

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

AMERICAN ACADEMY OF PEDIATRICS, *et al.*,

Plaintiffs,

vs.

ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services, *et al.*,

Defendants.

Case No. 1:25-cv-11916-WGY
The Honorable William G. Young
Magistrate Judge: Hon M. Page Kelley

**PLAINTIFFS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL DECLARATION
OF DR. JASON GOLDMAN IN SUPPORT OF PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS**

Plaintiffs, American Academy of Pediatrics, *et al.*, by and through their attorneys, hereby move this honorable Court for leave to file the attached supplemental declaration of Dr. Jason Goldman in support of their Opposition to Defendants' Motion to Dismiss the Third Amended Complaint (ECF 146). In support of their motion, Plaintiffs state as follows:

1. Plaintiffs filed their Memorandum of Law In Opposition to Defendants' Motion to Dismiss the Third Amended Complaint ("Opposition") on December 3, 2025. Defendants' reply brief is due December 10. Plaintiffs seek leave to file Dr. Goldman's supplemental declaration, attached as Exhibit A, because of events that occurred *after* Plaintiffs filed their Opposition on December 3 that directly relate to the claim in Plaintiffs' Third Amended Complaint that the Secretary's reconstitution this year of the Advisory Committee on Immunization Practices ("ACIP") violates the Federal Advisory Committee Act's ("FACA") requirements that a federal

advisory committee be “fairly balanced” and not “inappropriately influenced” by the appointing official. *See* Third Amended Complaint (ECF 139 ¶¶ 8, 53-58, 117-126) *and* 5 U.S.C. §§ 5(b)(2) and (3).

2. On December 4 and 5, 2025, the ACIP held a meeting attended in-person by most voting members of the ACIP at the headquarters of the Centers for Disease Control and Prevention (“CDC”) in Atlanta. Three voting members of the ACIP attended by Zoom videoconference. Liaison representatives from liaison organizations such as the American College of Physicians (“ACP”) also were invited to attend the meeting by videoconference, although, if they spoke, their video function would not work, only their audio function. (Goldman Declaration, ¶ 6).

3. Dr. Jason Goldman, current President of the ACP, serves as the ACP’s liaison representative to the ACIP. He received a calendar invitation with a Zoom link to attend the December 4 and 5, 2025 ACIP meeting, and he attended both days. At the beginning of both days, an announcement was made that the meeting was being recorded. Dr. Goldman has been participating in ACIP meetings as an ACIP Covid-19 Work Group member and as a liaison representative from the ACP for over five years. Whenever he participates in an ACIP meeting by Zoom and the announcement is made that the meeting is being recorded, he turns on the Zoom close captioning and transcription functions, and prints out the transcript, to try to ensure that he does not miss anything. Dr. Goldman did so on both December 4 and 5, 2025. (Goldman Declaration, ¶¶ 6-7).

4. On the second day, December 5, 2025, during a lunch break, shortly before the afternoon session began, the Zoom link for those participating remotely was reactivated for the liaison representatives and the ACIP voting members attending remotely. The audio and video functions were turned back on, and the Zoom participants could hear what anyone else on Zoom

was saying if he or she was not on mute. After the Zoom link was reactivated and before the in-person meeting reconvened, Dr. Kirk Milhoan, the current ACIP chair who was in Hong Kong, and Dr. Cody Meissner, both voting members of the ACIP attending remotely, started chatting with each other over Zoom. Dr. Goldman and others participating by Zoom could hear what they were saying to each other. At one point in their conversation, Dr. Milhoan said: “You know, I feel like, you know, it’s sort of like we feel like a little bit like puppets on a string as opposed to really being independent advisory panel.” (Goldman Declaration, ¶ 8).

5. On its face, this statement is directly relevant to Plaintiffs’ FACA claim. Plaintiffs respectfully submit that the Court should take Dr. Goldman’s attached declaration into consideration as it decides whether Plaintiffs have stated a plausible FACA claim and whether Defendants’ Federal Rule of Civil Procedure 12(b)(6) motion to dismiss Count II should be denied.

