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April 6, 2005

**VIA FEDERAL EXPRESS**

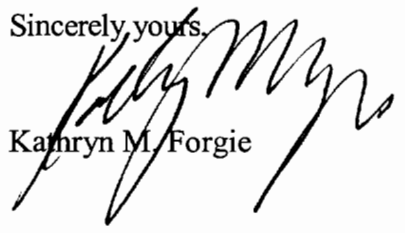
John P. Moore, Ph.D.  
Joan and Sanford I. Weill Medical College of Cornell University  
Department of Microbiology and Immunology  
1300 York Avenue, W-805  
New York, NY 10021

RE: Elyzabeth Silvah, et al. vs. Nanette Mickiewicz, et al.

Dear Dr. Moore:

Enclosed please find your declaration for your signature. Please make sure it accurately reflects our discussions, and your changes, then please sign and return to me in the enclosed envelope.

Sincerely yours,

  
Kathryn M. Forgie

KMF:dc  
Enclosures

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9  
10 Attorneys for Defendant  
SmithKline Beecham Corporation  
(erroneously sued and served as Glaxosmithkline)

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 FOR THE COUNTY OF SANTA CRUZ

14 ELYZABETH SILVAH, individually, and )  
15 as Guardian Ad Litem for JIAIAH )  
16 SILVAH, )

17 Plaintiffs,

18 vs.

19 NANETTE MICKIEWICZ, M.D., an )  
individual; HOWARD SALEM )  
20 MAGARIAN, M.D., an individual; )  
PLANNED PARENTHOOD, a business )  
21 entity; GLAXOSMITHKLINE, a )  
corporation and DOES 1 through 50, )  
22 inclusive, )

23 Defendants.

Case No. CV 145704

Hon. Arthur Danner, III

Complaint Filed February 14, 2003

**DECLARATION OF JOHN P.  
MOORE, Ph.D.**

TRIAL DATE: 5/23/05

24 I, John Moore, Ph.D. declare:

25 1. I make this declaration with personal knowledge of the following facts, and,  
26 if called, could and would competently testify thereto.

27 2. I received my MA and PhD. degrees from Cambridge University, England. I am a  
28

 ORIGINAL

1 Professor of Microbiology and Immunology at Weill Medical College of Cornell University, in  
2 New York, New York. I have performed and continue to perform various editorial and reviewing  
3 activities relating to HIV/AIDS. I am a past Editor of the Journal of General Virology, and I serve  
4 or have served on the Editorial Boards of various journals including AIDS Research and Human  
5 Retroviruses, AIDS, HIV Molecular Immunology Database for Los Alamos National Laboratory,  
6 Journal of Virology, Journal of Experimental Medicine, and Virology. I have served as an ad hoc  
7 reviewer for numerous HIV/AIDS-related publications including Nature, Science, Cell, Immunity,  
8 Nature Medicine, Nature Immunology, Nature Genetics, Journal of the Acquired  
9 Immunodeficiency Syndrome, Journal of the American Medical Association, Lancet, New England  
10 Journal of Medicine, and Proceedings of the National Academy of Science. I am a member of the  
11 International AIDS Society, the American Society for Virology and the American Society for  
12 Microbiology. I have co-authored over 180 peer-reviewed articles, many of which include AIDS-  
13 related research, and have given well over one hundred lectures at national and international  
14 meetings concerning AIDS-related topics. I have served on grant review or other advisory  
15 committees for the National Institutes of Health, and for charitable organizations such as  
16 the Elizabeth Glazer Pediatrics AIDS Foundation.

17       3. I make this Declaration in support of SmithKline Beecham Corporation's  
18 Request for Judicial Notice that HIV causes AIDS.

19       4. It is my understanding that courts in California must take judicial notice of  
20 "universally known" facts and may also take notice of facts and propositions that are not  
21 reasonably subject to dispute based on sources of reasonably indisputable accuracy,  
22 including verifiable scientific and medical facts, such as the fact that the Human  
23 Immunodeficiency Virus (HIV) is the prerequisite etiologic factor, or cause, of the  
24 Acquired Immune Deficiency Syndrome (AIDS).

25       5. In my professional opinion, the causal link between HIV infection and AIDS  
26 meets both of the standards for judicial notice based on the overwhelming medical,  
27 scientific, and public health policy consensus that has developed with respect to the  
28 etiology of AIDS since the epidemic began in the early 1980's. This consensus was forged

1 relatively early in the epidemic (certainly by the early 1990's) and has only been  
2 strengthened by additional scientific evidence since that time.

3         6.         AIDS was first recognized in 1981 and has since become a major worldwide  
4 public health problem. AIDS is caused by the human immunodeficiency virus (HIV). By  
5 causing the destruction and/or functional impairment of cells of the immune system,  
6 notably CD4+ T cells, HIV progressively and inevitably destroys the body's ability to fight  
7 infections and certain cancers.

8         7.         The scope of the global HIV pandemic is astounding. The United Nations has  
9 estimated that, as of the end of 2003, 37.8 million people worldwide were living with  
10 HIV/AIDS (*UNAIDS*, "2004 Report on the Global AIDS Epidemic", July, 2004). An  
11 estimated 4.8 million new HIV infections occurred worldwide during 2003; that is,  
12 approximately 14,000 infections each day (*Id.*). The Centers for Disease Control (CDC)  
13 estimate that 850,000 to 950,000 Americans are living with HIV infection, one quarter of  
14 whom are unaware of their infection. (Fleming, P.L., et. al., "HIV Prevalence in the United  
15 States, 2000", 9<sup>th</sup> Conference on Retroviruses and Opportunistic Infections, Seattle, Wash.,  
16 February, 2002). Approximately 40,000 new HIV infections occur each year in the U.S.,  
17 half of them in people younger than 25 (CDC, "HIV and AIDS-United States, 1981-2001",  
18 *MMWR* 2001:50:430-434). More than 20 million people with HIV/AIDS have died  
19 worldwide since 1981, including 501,669 Americans as of the end of 2002 (*Id.*). In  
20 response to these chilling statistics, the global community is applying enormous, indeed  
21 unprecedented scientific, medical and public policy resources to prevent, diagnose and treat  
22 HIV infection.

23         8.         The clearest evidence of medical and scientific consensus is that which is  
24 reflected by the positions of this country's public health authorities and research  
25 organizations. The National Institutes of Health (NIH), an agency of the United States  
26 Department of Health and Human Services (HHS), is the steward of medical research for  
27 this nation. The NIH is considered to be among the world's leading research institutions.  
28 The NIH and its subsidiary research arms conduct and coordinate research into a variety of

1 diseases and conditions that affect the health of the American public, and of the peoples of  
2 the world. NIH is often asked by Congress and other health agencies and policy makers to  
3 provide definitive opinions on issues such as the cause and mechanisms of diseases.

4       9.       One NIH research arm is the National Institute of Allergy and Infectious  
5 Diseases (NIAID). NIAID conducts and supports research to prevent, diagnose and treat  
6 diseases caused by infectious agents such as HIV, and also immunological-based  
7 conditions. NIAID-supported scientists have conducted groundbreaking research on HIV  
8 and AIDS in laboratories at the NIH campus in Bethesda, Maryland, and at universities and  
9 medical centers in the United States and abroad, since the epidemic began. In addition, the  
10 Institute regularly convenes groups of investigators and advisory committees to exchange  
11 scientific information with respect to HIV/AIDS.

12       10.       Much of the Institute's research with respect to HIV/AIDS is summarized on  
13 its website: [www.niaid.nih.gov](http://www.niaid.nih.gov). In particular, NIAID has formulated a number of scientific  
14 consensus statements with respect to HIV/AIDS, including pathogenesis, which have been  
15 posted on the website or otherwise disseminated to the medical and scientific communities  
16 since at least 1995. In that regard, NIAID has stated that "AIDS is caused by HIV", and has  
17 provided perhaps the definitive summary of the evidence for that fact (NIAID, "The  
18 Evidence that HIV Causes AIDS", 2003 Update, reprinted at  
19 [www.niaid.nih.gov/factsheets/evidhiv.htm](http://www.niaid.nih.gov/factsheets/evidhiv.htm). NIAID has further concluded that "abundant  
20 epidemiologic, virologic and immunologic data support the conclusion that infection with  
21 HIV is the cause of AIDS" (NIAIDS, "The Relationship between the Human  
22 Immunodeficiency Virus and AIDS", updated August 2001, reprinted at  
23 [www.niaid.nih.gov/publications/hiv aids/all.htm](http://www.niaid.nih.gov/publications/hiv aids/all.htm). In my opinion, both of these statements by  
24 NIAID simply convey what has been generally accepted within the scientific community  
25 for many years now: That HIV is the cause of AIDS.

