. Moms don't know as much as they do. It's usually the mom that brings the child back to the doctor's office to report this.

The mom has now not slept for days because the child's been up for days. The mom is frazzled. The doctor is dealing with a "hysterical mom" and doing everything that he or she can do to downplay what's going on and sometimes not recognizing it.

The next thing that parents do when they can't get satisfaction from the medical profession is they contact the legal profession. I was coming out of law school in 1983 and I had worked for two years on a vaccine case while I was in law school working as a law clerk in a firm in Boston.

I had this one case and I thought I had the only case in the world because I didn't—these weren't cases out there. Then I heard about two trials. I heard about a trial in Chicago and I heard about a trial in Idaho. The Chicago trial went bad for the plaintiff. The company won and there was no recovery.

But the trial in Idaho was a plaintiff's verdict, and it went on appeal and it became very visible in the legal journals because it was really the first reported case of a vaccine reaction in the *Legal Times*. I connected with the lawyers from those cases. We started to compare notes.

At that time, I had probably three or four cases by that point because my case got in the news and a couple of other parents called me. Once we started comparing notes and we determined that this is really something that's happening. It's not just my case, there's other cases out there.

We started talking to parent groups, speaking to people in PTAs and PTOs in the schools where they had special needs kids and started to see a real trend here. The litigation really began around 1983 or 84. That's when it started to really become robust.

Once the litigation began, I told you in the very beginning that there was a historical time when the truth was being told. Then it became more in the interest of the industry to not only downplay but to misdirect and to change the numbers, to change the knowledge, and change the database that they were working from because it was condemning them. It was making them look very bad.

So, they got into this phase where they started to pay for studies. They started to sponsor studies. There was a major study done at UCLA. That study began as a 50,000-dose study.

During this study, somebody went from one of the drug companies out to UCLA to just kind of poke around and talk to the doctors that were doing the study and see what they're coming up with, how is it going? Is anything we can do for you as a drug company to help the study along?

At that point they had given about, if I remember right, I think it was 1,500 shots. So, they were 1,500 shots into 50,000 shots study. The doctor that went out there came back to his company and told them "we're in trouble" because out of the 1,500 shots there'd been five seizures out of 1,500. And they expected to see one in 15,000.

But they had three in 1,500. That's one in 500 cases were having seizures. During that study, after the company showed up on the scene at UCLA, somehow or other the numbers changed. They only got as far as about 15,700 shots in the study. They never got to 50,000 before they published.

In that 15,000 shots, the numbers became more like I think it was three out of—I think that there were six or eight. They were 18 shock collapses and seizure disorders they were in that 15,000. They went from having a real lot of them to all of a sudden not having so many after the guy visited.

In one of my lawsuits, when I took the deposition of the director of the vaccine program for this particular drug company, he admitted to me that he could have gone to the warehouse and said "send that lot to UCLA. Don't send that lot." And the lots all varied.

There was a huge variation between the potency of the lots. By sending a less potent lot they were going to get way less severe reactions. It's just simple mathematics. I basically charged that they had manipulated the scientific data. That the study was invalid.

Now there's this whole issue of the truth coming out about the fact that they're now starting to lie. Because they went from being truthful because they didn't think they had anything to worry about, to getting sued, manipulating the data to make it more difficult for us to sue.

Then we got into a situation where now at this point we're talking about probably 1985 or so. Early 86. Right around 85. What happened was that a judge in New Jersey ordered one of the companies to produce their documents too fast for them to be able to be careful and sanitize them.

Along with the 80 boxes of documents that were delivered to my office, there were some documents that we probably never should have seen as lawyers. Had the lawyers done their homework they wouldn't have included them. They would have said they were privileged and they would have put up a fight.

The judge made them go so fast because they were refusing to produce. So, he basically said, "Okay. Fine. You have 48 hours to get the 80 boxes to Boston from New Jersey." So, they started packing up the trucks and they shipped up the boxes to us.

I found documents in there that showed really an intent on their part to deceive the medical establishment, to deceive the FDA, and to deceive the doctors and to deceive the parents. Once those documents were out in the open and once I found them—I'm going to be talking about them and showing some of them this afternoon in my speech. So, you probably want to come down and watch that. Shameless plug.

**Interviewer:** Yes. That's cool. Can you tell me about those documents?

**Michael:** Sure. What happened was once we saw those documents, what we saw in there was there were several different types of documents. One dealt with pricing. We're getting sued. We can't afford the lawsuits. What do we do to make it so that the product stays profitable?

Before that study was done it was a basic breakeven analysis that was done. Before that was done, vaccines cost 28 cents a shot. It was \$2.80 to buy a vial of the stuff that had 10 shots in each vial. After that study and literally overnight they went from \$2.80 to \$174.50 a vial.

Some doctors would order 100 vials or 50 vials or 20 vials or whatever at a time. So, if you had ordered 100 vials at \$2.80 a vial you're figuring you're going to spend \$280. That's what you're going to owe the drug company. But if it goes up to \$176, now you're talking tens of thousands of dollars to get your supply.

So what the company did was they stopped shipping by the order number and they sent a small number to each doctor with a new pricing saying, "We don't want to send you more than you can handle paying us for. So, here's some." It was really because they had recalculated the price.

What they determined was that a dead baby is worth a half a million dollars in a lawsuit. A living baby with brain damage—and this is back in maybe 83 or so. This is right off in the very beginning of the vaccine. They were figuring a million dollars a case for brain damaged babies.

Using those assumptions, at so many lawsuits per million doses given, how much is it going to cost? I'll show later the graph that's actually in one of my slides that they actually grafted out and drew circles—this is where we have to be. It came out to \$174. There were other things that happened to the manufacturers.

One was that there were 11 deaths within 48 hours in Tennessee. They determined that those deaths were caused by one single lot of DPT vaccine that all the kids happened to get the same lot number. From different doctors, but it was all distributed to Tennessee.

So, the company instead of acting responsibly on that, first of all denied any lawsuits. They weren't going to pay any settlements on it. They made all of these people sue.

Second of all, they decided that instead of sending a bunch of one lot to one distribution center in one state, they would send small bits from lots of different lots to that same distribution center in one state.

So therefore, instead of getting 5,000 packages of this stuff delivered to Chicago for the Illinois area, they would only get maybe a couple of hundred of this lot and a couple a hundred of that lot. That way they're sending it all over the country.

So, if they have a "hot lot" that causes deaths like the Tennessee cluster was, it would be all over the country and nobody would pick up on it. Nobody would say, "Ah, it was their vaccine that caused it." Because it's all over the place and a doctor from Florida might never know about a doctor in Anchorage, Alaska, that lost a patient.

That was their idea of how to proceed with professionalism. It was terrifying to see the numbers of people coming out of the woodwork. It was not only terrifying to us as a group of plaintiff lawyers.

There were essentially about five or six of us from various places in the country that were doing all the litigation. We were constantly—and this precedes the internet, so it was much more difficult then. But we we're constantly exchanging documents with one another and we're sending them between the law firms and helping each other get ready for depositions and for trials and things of that sort.

But what was really alarming was the fact that the companies, rather than man up and say, "Yeah, we've messed up here," they were doing everything they could to drag these lawsuits on. That's phase three.

So, we have the truthful stuff before litigation. We have them manipulating and messing around with the facts during the litigation. Once they produced those documents to me and I shared them with everybody, there was no going to trial anymore. They could not try a case because what the juries would see would be things like the "death graph" is what I call that thing. With the breakeven points.

They're talking about kids as nothing but numbers. This is dollars and cents to them. Juries don't like seeing that stuff. They would have seen this Tennessee SIDS cluster document spread all over the country so it doesn't look like we did anything wrong.

They would have seen statements saying, "We know that we're not giving good enough warning. If we were to warn better we would cut our liability, but if we told the truth at this point the plaintiff lawyers will kill us in court. We can't acknowledge it now. It's too late. We've pushed it too far."

The juries would have seen documents like that but they also would have just seen the course of conduct of this industry changing the facts, changing the numbers. They would have also seen that the pediatricians were actually committed institutionally to working against the children.

That was perhaps one of the most disturbing things that I saw which was in one of the depositions. The American Academy of Pediatrics chair of their committee on infectious diseases made a statement that because there's too many lawsuits about this, what you

would expect him to say would be because there's too many lawsuits about this we're going to cut back on the vaccination program till we study it.

But instead what he said was because there are so many lawsuits over this, I and a number of my colleagues at the American Academy of Pediatrics have divided up the cases amongst ourselves to represent the manufacturers. To show that the manufacturers did no wrong. Which is just not the case.

You have the medical establishment. You have everybody rallying to save the vaccines. Then you have the vaccine manufacturers pretending that they were having production problems and going to Congress and saying, "We need to upgrade our physical plant to make more of this."

"But we're not going to spend the money because we're getting sued. And if we're going to get sued—if we're going to spend the money to make a product to get sued, it doesn't make sense for us businesswise. We're dropping out of the vaccine business."

All of the vaccine manufacturers went to Congress and told them, "We're dropping out of the business unless you do something to make it so that we can stay in the business." Which is where the vaccine compensation program and the Vaccine Act, the court, the things that you've heard so many things around this area over the past few days.

