

IN THE UNITED STATES DISTRICT COURT OF MARYLAND
BALTIMORE DIVISION

THE ESTATE OF HENRIETTA LACKS

1304 Kitmore Road
Baltimore, Maryland 21239

PLAINTIFF

VS-

THERMO FISHER SCIENTIFIC INC.

Serve: Capitol Corporate Services, Inc.

Resident Agent

3206 Tower Oaks Blvd.

4th Floor

Rockville, Maryland 20852

DEFENDANT

Civil Case No.: _____

CIVIL COMPLAINT AND REQUEST FOR JURY TRIAL

Plaintiff The Estate of Henrietta Lacks (“Plaintiff” or “Ms. Lacks”), by and through their undersigned counsel, brings this Complaint against Defendant Thermo Fisher Scientific, Inc. (“Thermo Fisher Scientific” or the “Company”), and states as follows:

INTRODUCTION

1. This case is about a multibillion-dollar biotechnology corporation, Thermo Fisher Scientific, making a conscious choice to sell and mass produce the living tissue of Henrietta Lacks, a Black woman, grandmother, and community leader, despite the corporation’s knowledge that Ms. Lacks’ tissue was taken from her without her consent by doctors at Johns Hopkins Hospital and a racially unjust medical system.

2. Medical research has a long, troubled racial history. The exploitation of Henrietta Lacks represents the unfortunately common struggle experienced by Black people throughout US

history. Indeed, