

## Thomson, et al. v. Thompson, et al. (2001)

Thomson, et al. v. Thompson, et al. was a lawsuit filed in the United States District Court for the District of Columbia on 8 May 2001 as Civil Action Number 01-CV-0973. This lawsuit was filed in hopes of gaining injunctive relief against a moratorium on the federal funding of stem cell research. The plaintiffs in the case were seven prominent scientists who performed embryonic stem cell research and three patients: James Thomson, Roger Pedersen, John Gearhart, Douglas Melton, Dan Kaufman, Alan Trounson, Martin Pera, Christopher Reeve, James Cordy, and James Tyree. The suit was filed against Tommy G. Thompson in his official capacity as Secretary of the Department of Health and Human Services; Ruth Kirschstein in her official capacity as Acting Director of the National Institutes of Health; the Department of Health and Human Services (HHS); and the National Institutes of Health (NIH). The plaintiffs argued that by illegally delaying and withholding federal funds for stem cell research, the defendants were causing irreparable harm to research and development of potential therapies for patients. There was also concern about potentially preventing young researchers from entering the field, and restricting the sharing of discoveries between scientists that federal funding of scientific research fosters.

The moratorium was the result of a stay order for a lawsuit referred to as Nightlight Christian Adoptions, et al. v. Thompson, et al., filed two months earlier. This case argued that federally funding research using stem cells derived from human embryos violated the Dickey-Wicker Amendment. This Amendment states that federal funds cannot be used for any research which knowingly puts the embryo at risk and prohibits the creation, destruction, or discarding of human embryos. The stay order, issued on 4 May 2001, suspended both the case and any federal funding of stem cell research. Initially the plaintiffs in Thomson, et al. v. Thompson, et al. filed a motion to intervene in the Nightlight Christian Adoptions v. Thompson case as defendants and cross-claimants, but less than a week later, on 8 May 2001, they filed their own lawsuit.

In the Complaint for Declaratory and Injunctive Relief, the plaintiffs give a history of the scientific, legal, and policy context which supported their claim that the moratorium on research was not only unwarranted, but unlawful. Contrary to the argument made by Nightlight Christian Adoptions, et al. that there was no scientific evidence that adult stem cells have a more limited potential than embryonic stem cells, the plaintiffs in this case argued that adult stem cells are more difficult to obtain because they are only present in small quantities. They also contended that it had not been shown that adult stem cells can grow in cultures in the necessary amounts to develop therapies. Adult stem cells are also multipotent rather than pluripotent, meaning they can only differentiate into a limited number of tissue types instead of all tissue types, as pluripotent cells can. Because embryonic stem cells are pluripotent, they hold great promise for tissue transplantation therapies and drug testing, among other uses. The plaintiffs also made clear that human embryonic stem cells are not an embryo, and that if these cells were implanted into a woman, a fetus would not form.

The legal and policy context supporting the plaintiffs' claim centered on the fact that the moratorium was in violation of federal laws. In 1999 the General Counsel of the HHS, Harriet Rabb, issued a memo concluding that federal funding of research on embryonic stem cells derived using private funds was lawful. By failing to implement its own Guidelines for Research Using Human Pluripotent Stem Cells made on 25 August 2000, the HHS did not complete the process to fund human embryonic stem cell research. In failing to complete this process, the plaintiffs felt the defendants violated the National Institutes of Health Revitalization Act of 1993, which prohibits the executive branch from withholding funding for embryonic stem cell research and the HHS' responsibility to fund worthy scientific research. The plaintiffs argued that the delay resulting from the unlawful moratorium was causing irreparable harm to patients who could potentially benefit from the ther-

apies derived from stem cell research. On 9 August 2001 President George W. Bush announced that federal funding of research on any existing embryonic stem-cell lines would be allowed. At the time the Bush administration estimated there were to be sixty different lines in existence, but as of 2009 it was realized that there were only twenty-two. In light of this announcement, the plaintiffs dismissed their lawsuit on 16 August 2001.

## Sources

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3. Sperling, Frederic J., Aphrodite Kokolis, Julie J. Furer, Clarence T. Kipps, Richard M. Wyner, and Donald J. Munro. "Complaint for Declaratory and Injunctive Relief." Christopher Reeve Homepage <http://www.chrisreevehomepage.com/SJ-complaint2.rtf> (Accessed May 6, 2009).