

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

THE JOHNS HOPKINS UNIVERSITY, a : Case No. 94-105 RRM  
Maryland corporation, BAXTER :  
HEALTHCARE CORPORATION, a Delaware :  
corporation, and BECTON DICKINSON :  
AND COMPANY, a New Jersey corporation, :  
Plaintiffs, :  
v. :  
CELLPRO, INC., a Delaware corporation, :  
Defendant. :

**DECLARATION OF DR. OSCAR BALLESTER**

## DECLARATION OF DR. OSCAR BALLESTER

I, Oscar Ballester, M.D., declare as follows:

1. I am an Assistant Professor of Medicine at the Division of Bone Marrow Transplantation at the University of South Florida. Attached hereto as Exhibit A is a copy of my Curriculum Vitae.
2. I am well familiar with the operation and capabilities of the CellPro's CEPRATE® SC stem cell concentrator and for the last two years have used the CellPro device for autologous transplantations in a just completed myeloma phase III clinical trials. In that just completed phase III clinical trial using the CellPro device, I had a particular interest in studying multiple myelomas and malignancy of bone marrow and performed over 12 autologous transplants using the CellPro device.
3. In the future, I plan on using the CellPro device in other clinical studies such as T-cell depletion and further studies in myeloma. I intend to seek NIH grants for such future studies.
4. I consider the availability of the CellPro CEPRATE® SC device as important to separating contaminating tumor cells before an autologous transplant can be performed in a patient. Indeed, I chose the CellPro device because, in my view, it provides the transplant patient with the best option versus standard chemotherapy.
5. While we have not yet analyzed the results of the just completed phase III clinical trial using the CellPro device, from a clinical standpoint, I consider the CellPro device to be potentially a big improvement over the traditional unpurified Buffy

Coat Progenitor Cell Transplant (PCT) as it affords us the possibility that it would improve the transplant outcome for patients.

6. Besides our own completed and planned clinical studies, I consider the availability of, and access to, the CellPro device as important to the development of other novel treatment procedures such as gene therapy.

7. In sum, it is my view that there is a compelling public interest in keeping the CellPro CEPRATE® SC device available inasmuch as it has a potential for improving the outcome for transplant patients. Indeed, if the CellPro device were to become unavailable outpatients would not have any alternative choice other than the traditional Progenitor Cell Transplant technique.

I further declare under penalty of perjury that the foregoing is true and correct.

Executed at Tampa, Florida, this 9<sup>th</sup> day of April, 1997.



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Oscar Ballester, M.D.

**CURRICULUM VITAE**

January 1997

**Oscar F. Ballester, M.D.**

**PLACE AND DATE OF BIRTH**

Buenos Aires, Argentina  
September 20, 1949

**MARITAL STATUS:**

Divorced  
Three children: Barbara, Paola and Sebastian

**SOCIAL SECURITY NO.:**

270-60-2135

**EDUCATION AND TRAINING:**

M.D. Degree from the National University of Cordoba, Argentina, December, 1971.

**Internship:**

Huron Road Hospital, Cleveland, Ohio  
July 1972 - June 1973

**Internal Medicine Residency:**

Detroit General Hospital  
Detroit, Michigan  
July 1973 - July 1975

**Chief Resident:**

Department of Medicine  
Policlinico Ferroviario Central  
Buenos Aires, Argentina  
May 1976 - April 1977

**Hematology Fellowship:**

Wayne State University  
Detroit, Michigan  
July 1977 - June 1979

**Research Fellowship:  
(Hematology)**

Wayne State University  
Detroit, Michigan  
July 1979 - June 1980

**Oncology Fellowship:**

H. Lee Moffitt Cancer Center  
University of South Florida  
Tampa, Florida  
January 1988 - December 1988