

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF
PEDIATRICS, ET AL

Plaintiffs

Versus

Case no. 1:25-cv-11916-WGY

ROBERT F. KENNEDY , JR , et al

Defendants

**MOTION FOR THE COURT
TO GRANT OR DENY THE RULE 59(e) MOTION**

OR IN THE ALTERNATIVE

A CERTIFICATION PURSUANT TO 28 USC 1292(b)¹

Putative intervenor Jose A. Perez appears in propria persona and respectfully moves the court to grant or deny his Rule 59(e), FRCP, Motion. As an alternative Mr. Perez seek a Certification pursuant to 28 USC 1292(b) . As grounds in support thereof Mr. Perez shows :

1- Mr. Perez incorporates herein all his previously filed motions.

¹ Trustees of Boston University v Everlight Electronics Co. , 199 F Supp. 3d 364 (D. Mass – 2016)

I

**THE EVIDENCE FINALLY AVAILABLE ON
SEPTEMBER 3rd, 2025 SHOWS THAT THE DEFENDANTS
DO NOT ADEQUATELY REPRESENT MR. PEREZ' INTERESTS**

- 2- On September 3rd, 2025 the Defendants finally submitted their Motion to Dismiss². Prior to that date there was no way of knowing whether or not the Defendants adequately represented Mr. Perez' interests as claimed by the Plaintiffs.
- 3- It is the Putative Intervenor's responsibility to identify any inadequacy of representation³. Adequate representation must not be presumed where, as here, the goals of the applicants are not the same as those of the defendants⁴. The presumption that the government will adequately defend an action is rebuttable⁵. Mr. Perez does so in sub-section (a) infra:

(a)

**ESSENTIAL AND FUNDAMENTAL KEY ISSUES
WHICH THE GOVERNMENT DEFENDANTS WILL NOT REPRESENT**

² CM/ECF #104

³ Daggett, et al v Commission on Governmental Ethics and Elections Practices, et al, 172 F. 3d 104 (1st Cir-1999) citing Trbovich v. United Mine Workers, 404 US 528, 538 & n. 10 (1972);

⁴ Daggett, et al v Commission on Governmental Ethics and Elections Practices, et al, 172 F. 3d 104 (1st Cir-1999) citing Pub. Serv. Co. of N.H. v. Patch, 136 F.3d 197, 207(1st Cir. 1998).

⁵ Pub. Serv. Co. of N.H. v. Patch, 136 F.3d 197, 207(1st Cir. 1998) citing Cotter v. Mass. Ass'n of Minority L. Enft Officers, 219 F.3d 31, 35 (1st Cir. 2000).

- 4- Firstly, In Weinberger v. Hynson, Wescott & Dunning, Inc., 412 U.S. 609, 617-618 (1973) the United States Supreme Court ruled that medications including vaccines must be approved **AFTER** clinical evidence in the form of randomized clinical studies have been submitted⁶. The Supreme Court added that a fundamental precept of The Food, Drug, and Cosmetic Act (FDCA or Act)⁷, is that, the potential for inflicting death or physical injury must be offset by the possibility of therapeutic benefit⁸. Neither the government nor the plaintiffs have shown evidence that (1) randomized clinical studies were submitted prior to approval (2) that the covid19 vaccination is therapeutic.
- 5- Secondly , The United States Supreme Court has also declared that Medical Equipment such as Type III Medical Devices like the RT-PCR Tests must be approved AFTER clinical evidence in the form of randomized clinical studies have been submitted⁹. No such evidence has been submitted.
- 6- The Supreme Court has emphasized that neither uncontrolled or partially controlled studies – nor anecdotal evidence can be considered admissible evidence ¹⁰.