26       11.       The Centers for Disease Control and Prevention (CDC) is recognized as the  
27 lead federal agency for protecting the health and safety of the American people by  
28 conducting and coordinating research designed to provide credible information to enhance

1 both individual and public health decisions. Within CDC, the Epidemiology Program  
2 Office (EPO) conducts and coordinates public health surveillance and the National Center  
3 for HIV, STD, and TB Prevention (NCHSTP) conducts research and develops prevention  
4 strategies with respect to HIV/AIDS.

5 12. In addition to its disease surveillance responsibilities, CDC publishes  
6 information for the public to access in the form of “fact sheets” which summarize the  
7 scientific consensus concerning diseases such as HIV/AIDS. These fact sheets can be found  
8 on the CDC website at: [www.cdc.gov](http://www.cdc.gov). CDC states that “AIDS is caused by infection with  
9 the human immunodeficiency virus (HIV)” (CDC, “What Causes AIDS?”, December,  
10 2003, reprinted at [www.cdc.gov/hiv/pubs/faq/faq36.htm](http://www.cdc.gov/hiv/pubs/faq/faq36.htm)). CDC notes further, and correctly,  
11 that “[a]lthough the scientific evidence is overwhelming and compelling that HIV is the  
12 cause of AIDS, the disease process is still not understood. This incomplete understanding  
13 has led some persons to make statements that AIDS is not caused by an infectious agent or  
14 is caused by a virus that is not HIV. This is not only misleading, but may have dangerous  
15 consequences” (CDC, “Why Do Some People Make Statements that HIV Does Not Cause  
16 AIDS?” December 2003, reprinted at [www.cdc.gov/hiv/pubs/faq/faq38.htm](http://www.cdc.gov/hiv/pubs/faq/faq38.htm)). Consistent  
17 with the position of every other public health agency in this country, CDC has found that  
18 “[t]he conclusion after more than 20 years of scientific research is that people, if exposed to  
19 HIV...may become infected with HIV. If they become infected, most will eventually  
20 develop AIDS” (Id.).

21 13. The Food & Drug Administration (FDA) is responsible for approving and  
22 monitoring the safety and efficacy of pharmaceutical products marketed in the United  
23 States, including those used to treat patients with AIDS. There is no “cure” for AIDS.  
24 However, a number of medications, including AZT, have been approved by FDA since  
25 1987 to treat HIV infection by reducing the extent to which the virus replicates in the  
26 human body. In approving these medications, the FDA has found them to be both safe and  
27 effective. They have been life-saving drugs for very many Americans. The finding of  
28 “effectiveness” of these drugs by FDA has been contingent upon the agency’s conclusion

1 that HIV is the cause of AIDS.

2 14. The list of public health agencies that have officially recognized the HIV-  
3 AIDS link is comprehensive, and includes the Department of Health and Human Services  
4 (HHS), the National Cancer Institute (NCI), and the Surgeon General of the United States.  
5 State and local health agencies are also uniform in the position that HIV causes AIDS,  
6 including the California Department of Health Services (DHS) and its Office of AIDS. I  
7 am not aware of a single federal, state or local public health agency that does not accept the  
8 fact that HIV causes AIDS. Indeed, the entirety of this nation's public health policy  
9 regarding AIDS is predicated upon the fact that HIV is the etiologic agent.

10 15. Governmental agencies are not alone in recognizing the cause of AIDS.  
11 Every major medical and scientific organization that has an interest in AIDS has recognized  
12 the causal link to HIV infection, including the American Medical Association, the  
13 American Public Health Association, the American College of Obstetricians and  
14 Gynecologists, and the American Academy of Pediatrics.

15 16. Every authoritative textbook used to educate medical students and clinicians  
16 in areas of medicine relevant to AIDS recognizes HIV as the cause of the disease, including  
17 "Fundamental Virology (Fields and Knipe), "The Retroviruses" (Coffin) and "Medical  
18 Microbiology" (Baron). I am not aware of a single major text in the areas of internal  
19 medicine, epidemiology, virology, or infectious diseases that disputes the fact that HIV  
20 causes AIDS.

21 17. The overwhelming consensus that HIV is the cause of AIDS extends beyond  
22 the borders of this country. It is truly a consensus held by the global medical and scientific  
23 community. An example of this consensus is the Durban Declaration. In July 2000,  
24 thousands of individuals from around the world gathered in Durban, South Africa, to attend  
25 the XIII International AIDS Conference. I was a member of the Durban Declaration  
26 Organizing Committee and a signatory of the Declaration.