That's where the whole idea came from. It came from the manufacturers who could no longer defend themselves. And Congress saying, "We need to protect the vaccine supply." Well, do we? Did we? I don't know. I'm not convinced we needed to protect that vaccine supply.

Then the worst part for the manufacturers would have been the fact that we discovered that in Japan they don't have these injuries. They don't have the seizure disorders and the hypotonic collapses that I described earlier. They don't have the same vaccine that we have in this country.

So, the lawyer group started to research the Japanese vaccines to see why aren't they getting the reactions that we're getting? What we found was that there was a different vaccine that was being used. So, we started looking for what's it all about?

The easiest way to figure that out is you go to the Patent Office and you see what they've patented because it's public record and you can get a hold of it. We can give it to our doctors to take a look at. They can analyze what's in that vaccine and tell us whether or not the American companies could do that.

Well, we couldn't find a patent. We're looking for this Japanese company, for patent in their name. It's nowhere. So, we start working backwards and we're thinking well, who would put a revolutionary pharmaceutical product on the market?

Any kind of pharmaceutical product if it is for weight loss, if it is for zits, if it is for hair, if it's for hangnails, let alone vaccines to protect children, who would ever put something like that on the market without patent protection? We started thinking well, if it's not patented by the Japanese company, it has to be patented by somebody.

So, we did a patent search. We found out that one of the current vaccine manufacturers at that time had a patent going back to 1937. They've had the technology for that long to make it safer.

You heard me mention DPT earlier but today the vaccine is DTaP, Diphtheria, it's tetanus,

but the pertussis component is acellular, which means it's an interrupted cell. It's not the whole bacteria that's being thrown into the kid.

It's much more pure. It still has reactions, but it's way more pure. So, the juries would have heard the manufacturers had the technology and capability to prevent this child's injury since 1937 but didn't do it.

Then I started out on a campaign to figure out why wouldn't they do it? And the only answer I could get from the vaccine industry was that it cost a half a cent a dose more to make the safer vaccine.

So now you have all of the documents that we've discussed. You have the breakeven point with the new prices. You have the Tennessee SIDS cluster. You have all of those documents we've talked about. Then we have a document saying, "We could have done better but it cost half a cent a dose more." What I did was I actually had a half a cent.

I had somebody machine me down a penny. So, it was one half size. I carried that everywhere with me. When I go into a courtroom it would go on the jury rail or it would go on my desk in front of my papers. Way into the case somewhere along the line somebody would testify to the half a cent and I would hold up the half a cent.

And then the jury would understand why I had the half a cent there. When you stand behind a child in a wheelchair who's looking up at the ceiling with drool coming down the side of his face and his arms clenched sideways like this, and he's just looking up in the air and that's all his done for a month-long trial.

And you hold the half a cent up behind that child and say, "this would have prevented this." There's no coming back from that for the manufacturers. There's no coming back.

So that's why they had to run to Congress. They did a very convincing job of even convincing us because what they wanted to do is get relief. What we saw in it as lawyers was we saw an opportunity to do something for our clients that was extraordinary.

We saw an opportunity to get Congress to mandate a system that would compensate children fairly, much faster than the five or six years that was taken for us to do a lawsuit and give them enough money to live on. The original vaccine program allowed parents to go through the program with their child.

If they didn't like the recovery they could waive the recovery and go into court. Go after the company. As a practical matter, it never happened because in the beginning the vaccine program was extremely generous. It wasn't overpaying anything. It paid for every nuts and bolts item for the rest of that person's life.

**Interviewer:** Why did people stop winning the vaccine cases?

**Michael:** That's the interesting question. In the beginning with the vaccine court, first of all there was nowhere else—in the beginning there was an alternative, because the cases that came into the program were actually civil cases filed in federal courts before that we dismissed and then we put into the vaccine program.

The special masters and the government were all kind of impressed that these kids are coming into this program and they wanted to make it work. It was an important program because it was really tort reform. It's what it was. It was a way of changing people's rights to jury trials.

But there were safeguards built in it. The parents could opt out at the end if they didn't like the recovery. That kept the system honest. The special masters and people who are participating in the program were all cognizant of the fact that everything they were doing could be reviewed at some point by a judge and a jury and this person would get more money through the regular tort system.

There was a decision by the Supreme Court of the United States called *Bruesewitz* which did away with that. It did away with that section. It said the exclusive remedy now is you have to stay in the vaccine court and if you lose you lose.

Now the vaccine system is empowered by knowing that there's no reviewing us. If we don't compensate these kids, we don't have to because the parents aren't going to go after the manufacturers. The manufacturers now have complete immunity from tort suits.