6. On Friday evening, December 5, Dr. Goldman saw President Trump’s post on X about the ACIP meeting that had just concluded, the Secretary’s responsive post, and Dr. Robert Malone’s response to the Secretary’s post. Dr. Malone is the vice chair of the ACIP and ran both days of the ACIP meeting on December 4 and 5. Dr. Malone’s post, in which he responded to the Secretary’s post with two words – “Mission accomplished” – (Goldman declaration, ¶ 9), is also directly relevant to the FACA claim and should be considered when deciding Defendants’ 12(b)(6) motion.

7. Counsel for Plaintiffs conferred by email with counsel for Defendants on December 9, 2025. Defendants oppose this motion. Plaintiffs’ Local Rule 7.1 Certificate is attached hereto as Exhibit B.

WHEREFORE, Plaintiffs respectfully request that the Court grant leave to Plaintiffs to file the attached supplemental declaration of Dr. Jason Goldman and, if leave is granted, incorporate Dr. Goldman's December 9 declaration into its Opposition by reference.

Dated: December 9, 2025

Respectfully submitted,

By: /s/ James J. Oh
James J. Oh (*admitted pro hac vice*)
Kathleen Barrett (*admitted pro hac vice*)
Carolyn O. Boucek (*admitted pro hac vice*)
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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that this document was filed and served through the ECF system upon the following parties on this 9th day of December 2025:

Robert F. Kennedy, Jr., in his official capacity Jim O'Neill, in his official capacity as Acting
as Secretary of Health and Human Services Director Centers for Disease Control and
Prevention

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c/o Isaac Belfer
Trial Attorney
Enforcement & Affirmative Litigation Branch
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Isaac.C.Belfer@usdoj.gov

/s/ James J. Oh
James J. Oh (IL Bar No. 6196413)

GZJ KDKV'C'

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

AMERICAN ACADEMY OF PEDIATRICS, *et al.*,

Plaintiffs,

vs.

ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the Department of Health and Human Services, *et al.*,

Defendants.

Case No. 1:25-cv-11916
District Judge: Brian E. Murphy
Magistrate Judge: M. Page Kelley

DECLARATION OF JASON M. GOLDMAN, MD, MACP

I, Jason M. Goldman, MD, MACP, declare pursuant to 28 U.S.C. § 1746, that the following is true and correct and within my personal knowledge.

1. I am a board-certified primary care physician, an internal medicine specialist, and have owned my own private practice in South Florida since 2002. I graduated from medical school at the University of Miami in 1998. I completed my residency in internal medicine at Jackson Memorial Hospital in Miami, Florida.

2. I am a Master of and the current President of the American College of Physicians (“ACP”), which represents internal medicine physicians, related subspecialists, and medical students and has over 162,000 members.

3. I previously served as Governor of ACP’s Florida Chapter from 2016 through 2020. I served as Chair of ACP’s Medical Practice Quality Committee, and I currently serve on ACP’s Immunization Committee.

4. I served on the Advisory Committee on Immunization Practice's ("ACIP") COVID-19 Vaccines Work Group as a liaison member representing the ACP from 2020 until July 31, 2025, when liaison organizations were terminated from participating in ACIP Work Groups.

5. The current ACIP Charter, in the section entitled "Membership and Designation, states that "[t]here ... shall be non-voting liaison representatives from the ... American College of Physicians ... and such other non-voting liaison representatives as the Secretary deems necessary to effectively carry out the functions of the Committee." (Ex. A., p.4). I currently am the ACP's liaison representative to the ACIP. There are more than 20 other medical organizations identified in the ACIP Charter with liaison representatives to the ACIP.

6. As the ACP's liaison representative to the ACIP, I was sent a Zoom link to attend and participate in the ACIP's public meeting scheduled for December 4 and 5, 2025. I attended the entire ACIP meeting on both December 4 and 5, 2025 by Zoom from my medical office in Coral Springs, Florida. Many other liaison representatives from different medical organizations also attended the meeting on the same Zoom link. Liaison representatives could listen to the entire meeting by Zoom and view on their computer screens the room in which the ACIP was meeting at the Centers for Disease Control and Prevention's headquarters in Atlanta. If a liaison representative was granted permission to speak, his or her video function was not enabled while he or she spoke. If an ACIP voting member was attending remotely by Zoom, his video function was enabled, and I could see the remote ACIP member when he was speaking.

