

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

ASSOCIATION FOR MOLECULAR PATHOLOGY;
AMERICAN COLLEGE OF MEDICAL GENETICS;
AMERICAN SOCIETY FOR CLINICAL
PATHOLOGY; COLLEGE OF AMERICAN
PATHOLOGISTS; HAIG KAZAZIAN, MD; ARUPA
GANGULY, PhD; WENDY CHUNG, MD, PhD;
HARRY OSTRER, MD; DAVID LEDBETTER, PhD;
STEPHEN WARREN, PhD; ELLEN MATLOFF, M.S.;
ELSA REICH, M.S.; BREAST CANCER ACTION;
BOSTON WOMEN'S HEALTH BOOK COLLECTIVE;
LISBETH CERIANI; RUNI LIMARY; GENAE
GIRARD; PATRICE FORTUNE; VICKY
THOMASON; KATHLEEN RAKER,

Plaintiffs,

-against-

UNITED STATES PATENT AND TRADEMARK
OFFICE; MYRIAD GENETICS; LORRIS BETZ,
ROGER BOYER, JACK BRITTAIN, ARNOLD B.
COMBE, RAYMOND GESTELAND, JAMES U.
JENSEN, JOHN KENDALL MORRIS, THOMAS
PARKS, DAVID W. PERSHING, and MICHAEL K.
YOUNG, in their official capacity as Directors of the
University of Utah Research Foundation,

Defendants.

No. 09 Civ. 4515 (RWS)

ECF Case

Declaration of Jenny
Lessman P.A.-C.

I, Jenny Lessman, declare:

A. General Background

1. I am a Physician's Assistant practicing in Obstetrics and Gynecology at MeritCare in Detroit Lakes, Minnesota.

2. As a Physician's Assistant, in collaboration with a physician, I specialize in well-women care of women of all ages. This includes yearly exams, birth control counseling, pre- and post-menopausal care, hormone replacement therapy and obstetrical postpartum care.
3. I received my degree in physician assistant studies from the University of Nebraska Medical Center, Omaha. I have completed numerous clinical clerkships at various sites in Nebraska, South Dakota and Minnesota.

B. Professional Experience

4. I do a great deal of well-woman exams and have the opportunity to obtain, update, and discuss family histories with patients. Myriad publishes medical society guidelines and other hereditary cancer awareness information which I am able to use to determine if any of my patients, based on their personal and family history of cancer, warrant a further discussion and/or testing for genetic cancers.
5. I have incorporated genetic testing in my practice since early 2008, including Myriad's BRACAnalysis® test, which tests for mutations in the *BRCA1* and *BRCA 2* genes. I have tested less than 10 patients, but have discussed the appropriateness of genetic testing to over 50 patients.
6. I see females of all ages. I see several members of the same family. The results from Myriad's BRACAnalysis test can help in the decision for surgical management of an affected patient; as well as guide appropriate screening and medical management of other unaffected and affected family members.
7. BRACAnalysis testing for a patient is important when medically necessary. A positive test result is useful in the decision for increased surveillance and surgical options for

management. A positive test also affects other family members. A negative test result can help determine if additional family members may need to be tested or not. A negative test result can help determine if other causes of cancer need to be addressed. It will also help determine medical and surgical management of an unaffected patient.

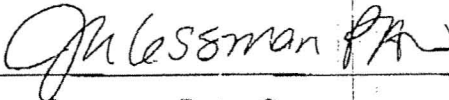
8. Myriad has representatives that visit clinics regularly to assist providers in understanding the importance of testing, its impact, and how to test patients.
9. Three-fourths of my patient's have had insurance coverage on their BRCA analysis testing, thus making testing an affordable option for them.

C. Personal Experience

10. My mother was diagnosed with ovarian cancer at age 56. Her only sister was diagnosed with terminal breast cancer 2 years later at age 55. She died this year. When my mother was visiting her in the hospital after her mastectomy, they were walking the halls of the hospital for exercise. They stopped at a health fair. They were visiting with a genetic counselor at her booth. The counselor asked what they were doing at the hospital. They explained what my aunt had just had done. The counselor talked to them a bit more and found out about my mother's ovarian cancer. She asked them to come to her office the next day. She did a pedigree of my family. Based on the pedigree, she recommended testing. (Two maternal great aunts with breast and ovarian cancer as well). My aunt was the first to be tested. She was positive for a BRCA-1 deletion. My mother then tested and was positive. I am the oldest of 3 daughters. I was tested and am positive. As a result of this testing, I AM A PREVIVOR!!! I have started having yearly breast MRIs and pelvic ultrasounds. I am going to have my breasts and ovaries prophylactically removed when I am finished having children. In the meantime, if they do find cancer with this surveillance, I am going to likely survive

because it will be caught early. This unfortunately won't save my aunt's life, but I am grateful that it will likely save my life, maybe my sister's lives, and my children's/nieces/nephews lives. My mother had a prophylactic mastectomy this summer. My insurance has provided almost full coverage on MRIs and ultrasounds because of my BRCA-1 result. The opportunity which we now have for genetic testing definitely puts "teeth" in the importance of discussing risk for hereditary cancer.

Pursuant to 28 U.S.C. §1746, I declare, under penalty of perjury, that the foregoing is true and correct.



Jenny Lessman P.A.-C.

Executed on December 16, 2009

CERTIFICATE OF SERVICE

This is to certify that on December 23, 2009, a true and correct copy of the foregoing document has been served on all counsel of record via the court's ECF system.

/s/ Brian M. Poissant

Brian M. Poissant