So they're pressing really hard on taking as many rights away from the kids as they can because they still want to save their name and their reputation. The reason for the sudden drop off on compensable cases I think comes down to the fact that people are stuck with the program and that there's no option out.

If there was still an option out, the companies would be very much more careful about what they're doing because they could still be getting sued. It took that incentive away. Instead now of being cautious and proceeding with some level of sanity, they're making vaccines for everything and mandating them for everything, for everything under the sun.

As you've seen here there's just too much vaccine in too small of a child to be able to hold it all. There's two myths that we need to dispel I think. I hope I can do that. One is we have the "greedy lawyer syndrome." These cases are all about greedy lawyers. You'll hear that from the industry.

I averaged around \$300,000-\$500,000 a case before the vaccine program. Today, the maximum that you can make on a case is \$30,000. So, greedy lawyers, I don't think so. I put 500 cases—figure 500 cases at \$300,000 a piece.

I don't know even how many billions of dollars I would have had if I had stayed with the vaccine litigation. I put everything into the vaccine program including cases that I didn't have to because I could have kept them in the civil system.

It's not about greedy lawyers. It's not about greedy trial lawyers. And it's not about parents who are looking for a free handout. The most common line that I have ever heard in all of the cases I represented in front of that court—and I tried the first two cases in the vaccine program.

I tried the first death case and the first live case. From those cases on to the last case that I ever did with the exception of one case, the first words out of the parent's mouth were, "Thank God." Not, "Thank you." Not thank you to the judge but "Thank God." And what they were saying was, "Thank God I have an answer. I didn't do this to my child."

When they come to me, the first session is—I'm getting a little emotional myself. But the first session is heart wrenching because they come to me and they say, "I need to know that I didn't do this to my child. If I didn't vaccinate my kid, my kid would be just like all the other kids in the playground. What did I do wrong?"

And they get the answer from the court saying, "The vaccine caused your child's injury. You didn't drop your kid. You didn't rock him on your leg too hard. You didn't squeeze him

too hard when you were hugging him. It had nothing to do—you didn't put him in the crib the wrong way. Nothing to do with your parenting. It was an outside force that went into your child's body."

That's the most important message that any of these mothers and fathers that you see in this hotel right now want to hear. Is that they didn't do anything wrong. That's the answer. The money becomes secondary.

I did have one time where the guy wanted to know how soon do I get paid. I had some doubts about whether or not I had been duped in the case when I heard that because it was just so atypical. That's the important part of this process is it gives validation to the parents.

And to see them walk out of the courtroom when everybody in that room knows that when there was an alternative and they could have brought the lawsuit, before the supreme court took that away from them, that case would have been compensated. Everybody knows that.

But now it's not being compensated because the special master doesn't feel like they're—they're not in a position where they need to worry about their job. They have great job security. They're not going to get removed.

There's a special master who—I don't know what the latest is but as of about six or eight months ago, there was one special master who'd never given compensation, never granted a single plaintiff's petition. Never one. Is that fair? No. It's rubbish is what it is.

Why don't I practice there anymore? So I can make statements like this without hurting my clients. And I gave it up because I think I have a message that needs to be told. If I walked into a courtroom after a special master saw this, the first thing that's going to happen is—I've got the L in the loser column at that point.

The worst thing I ever saw in the vaccine program was a questionable case. It was a tough case. I told the parents going in, there's things in your child's medical profile that make it so I'm not sure we can win this case.

And when the special master gave the ruling for the government in that case, the assistant U.S. attorney who was trying the case literally jumped up from her seat in the air like, "Yeah!" Like that, like I've just killed the dragon. In front of mom and dad. That's how heartless the program had become.

What I want to say to you is that it's a horrible system. It started out fair when it was a federal trial system. When it got to the vaccine compensation program and the vaccine court, it started to take twists and turns. There are many of us who will not rest until we get it back where it should be or do away with the program completely.

A real important message is I don't want to go in there alone with just a bunch of lawyers. We need people. We need children. We need moms and dads. We need human beings to come in. And if we can get that mobilized we'll do what we can to get it on the floor in Congress in front of the right people.

If there was really nothing wrong with vaccines, like the doctors will tell the patients. Like the manufacturers will tell Congress and tell the courts there's really nothing wrong with it, then the federal government would never had collected billions of dollars and given out three billion dollars so far, well, more than three billion dollars in claims.

These are real injuries. These are real cases. The truth needs to be told and needs to get out there. The medical establishment has got to stop trying to protect the manufacturers.

It starts with a free pen. Nowadays it's a free iPad when you're in medical school, and the next thing you know you've sold your soul to the devil. They've got to stop doing that. Our system has to stop allowing that to happen.

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