7. At the beginning of both days of the December 4-5 ACIP meeting, a statement was made that the Zoom meeting is being recorded. When an ACIP meeting is being recorded on Zoom, I turn on the close-captioning function and the transcription function, and I save the transcript to try to ensure that I have not missed anything.

8. On December 5, the second day of the ACIP meeting, after a lunch break but before the meeting reconvened for the afternoon session, the Zoom administrator reactivated the Zoom link for the meeting. During the short period of time after the Zoom link was reactivated but before the meeting reconvened, Dr. Kirk Milhoan, the ACIP Chair, and Dr. Cody Meissner started chatting with each other. I could hear clearly what they were saying to each other, but I was not paying close attention to their conversation, until I heard Dr. Milhoan say the phrase “puppets on a string.” I immediately received a text from another liaison representative who asked me if I had just heard what Dr. Milhoan had said. Because I had the Zoom transcription function on, I was able to check the transcript for exactly what he said. According to the Zoom transcript, this is exactly what he said:

You know, I feel like, you know, it’s, sort of like we feel like a little bit like puppets on a string as opposed to really being independent advisory panel.

The page of the Zoom transcript on which he said this is attached hereto as Exhibit B.

9. Over this past weekend, I saw on my X feed that President Trump posted a congratulatory note on the ACIP’s decision “to END their Hepatitis B Vaccine Recommendation for babies, …” The President’s post also stated that he had instructed the Department of Health and Human Services to “‘FAST TRACK’ a comprehensive evaluation of Vaccine Schedules from other Countries around the World, and better align the U.S. Vaccine Schedule, …” The Secretary responded to the President’s post with the following post: “Thank you, Mr. President. We’re on it.” The Vice Chair of the ACIP, Dr. Robert Malone, who ran the ACIP meeting on both December 4 and December 5, then responded to the Secretary’s post with the following: “Mission accomplished”. The Merriam-Webster online dictionary defines the word “mission” as “a specific task with which a person or a group is charged.” I read Dr. Malone’s post “Mission accomplished” as him reporting to his superior, the Secretary, that the task that the Secretary had assigned him

and the ACIP – to end the recommendation that babies receive a birth dose of the Hepatitis B vaccine – had been accomplished at the ACIP meeting on December 4 and 5. I interpret this response that they decided in advance what the vote would be and the meeting was pre-determined, irrespective of any data or evidence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on December 9, 2025, in Coral Springs, Florida



Jason M. Goldman, MD, MACP
President, American College of Physicians

**EXHIBIT A TO DECLARATION OF JASON M. GOLDMAN, MD, MACP,
DATED DECEMBER 9, 2025**

**AMENDMENT
to the
CHARTER
of the
ADVISORY COMMITTEE ON IMMUNIZATION PRACTICES**

Advisory Committee's Official Designation.

Advisory Committee on Immunization Practices (ACIP).

Authority.

The ACIP was established under Section 222 of the Public Health Service Act (42 U.S.C. §217a), as amended. The Committee is governed by the provisions of the Federal Advisory Committee Act, Public Law 92-463 (5 U.S.C. § 1001 et seq.), as amended.

The ACIP has been given statutory roles under subsections 1928(c)(2)(B)(i) and 1928(e) of the Social Security Act (42 U.S.C. § 1396s(c)(2)(B)(i) and 1396s(e)) and subsection 2713(a)(2) of the Public Health Service Act (42 U.S.C. § 300gg-13(a)(2)).

Objective and Scope of Activities.