⁶ Weinberger v. Hynson, Wescott & Dunning, Inc., 412 U.S. 609, 617-618 (1973)

⁷ 21 U. S. C. § 301 *et seq*

⁸ United States v. Rutherford, 442 US 544, , 556 (1979)

⁹ Weinberger v. Hynson, Wescott & Dunning, Inc., 412 U.S. 609, 617-618 (1973)

¹⁰ Ibid

- 7- Thirdly , there is no scientific evidence that the (a) SARS-CoV2 was isolated, purified and replicated and responsible for the COVID19 condition
- 8- Fourthly . there is no scientific evidence that the RT-PCR Test can detect SARS-CoV2 .

II

THE RULE 59(e) MOTION WAS PROPERLY BEFORE THE COURT

An Order denying a Motion to Intervene is a "judgment" under Fed. R. Civ. P. 54(a)¹¹: The term "judgment" as used in the rules "includes a decree and any order from which an appeal lies because Rule 59(e) encompasses all motions seeking to "alter or amend " a judgment¹² .

MR. PEREZ ADAMANTLY BUT RESPECTFULLY EMPHASIZES THAT HE HAS FULLY COMPLIED WITH FRCP 8(a)(2)

- 9- Federal Rule of Civil Procedure 8(a)(2) requires only a short and plain statement of the claim showing that the pleader is entitled to relief.’
- Specific facts are not necessary; the statement need only ‘give the defendant fair notice of what the claim is and the grounds upon which it

¹¹ Pub. Serv. Co. of N.H. v. Patch, 136 F.3d 197, 207(1st Cir. 1998) (The district court's denial of a motion for intervention as of right lays the foundation for an immediate appeal) citing Flynn v. Hubbard, 782 F.2d 1084, 1086 (1st Cir. 1986).

¹² Fiore v Washington County Community Mental Health Center , 960 F. 2d 229 (1st -1992) (en banc) citing Echevarria-Gonzalez v. Gonzalez-Chapel, 849 F.2d 24, 27 (1st Cir. 1988).

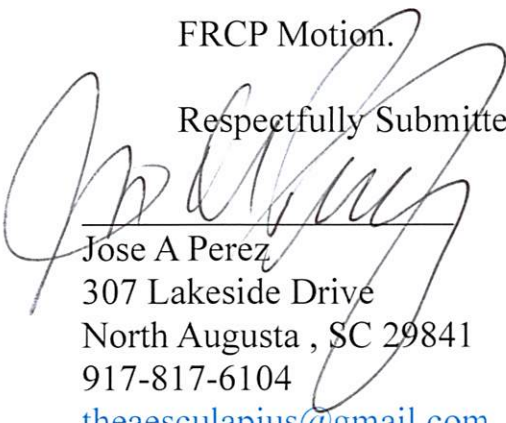
rests¹³. The Plaintiffs have not, and can not, claim that Mr. Perez factual allegations did not possess merit.

CONCLUSION

WHEREFORE Mr. Perez respectfully submits that the Court vacate the the July 31st, 2025 Order , or in the alternative , grant or deny his Rule 59(e)

FRCP Motion.

Respectfully Submitted

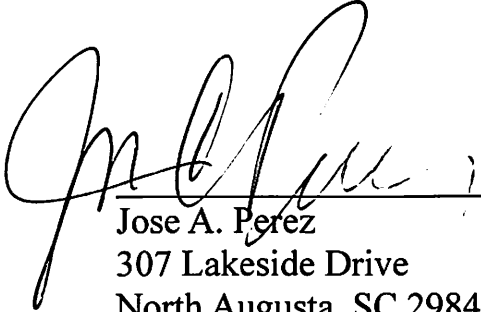


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¹³ Wilborn v Walsh , 584 F. Supp. 2d 384 (D. Mass- 2008) citing Erickson v. Pardus, 551 US 89 (2007) quoting Bell Atl. Corp. v. Twombly, 550 US 544 (2007)

CERTIFICATE OF SERVICE

It is hereby certified that on this 8th day of September 2025 a true and correct copy of the foregoing document was served upon all counsel identified in the docket sheet via email.



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