

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(NORTHERN DIVISION)

SHAYONNA FEATHERSTONE, ET AL. *

Plaintiff, *

v. *

KENNEDY KRIEGER *

INSTITUTE, INC., et al., *

Defendants. *

Case No. 1:07-CV-1120

* * * * *

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO REMAND

Defendants Kennedy Krieger Institute, Inc., Cecilia Davoli, M.D., The Johns Hopkins University, The Institutional Review Board of the Johns Hopkins University School of Medicine Joint Committee on Clinical Investigation, Thomas R. Hendrix, M.D., Lewis C. Becker, M.D., David R. Cornblath, M.D., Paul Lietman, M.D. and Hayden G. Braine, M.D., by their undersigned counsel, respectfully oppose the Plaintiffs' Motion to Remand and for reasons state:

1. The Treatment of Lead-exposed Children ("TLC") Study is an independent study, unconnected with the Repair and Maintenance ("R&M") Study or any prior research involving children previously exposed to lead paint.
2. Unlike the R&M Study, the TLC Study was a clinical study designed to measure the effectiveness of succimer, a blood chelator known to be successful in reducing blood lead levels. Prior to the commencement of the TLC Study both Keona Featherstone and Shayonna Featherstone had significantly elevated blood lead levels.
3. As Project Officer of the TLC Study, Dr. Walter J. Rogan of the National

Institute of Environmental Health Sciences (“NIEHS”) directed and controlled the Defendants’ involvement in the design, implementation and follow-up of the TLC Study. Through Dr. Rogan, NIEHS maintained detailed, hands-on control over all phases of this government-sponsored and funded study.

4. The Honorable William Nickerson of this Court recently remanded *Dontae Wallace, et al. v. Kennedy Krieger Institute, et al.* to state court. Judge Nickerson’s reasons for remanding *Wallace* are not present in this case because the Notice of Removal and supporting affidavits demonstrate that Dr. Rogan exercised direct and detailed control over the TLC Study. Furthermore, the focus of the TLC Study was to measure the effectiveness of succimer on reducing blood lead levels and not lead remediations of study participants’ houses. To the extent that Kennedy Krieger cleaned homes where lead was previously present, they did so pursuant to NIEHS’s mandate found in the Contract, the Trial Protocol and the Manual of Operations for the TLC Study.

5. Defendants adopt and incorporate by reference the Memorandum of Law attached hereto.

WHEREFORE, for the aforementioned reasons and the arguments articulated more fully in the accompanying Memorandum of Law, Defendants request that this Court exercise original jurisdiction over this case and that the Plaintiffs’ Motion to Remand be denied.