The Secretary, Department of Health and Human Services (HHS), and by delegation the Director, Centers for Disease Control and Prevention (CDC), are authorized under Section 311 and Section 317 of the Public Health Service Act, [42 U.S.C. §243 and 42 U.S.C. §247b], as amended, to assist states and their political subdivisions in the prevention and control of communicable diseases; to advise the states on matters relating to the preservation and improvement of the public's health; and to make grants to states and, in consultation with the state health authorities, to agencies and political subdivisions of states to assist in meeting the costs of communicable disease control programs.

The ACIP shall provide advice and guidance to the Director of the CDC regarding use of vaccines and related agents for effective control of vaccine-preventable diseases in the civilian population of the United States. Recommendations made by the ACIP are reviewed by the CDC Director, and if adopted, are published as official CDC/HHS recommendations in the *Morbidity and Mortality Weekly Report (MMWR)*. The CDC Director informs the Secretary, HHS, and the Assistant Secretary for Health, of immunization recommendations. Upon the licensure of any vaccine or any new indication for a vaccine, the Committee shall, as appropriate, consider the use of the vaccine at its next regularly scheduled meeting. If the Committee does not make a recommendation at the Committee's first regularly scheduled meeting, the Committee shall provide an update on the status of such for the Committee's review.

Description of Duties.

The Committee shall provide advice for the control of diseases for which a vaccine is licensed in the U.S. The guidance will address use of vaccines and may include recommendations for administration of immune globulin preparations and/or antimicrobial therapy shown to be effective in controlling a disease for which a vaccine is available. Guidance for use of unlicensed vaccines may be developed if circumstances warrant. For each vaccine, the Committee advises on population groups and/or circumstances in which a vaccine or related agent is recommended. The Committee also provides recommendations on contraindications and precautions for use of the vaccine and related agents and provides information on recognized adverse events. The Committee also may provide recommendations that address the general use of vaccines and immune globulin preparations as a class of biologic agents, use of specific antibody products for prevention of infectious diseases, and special situations or populations that may warrant modification of the routine recommendations.

Committee deliberations on use of vaccines to control disease in the U.S. shall include consideration of disease epidemiology and burden of disease, vaccine safety, vaccine efficacy and effectiveness, the quality of evidence reviewed, economic analyses, and implementation issues. The Committee may revise or withdraw their recommendation(s) regarding a particular vaccine as new information on disease epidemiology, vaccine effectiveness or safety, economic considerations, or other data become available.

In accordance with Section 1928 of the Social Security Act, the ACIP also shall establish and periodically review and, as appropriate, revise the list of vaccines for administration to children and adolescents eligible to receive vaccines through the Vaccines for Children Program, along with schedules regarding the appropriate dose and dosing interval, and contraindications to administration of the pediatric vaccines. The Secretary, and as delegated the CDC Director, shall use the list established by the ACIP for the purpose of the purchase, delivery, and administration of pediatric vaccines in the Vaccines for Children Program.

Further, under provisions of the Affordable Care Act (Section 2713 of the Public Health Service Act, as amended), immunization recommendations of the Committee that have been adopted by the Director of the Centers for Disease Control and Prevention must be covered by applicable health plans.

Agency or Official to Whom the Committee Reports.

The Committee reports to the Director, CDC. The CDC Director informs the Secretary, HHS and the Assistant Secretary for Health, HHS, of immunization recommendations.

Support.

Management and support services shall be provided by the Office of the Director, National Center for Immunization and Respiratory Diseases, CDC.

Estimated Annual Operating Costs and Staff Years.

Estimated annual cost for operating the Committee, including compensation and travel expenses for members, but excluding staff support, is \$409,922. Estimate of annual person-years of staff support required is 9.40, at an estimated annual cost of \$1,760,637.

Designated Federal Officer.

CDC will select a full-time or permanent part-time Federal employee to serve as the Designated Federal Officer (DFO) to attend each committee meeting and ensure that all procedures are within applicable statutory, regulatory, and HHS General Administration Manual directives. The DFO will approve and prepare all meeting policies and agendas, call all of the committee and subcommittee meetings, adjourn any meeting when the DFO deems adjournment to be in the public interest, and chair meetings when directed to do so by the official to whom the committee reports. The DFO or his/her designee shall be present at all meetings of the full committee and subcommittees. In the event that the DFO cannot fulfill the assigned duties of the Committee, one or more full-time or permanent part-time employees will be assigned as DFO and carry out these duties on a temporary basis.

