

## AFFIDAVIT

I, Andrew Walter Zimmerman, M. D. do hereby state under oath as follows:

1. I am a board certified, pediatric neurologist and former Director of Medical Research, Center for Autism and Related Disorders, Kennedy Krieger Institute, and Johns Hopkins University School of Medicine.
2. I was a Reviewer for the National Academy of Sciences 2004 report entitled IMMUNIZATION SAFETY REVIEW: VACCINES AND AUTISM, which was prepared by the Immunization Safety Review Committee, at the request of the Centers for Disease Control and Prevention (CDC), the National Institutes of Health (NIH), and the Institute of Medicine (IOM).
3. A copy of my curriculum Vitae is attached hereto as exhibit A and incorporated by reference.
4. In 2007, I was an expert witness for the Department of Health and Human Services in the Omnibus Autism Proceeding (O.A.P.) under the National Childhood Vaccine Injury Compensation Program.
5. With the assistance of the Department of Justice, I prepared and executed the attached expert witness opinion regarding Michelle Cedillo, on behalf of the Department of Health and Human Services in Cedillo v. H.H.S. My expert opinion in Cedillo v. H.H.S. is attached as exhibit B. It states in pertinent part as follows:

"There is no scientific basis for a connection between measles, mumps and rubella (MMR) vaccine or mercury (Hg) intoxication and autism. Despite well-intentioned and thoughtful hypotheses and widespread beliefs about apparent connections with autism and regression, there is no sound evidence to support a causative relationship with exposure to both, or either, MMR and/or Hg. Michelle Cedillo had a thorough and normal immunology evaluation by Dr. Sudhir Gupta, showing no

signs of immunodeficiency that would have precluded her from receiving or responding normally to MMR vaccine. ”

My expert opinion regarding Michelle Cedillo also states:

“Furthermore, there is no evidence of an association between autism and the alleged reaction to MMR and Hg, and it is more likely than not, that there is a genetic basis for autism in this child.”

6. On Friday June 15<sup>th</sup> 2007, I was present during a portion of the O.A.P. to hear the testimony of the Petitioner’s expert in the field of pediatric neurology, Dr. Marcel Kinsbourne. During a break in the proceedings, I spoke with DOJ attorneys and specifically the lead DOJ attorney, Vincent Matanoski in order to clarify my written expert opinion.
7. I clarified that my written expert opinion regarding Michelle Cedillo was a case specific opinion as to Michelle Cedillo. My written expert opinion regarding Michelle Cedillo was not intended to be a blanket statement as to all children and all medical science.
8. I explained that I was of the opinion that there were exceptions in which vaccinations could cause autism.
9. More specifically, I explained that in a subset of children with an underlying mitochondrial dysfunction, vaccine induced fever and immune stimulation that exceeded metabolic energy reserves could, and in at least one of my patients, did cause regressive encephalopathy with features of autism spectrum disorder.
10. I explained that my opinion regarding exceptions in which vaccines could cause autism was based upon advances in science, medicine, and clinical research of one of my patients in particular.

11. For confidentiality reasons, I did not state the name of my patient. However, I specifically referenced and discussed with Mr. Matanoski and the other DOJ attorneys that were present, the medical paper, Developmental Regression and Mitochondrial Dysfunction in a Child With Autism, which was published in the Journal of Child Neurology and co-authored by Jon Poling, M.D. Ph.D, Richard Frye, M.D., Ph.D, John Shoffner, M.D. and Andrew W. Zimmerman, M.D. A copy of which is attached as exhibit C.
12. Shortly after I clarified my opinions with the DOJ attorneys, I was contacted by one of the junior DOJ attorneys and informed that I would no longer be needed as an expert witness on behalf of H.H.S. The telephone call in which I was informed that the DOJ would no longer need me as a witness on behalf of H.H.S. occurred after the above referenced conversation on Friday, June 15, 2007, and before Monday, June 18, 2007.
13. To the best of my recollection, I was scheduled to testify on behalf of H.H.S. on Monday, June 18, 2007.
14. At the time of the above referenced conversation with the DOJ, I did not know that Hazlehurst v. HHS or Poling v. HHS were potential test cases in the OAP.
15. It is my understanding the HHS concession in Poling v. H.H.S. has become common knowledge and has been published by international news media. Among other news media coverage, I reviewed the CNN interview in which Dr. Julie Gerberding, the former head of the CDC discussed the concession by H.H.S. in Poling v. H.H.S. and the interview with Dr. Jon Poling, the father of the child whose case was conceded.
16. The summary language, "the vaccinations ....., significantly aggravated an underlying mitochondrial disorder, which predisposed her to deficits in cellular energy metabolism, and manifested as a regressive encephalopathy with features of autism spectrum disorder" is in essence the chain of causation that I explained to the DOJ attorneys including Vincent Matanoski during the above referenced conversations on June 15, 2007.