27 18. During the Durban conference, a worldwide group of scientists and clinicians  
28 executed a declaration stating unequivocally that HIV is the cause of AIDS. The Durban

1 Declaration was an unprecedented acknowledgment of global scientific consensus. It has  
2 been signed by over 5,000 people including Nobel Prize winners, directors of leading  
3 research institutions, scientific academies and medical societies, including, but not limited  
4 to, the United States National Academy of Sciences, the Institute of Medicine, Max Planck  
5 Institutes, the European Molecular Biology Organization, the Pasteur Institute in Paris, the  
6 Royal Society of London, the AIDS Society of India and the National Institute of Virology  
7 in South Africa. In addition, thousands of individual scientists and doctors signed the  
8 Declaration. Signatories to the Durban Declaration included physicians and researchers  
9 from numerous countries including: Argentina, Australia, Austria, Belgium, Botswana,  
10 Brazil, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chile,  
11 China, Columbia, Cote d'Ivoire, Croatia, Czech Republic, Demark, Dominican Republic,  
12 Eire, Ethiopia, Fiji, Finland, France, Gabon, The Gambia, Germany, Ghana, Greece, Haiti,  
13 Hungary, India, Indonesia, Israel, Italy, Japan, Kenya, Korea, Kuwait, Laos, Lesotho,  
14 Madagascar, Malawi, Malaysia, Mexico, Mozambique, Myanmar, Nepal, The Netherlands,  
15 New Zealand, Nicaragua, Nigeria, Norway, Peru, Philippines, Poland, Portugal, Romania,  
16 Russia, Saudi Arabia, Senegal, Singapore, Slovakia, South Africa, Spain, Sri Lanka,  
17 Swaziland, Sweden, Switzerland, Taiwan, Tanzania, Thailand, Trinidad, Uganda, United  
18 Kingdom, Uruguay, USA, Venezuela, Vietnam, West Indies, Zambia, and Zimbabwe. (A  
19 true and correct copy the Durban Declaration as well as a list of the members of the  
20 Organizing Committee and the signatories to the Durban Declaration, is attached hereto as  
21 Exhibit A.)

22         19.       Although the linkage between HIV infection and AIDS is a universally  
23 accepted and indisputable fact, a few individuals still refuse to concede causality. History is  
24 replete with conspiracy theorists and naysayers who continue to debate well accepted  
25 scientific facts long after the evidence becomes irrefutable. Such is the case with HIV and  
26 AIDS. A small but vocal group, led by Professor Peter Duesberg, has continued to assert  
27 that AIDS is not a contagious disease, and is not caused by any virus, much less HIV. Some  
28 of the "denialists", as they are often called, refuse to accept the very proposition that AIDS

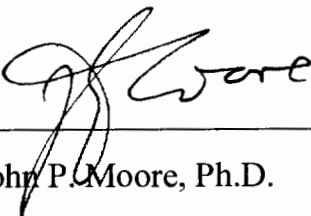


1 constitutes a diagnostic entity in the first instance. Instead, they espouse a “risk-AIDS” or  
2 “drug-AIDS” hypothesis. They assert that, among other things, factors such as promiscuous  
3 homosexual activity, the use of “recreational” drugs, and treatment of HIV infection with  
4 drugs such as AZT, are responsible for the AIDS epidemic. As the NIH has noted “[s]uch  
5 arguments have been repeatedly contradicted” (NIAID, “The Relationship between the  
6 Human Immunodeficiency Virus and the Acquired Immunodeficiency Syndrome”, p.21,  
7 August 2001, reprinted at [www.niaids.nih.gov/publications/hiv aids/all.htm](http://www.niaids.nih.gov/publications/hiv aids/all.htm). I agree.

8       20. The opinions of the denialists have been largely relegated to Internet “blog”s ,  
9 on-line chat-rooms and the occasional mention in the popular press. While their activities  
10 are potentially harmful to the uninformed lay person who may discount the threat of HIV  
11 and engage in risky behavior, these opinions have been long ago rejected by all legitimate  
12 medical and scientific experts and societies. There is no ongoing debate about the cause of  
13 AIDS among serious professional scientists, physicians and public health experts. HIV  
14 causes AIDS.

15  
16       I declare under penalty of perjury pursuant to the laws of the State of California that  
17 the foregoing is true and correct, and that this Declaration was executed on April 7,  
18 2005, at New York, New York.

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John P. Moore, Ph.D.