

1 children with cerebral palsy, acute traumatic brain
2 injury, and stroke.

3 BY MR. ROSETTI:

4 Q. Do you feel that the results of the study
5 actually demonstrate sufficient evidence?

6 A. Yes.

7 THE COURT: Anything on recross?

8 THE WITNESS: At least in CP and traumatic
9 brain injury. I'm sorry.

10 THE COURT: I'm sorry, I interrupted you
11 myself. But nothing further on redirect?

12 MR. ROSETTI: No.

13 THE COURT: And no recross, correct?

14 MR. OLDENBURG: No.

15 THE COURT: Sir, you can step down.

16 MR. ROSETTI: Call Dr. Usler.

17 THE COURT: Dr. Usler.

18 MR. ROSETTI: Raise your right hand.

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20 DR. J. MICHAEL USLER,

21 being first duly sworn, was examined and testified as
22 follows:

23 MR. ROSETTI: Please state your name.

24 THE WITNESS: My name is officially J. Michael
25 Usler, M.D.

1 MR. ROSETTI: Dr. Usler, please have a seat.

2 I am going to just actually ask him to verify
3 that this is actually his signature.

4 DIRECT EXAMINATION

5 BY MR. ROSETTI:

6 Q. Dr. Usler, I have not been able to get an
7 original copy of your direct testimony. I want to ask you
8 if this is a copy of your direct testimony in this case?

9 A. Yes. That's signed.

10 Q. And I will ask you to sign that original?

11 A. Okay.

12 Q. Thank you.

13 Along with that, I have marked as Exhibit A a
14 copy of your CV. Is that your copy -- excuse me, a
15 current copy of your CV?

16 A. I don't think so. I mean, what I see down
17 here -- I admit I didn't supply this to you so you got
18 this -- this is my CV. It says revised as of September
19 2003.

20 Q. Okay.

21 A. So there is a more recent vintage of some other
22 things that I have done. But this is fundamentally my CV.

23 Q. And up until 2003 that is a fair and accurate
24 description --

25 A. Yes.

1 Q. -- of your education and qualifications and
2 experience?

3 A. Yes.

4 Q. Thank you.

5 THE COURT: All right. That's the filing of
6 the original direct examination?

7 MR. ROSETTI: Yes.

8 Your witness.

9 THE COURT: That is something that is the copy
10 that was submitted on June 13th?

11 MR. ROSETTI: Correct.

12 THE COURT: Go ahead.

13 MR. OLDENBURG: Thank you, Judge.

14 CROSS-EXAMINATION

15 BY MR. OLDENBURG:

16 Q. Dr. Usler, thank you for being here. My name
17 is Mark Oldenburg.

18 You are board-certified in nuclear medicine,
19 correct?

20 A. Correct. Yes.

21 Q. And that certification is through the American
22 Board of Medical Specialties?

23 A. I don't absolutely know that.

24 Q. Okay. Fair enough.

25 A. I assume so.

1 Q. Pardon me?

2 A. I said I assume so but I don't absolutely know
3 that.

4 Q. Got you.

5 You are not board-certified in hyperbaric
6 medicine?

7 A. That is correct.

8 Q. With regard to the SPECT scans, which is really
9 my understanding why you're here, in your testimony what
10 are you describing when you say in viewing a SPECT scan
11 you can see increased blood flow and related regional
12 brain function or brain activity or increase in brain
13 activity, what are you referring to with the increased
14 brain activity?

15 A. Could you simplify that question?

16 Q. Only if I ask it again because that was a poor
17 question.

18 What do you mean in your direct testimony when
19 you are talking about brain activity?

20 A. The activity on the scan is the fact that brain
21 cells have taken up the tracer material that was injected
22 into the person.

23 In other words, the cell function has taken up
24 the tracer.

25 Q. Okay. And you in your nuclear medicine field

1 are not able to directly relate that through studies or
2 other evidence to there being a change or increase in the
3 function of the patient; is that correct?

4 A. Can you simplify that one?

5 Q. Sure.

6 If a SPECT scan shows increased brain function
7 that does not necessarily mean that the patient will have
8 increased function either through, you know, speech or
9 being able to manipulate or move, or that sort of thing?

10 A. It does not necessarily mean that.

11 Q. And to your knowledge there haven't been any
12 specific studies that correlate those two events, the
13 finding of increased brain function versus the finding of,
14 I think Mr. Rosetti called it, clinical function?

15 A. That is correct.

16 MR. OLDENBURG: That's all the questions I
17 have.

18 THE COURT: All right.

19 Redirect?

20 REDIRECT EXAMINATION

21 BY MR. ROSETTI:

22 Q. The studies simply show that the brain is
23 functioning better?

24 A. Yes.

25 Q. Thank you, Doctor?

1 THE COURT: Recross?

2 MR. OLDENBURG: No questions, Judge.

3 THE COURT: Dr. Usler, you can step down.

4 Thank you.

5 MR. ROSETTI: Judge, Petitioner rests.

6 THE COURT: All right. With regard to
7 closing -- anything in rebuttal? Nobody is calling
8 rebuttal witnesses, are they?

9 MR. OLDENBURG: No, Judge.

10 THE COURT: With regard to the time frame we
11 are looking at, as indicated before we will expect
12 proposed findings of fact and conclusions of law.

13 Do counsel have any recommendations regarding
14 the amount of time that would be required for that?

15 MR. ROSETTI: Judge, I'm assuming, as we
16 discussed, there will be no transcript?

17 THE COURT: Right. You can obtain under the --
18 I mean, as far as a copy of the tapes, you can obtain
19 a copy of the tapes and then have that transcribed at
20 your own cost. There is a minimal fee that is
21 charged by the clerk's office and I am not sure what
22 the current fee is for the cost of the actual tapes.
23 But those are available to you upon request with
24 payment of the fee, and then you could have that
25 transcribed, you know, for your use.