

NEW YORK STATE SUPREME COURT
NEW YORK COUNTY

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Agnes Christiane Clegg and
Thomas W. Clegg,

Plaintiffs,

vs.

Bristol-Myers Squibb Company and
Medical Engineering Corporation,

Defendants.
-----X

Index No. 115708/03

**[PROPOSED] STIPULATION
AND ORDER**

On September 25, 2003, Non-Parties Dr. Thomas J. Fahey, Jr. ("Dr. Fahey") and the National Academy of Sciences ("Academy") filed a motion by Order to Show Cause seeking to 1) quash a Notice of Deposition Duces Tecum directed to Dr. Fahey dated August 22, 2003; 2) vacate the ex parte Order of this Court dated September 8, 2003 (together with Notice of Deposition, the "Subpoena"); 3) grant a protective order; and 4) such other and further relief as the Court deemed just and proper (the "Motion to Quash"). The Court entered a Temporary Restraining Order enjoining enforcement of the Subpoena pending a hearing of the Motion to Quash. The Court set October 20, 2003 as the oral argument date for the Motion to Quash.

Upon the consent of the movants/Non-Parties and parties to the instant proceeding, and after reviewing all pleadings and proceedings had hereto to date, and good cause appearing therefore,

IT IS HEREBY CONSENTED TO AND ORDERED that:

In consideration of this stipulation, the plaintiffs agree to withdraw the outstanding subpoenas previously issued to Dr. Virginia Ernster, Dr. Diana Taylor, and Dr. Ralph Williams. No further subpoenas to the Academy (including the Institute of Medicine), or to any Academy Committee members or personnel (other than Dr. Fahey and Dr. Brian Henderson) will be served or pursued. In further consideration of this stipulation, the use of any information or documents

obtained pursuant to the subpoenas to Drs. Fahey and Henderson shall be limited to the Clegg litigation, Case No. 97-04438-CA (Circuit Court of the Fourth Judicial Circuit, Duval County, Florida).

The Parties and Non-Parties hereby stipulate that a protective order shall issue limiting discovery from Non-Parties in this action as follows:

Dr. Fahey will appear for deposition at a mutually convenient date and time at the Memorial Sloan-Kettering Cancer Center, 1429 First Avenue, New York, New York.

Inquiry at the deposition shall be limited to questions concerning the final report published by the National Academy of Sciences under the auspices of the Institute of Medicine entitled The Safety of Silicone Breast Implants ("Report"); the subsequent press release concerning the Report; and communications with attorneys representing breast implant manufacturers. Inquiry may also be made as to the deponent's current feelings about the Report. Inquiry into the internal deliberations of the Academy, including the Committee and the review process, is expressly prohibited.

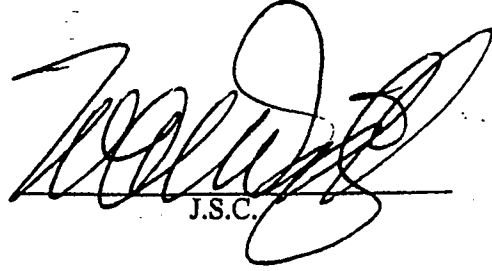
Dr. Fahey is not required to respond in any respect to Plaintiffs' Document Specification Numbers 1, 2, 5, 7, 8, 9, 10, 11 and 13, as set forth in Schedule "A" of the Subpoena (Exhibit "A" to the Affirmation of James D'Auguste).

Dr. Fahey shall respond to Plaintiffs' Document Specifications Numbers 3, 4, 6, 12, and 14 as set forth in Schedule "A" of the Subpoena (Exhibit "A" to the Affirmation of James D'Auguste). Plaintiffs' Document Specifications will be limited to the time period January 1, 1998 through the publication date of the Report in 1999, and the term "attorneys" in Specification Number 4 shall be limited to attorneys for breast implant manufacturers.

The use of any information, testimony, or documents obtained pursuant to the subpoena to and deposition of Dr. Fahey shall be limited solely to the Clegg litigation in Florida, Case No.

97-04438-CA (Circuit Court of the Fourth Judicial Circuit, Duval County, Florida); use other than in said litigation is prohibited.

Dated: 10/20/03


J.S.C.

Presented by:

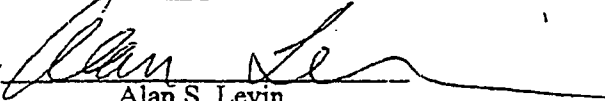
AKIN GUMP STRAUSS HAUER & FELD LLP

Dated: October __, 2003

By _____
James E. d'Auguste
*Attorneys for Non-Parties
Dr. Thomas J. Fahey, Jr. and
National Academy of Sciences*

ALAN S. LEVIN, M.D., J.D.

Dated: October 17, 2003

By 
Alan S. Levin
*Attorney for Plaintiffs Agnes and
Thomas Clegg*

SHOOK, HARDY & BACON LLP

Dated: October __, 2003

By _____
Jeffery A. Kruse
Attorneys for Defendants Bristol-Myers Squibb Company and Medical Engineering Corporation

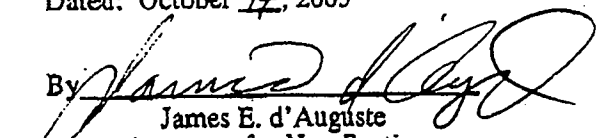
97-04438-CA (Circuit Court of the Fourth Judicial Circuit, Duval County, Florida); use other than in said litigation is prohibited.

Dated: _____ J.S.C.

Presented by:

AKIN GUMP STRAUSS HAUER & FELD LLP

Dated: October ~~7~~ 2003

By 
James E. d'Auguste
Attorneys for Non-Parties
Dr. Thomas J. Fahey, Jr. and
National Academy of Sciences

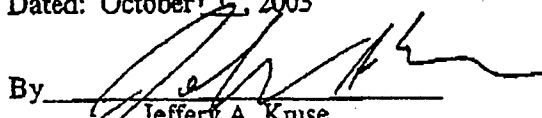
ALAN S. LEVIN, M.D., J.D.

Dated: October __, 2003

By _____
Alan S. Levin
Attorney for Plaintiffs Agnes and
Thomas Clegg

SHOOK, HARDY & BACON LLP

Dated: October 13, 2003

By 
Jeffery A. Kruse
Attorneys for Defendants Bristol-Myers Squibb Company and Medical Engineering Corporation