Estimated Number and Frequency of Meetings.

Meetings shall be held approximately three times per year at the call of the DFO, in consultation with the Chair.

Meetings shall be open to the public except as determined otherwise by the Director, CDC, or other official, to whom the authority has been delegated, in accordance with the Government in the Sunshine Act (5 U.S.C. § 552b(c)) and Section 10(d) of the Federal Advisory Committee Act ((5 U.S.C. § 1009(d))). Notice of all meetings shall be given to the public.

Duration.

Continuing.

Termination.

Unless renewed by appropriate action, the ACIP will terminate two years from the date this charter is filed.

Membership and Designation.

The Committee shall consist of up to 19 Special Government Employees, including the Chair and Vice Chair. Members shall be selected from authorities who are knowledgeable in the fields of immunization practices and public health, have expertise in the use of vaccines and other immunobiologic agents in clinical practice or preventive medicine, have expertise with clinical or laboratory vaccine research, or have expertise in assessment of vaccine efficacy and safety. The Committee shall include a person or persons knowledgeable about consumer perspectives and/or social and community aspects of immunization programs. Members shall be deemed Special Government Employees.

The Committee also shall consist of six non-voting ex-officio members from the Health Resources and Services Administration; the Food and Drug Administration; Centers for Medicare and Medicaid Services; National Institutes of Health; Indian Health Service; and the Office of Infectious Disease and HIV/AIDS Policy, HHS; or their designees.

If fewer than a quorum of ACIP members are eligible to vote due to absence or a financial or other conflict of interest, the DFO, or designee, shall have the authority to temporarily designate the ex-officio members as voting members.

There also shall be non-voting liaison representatives from the American Academy of Family Physicians; American Academy of Pediatrics; American Academy of Physician Associates; American College Health Association; American College of Nurse Midwives; American College of Obstetricians and Gynecologists; American College of Physicians; American Geriatrics Society; America's Health Insurance Plans; American Immunization Registry Association; American Medical Association; American Nurses Association; American Osteopathic Association; American Pharmacists Association; Association of Immunization Managers; Association for Prevention Teaching and Research; Association of State and Territorial Health Officials; Biotechnology Innovation Organization; Council of State and Territorial Epidemiologists; Canadian National Advisory Committee on Immunization; Infectious Diseases Society of America; International Society of Travel Medicine; National Association of County and City Health Officials; National Association of Pediatric Nurse Practitioners; National Foundation for Infectious Diseases; National Medical Association; Pediatric Infectious Diseases Society; Pharmaceutical Research and Manufacturers of America; Society for Adolescent Health and Medicine; Society for Healthcare Epidemiology of America and such other non-voting liaison representatives as the Secretary deems necessary to effectively carry out the functions of the Committee. Liaisons shall be deemed representatives.

Members, including the Chair and Vice Chair, shall be selected by the Secretary and shall be invited to serve for overlapping terms of up to four years, except that any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of that term. A member may serve 180 days after the expiration of that member's term if a successor has not taken office.

-7-

-5-

Subcommittees.

Subcommittees composed, in part, of members of the parent committee and other subject matter experts may be established with the approval of the Secretary, HHS, or his/her designee. The subcommittees must report back to the parent committee and do not provide advice or work products directly to the agency. The Department Committee Management Officer will be notified upon establishment of each subcommittee and will be provided information on its name, membership, function, and estimated frequency of meetings.

Recordkeeping.

The records of the committee, established subcommittees, or other subgroups of the committee, shall be managed in accordance with General Records Schedule 6.2, Federal Advisory Committee Records, or other approved agency records disposition schedule. These records shall be available for public inspection and copying, subject to the Freedom of Information Act, 5 U.S.C. §552.

Filing Date.