17. I have reviewed extensive genetic, metabolic and other medical records of William "Yates" Hazlehurst. In my opinion, and to a reasonable degree of medical certainty, Yates Hazlehurst suffered regressive encephalopathy with features of autism spectrum disorder as a result of a vaccine injury in the same manner as described in the DOJ concession in Poling v. H.H.S., with the additional factors that Yates Hazlehurst was vaccinated while ill, administered antibiotics and after previously suffering from symptoms consistent with a severe adverse vaccine reaction.

18. I have reviewed the attached portion of the transcript, of Vincent Matanoski's closing argument in Hazlehurst v. H.H.S., which is attached as exhibit D. The relevant portion of the transcript states as follows:

I did want to mention one thing about an expert, who did not appear here, but his name has been mentioned several times, and that was Dr. Zimmerman.

Dr. Zimmerman actually has not appeared here, but he has given evidence on this issue, and it appeared in the Cedillo case. I just wanted to read briefly because his name was mentioned several times by Petitioners in this matter. What his views were on these theories, and I'm going to quote from Respondent's Exhibit FF in the Cedillo case, which is part of the record in this case as I understand it.

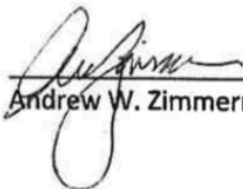
"There is no scientific basis for a connection between measles, mumps and rubella MMR vaccine or mercury intoxication in autism despite well-intentioned and thoughtful hypotheses and widespread beliefs about apparent connection with autism and regression. There's no sound evidence to support a causative relationship with exposure to both or either MMR and/or mercury."

We know his views on this issue.

19. In my opinion, the statement by Mr. Matanoski during his closing argument regarding my expert opinion was highly misleading and not an accurate reflection of my opinion for two reasons. First, Mr. Matanoski took portions of my opinion out of context. My opinion as to Michelle Cedillo was case specific. I was only referring to the medical evidence that I had reviewed regarding her. My opinion regarding Michelle Cedillo was not intended to be a blanket statement as to all children and all medical science. Second, as explained above, I specifically

explained to Mr. Matanoski and the other DOJ attorneys who were present that there were exceptions in which vaccinations could cause autism.

20. In my opinion, It was highly misleading for the Department of Justice to continue to use my original written expert opinion, as to Michelle Cedillo, as evidence against the remaining petitioners in the O.A.P. in light of the above referenced information which I explained to the DOJ attorneys while omitting the caveat regarding exceptions in which vaccinations could cause autism.

  
Andrew W. Zimmerman M.D.

State of Massachusetts

County of Worcester

Personally appeared before me, the undersigned Notary Public, Andrew Zimmerman M. D. with whom I am personally acquainted and who signed the foregoing Affidavit in my presence and, under oath stated that he had personal knowledge of the facts contained in the foregoing Affidavit and that those facts are true and correct.

Sworn and subscribed before me, the undersigned Notary Public, in and for the aforesaid State and County on this the 21<sup>st</sup> day of September, 2018.

Maxine Schmeidler  
Notary Public

My Commission expires: April 9, 2021



**MAXINE SCHMEIDLER**  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
April 9, 2021