April 1, 2026

Amended Filing Date.

Approved:

12/3/2025

Date



Robert F. Kennedy, Jr.

**EXHIBIT B TO DECLARATION OF JASON M. GOLDMAN, MD, MACP,
DATED DECEMBER 9, 2025**

[Kirk Milhoan] 11:42:54

Really trying to look through everything and really try to evaluate the quality of data and but make sure we're not missing anything.

[Kirk Milhoan] 11:43:02

And. It feels like, unfortunately we're having to do an awful lot of retrospective work.

[Kirk Milhoan] 11:43:10

You know, like what was it, what eventually, what have officially happened. So. Yeah, I think for all of us, we're all like, wow, this, this is.

[Cody Meissner] 11:43:20

Yes, we it's more than what we thought we signed up for so Yeah, it's a handful, but but you in particular are you've got a heavy burden running this.

[Kirk Milhoan] 11:43:24

That's absolutely true.

[Kirk Milhoan] 11:43:34

Yeah. I'm, I'm, I wanna talk to some of the higher ups. I think what we really need is we need to.

[Kirk Milhoan] 11:43:42

Fare out a way where we can we can all have a sit together or something come together and really have a little bit more of a discussion of where we want this to go.

[Kirk Milhoan] 11:43:52

And what do we think the pressing issues are? And what are those things that aren't so pressing?

[Kirk Milhoan] 11:43:57

You know, I feel like, you know, it's, sort of like we feel like a little bit like puppets on a string as opposed to really being independent advisory.

[Kirk Milhoan] 11:44:10

Panel. So, you know, all this stuff came around pretty quickly for, me to be the chair, but I, but I'm, I really, I love discussion.

[Kirk Milhoan] 11:44:21

I love debate, you know, we, I'm sure you're the same way. For cardiology and cardiac surgery.

[Kirk Milhoan] 11:44:28

We get into it, right? We, we get into it, which is what we need, right?

[Cody Meissner] 11:44:30

Yep.

**EXHIBIT C TO DECLARATION OF JASON M. GOLDMAN, MD, MACP,
DATED DECEMBER 9, 2025**

← Post



Robert W Malone, MD
@RWMaloneMD

...

Mission accomplished



Secretary Kennedy @SecKennedy · Dec 5

Thank you, Mr. President. We're on it. x.com/rapidresponse4...

7:23 PM · Dec 5, 2025 · 216.7K Views



169



491



6.9K



88



Read 169 replies

← Post



Secretary Kennedy
@SecKennedy

...

Thank you, Mr. President. We're on it.



Rapid Response 47 @RapidResponse47 · Dec 5



Donald J. Trump
@realDonaldTrump

Today, the CDC Vaccine Committee made a very good decision to END their Hepatitis B Vaccine Recommendation for babies, the vast majority of whom are at NO RISK of Hepatitis B, a disease that is mostly transmitted sexually, or through dirty needles. The American Childhood Vaccine Schedule long required 72 "jabs," for perfectly healthy babies, far more than any other Country in the World, and far more than is necessary. In fact, it is ridiculous! Many parents and scientists have been questioning the efficacy of this "schedule," as have I! That is why I have just signed a Presidential Memorandum directing the Department of Health and Human Services to "FAST TRACK" a comprehensive evaluation of Vaccine Schedules from other Countries around the World, and better align the U.S. Vaccine Schedule, so it is finally rooted in the Gold Standard of Science and COMMON SENSE! I am fully confident Secretary Robert F. Kennedy, Jr., and the CDC, will get this done, quickly and correctly, for our Nation's Children. Thank you for your attention to this matter. MAHA!

6:43 PM · Dec 5, 2025 · 2.3M Views



1.8K



9.6K



54K



1.5K



Read 1.8K replies

GZJ KDKV'D"

**LOCAL RULE 7.1 CERTIFICATE REGARDING PLAINTIFFS'
MOTION FOR LEAVE TO FILE SUPPLEMENTAL DECLARATION OF
DR. JASON GOLDMAN IN SUPPORT OF PLAINTIFFS' OPPOSITION TO
DEFENDANTS' MOTION TO DISMISS**

Per Local Rule 7.1, counsel for Plaintiffs states that he conferred with counsel for Defendants by email on December 9, 2025. In their email communications, counsel for Defendants stated that Defendants oppose *Plaintiffs' Motion for Leave to File Supplemental Declaration of Dr. Jason Goldman in Support of Opposition to Defendants' Motion to Dismiss*. The undersigned's email communications with counsel for Defendants regarding this motion are attached hereto.

/s/ James Oh

James J. Oh

[ATTACHMENT FOLLOWS]

From: James J. Oh
Sent: Tuesday, December 9, 2025 10:34 AM
To: 'Fitzgerald, Michael (USAMA)' <Michael.Fitzgerald2@usdoj.gov>
Cc: Kathleen Barrett <KBarrett@ebglaw.com>; Richard H. Hughes IV <RHHughes@ebglaw.com>; Robert Wanerman <RWanerman@ebglaw.com>; Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Subject: RE: AAP v. RFK: Local Rule 7.1 meet and confer request

Mike – appreciate you getting back to me this morning. Just so you know, the motion may also include a reference to a Robert Malone tweet that he posted over this past weekend.

Jimmy

James J. Oh

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From: Fitzgerald, Michael (USAMA) <Michael.Fitzgerald2@usdoj.gov>
Sent: Tuesday, December 9, 2025 10:22 AM
To: James J. Oh <JOh@ebglaw.com>
Cc: Kathleen Barrett <KBarrett@ebglaw.com>; Richard H. Hughes IV <RHHughes@ebglaw.com>; Robert Wanerman <RWanerman@ebglaw.com>; Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Subject: RE: AAP v. RFK: Local Rule 7.1 meet and confer request

*** EXTERNAL EMAIL ***

Hi Jimmy, thanks for reaching out. Given the timing and the seeming purpose of the proposed declaration, please note that Defendants oppose Plaintiffs' motion for leave.

Best,
Mike

Michael L. Fitzgerald
Assistant United States Attorney
U.S. Attorney's Office
1 Courthouse Way, Ste. 9200
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cell: (617) 304-6392

From: James J. Oh <JOh@ebglaw.com>
Sent: Tuesday, December 9, 2025 12:51 AM
To: Fitzgerald, Michael (USAMA) <Michael.Fitzgerald2@usdoj.gov>
Cc: Kathleen Barrett <KBarrett@ebglaw.com>; Richard H. Hughes IV <RHHughes@ebglaw.com>; Robert Wanerman <RWanerman@ebglaw.com>; Belfer, Isaac C. <Isaac.C.Belfer@usdoj.gov>
Subject: [EXTERNAL] RE: AAP v. RFK: Local Rule 7.1 meet and confer request

Michael,

I received Isaac's out of office message shortly after sending the email below; therefore, I'm forwarding to you to ensure that DOJ has notice of my request.

Thanks.

Jimmy

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From: James J. Oh
Sent: Monday, December 8, 2025 11:01 PM
To: Belfer, Isaac C. <isaac.c.belfer@usdoj.gov>
Cc: Kathleen Barrett <KBarrett@ebglaw.com>; Richard H. Hughes IV <RHHughes@ebglaw.com>; Robert Wanerman <RWanerman@ebglaw.com>
Subject: AAP v. RFK: Local Rule 7.1 meet and confer request

Isaac,

Tomorrow, Plaintiffs intend to file a motion for leave to file a supplemental declaration from Dr. Jason Goldman in support of Plaintiffs' opposition to the motion to dismiss the Third Amended Complaint. The declaration attests to a statement that Dr. Goldman heard Dr. Kirk Milhoan make to Dr. Meissner on Zoom on a break during the second day of the ACIP meeting last week on December 5: "we feel like a little bit like puppets on a string as opposed to being independent advisory panel."

I would appreciate a reply to this email by Noon ET with whether Defendants oppose or do not oppose the motion.

Thank you.

Jimmy

James J. Oh

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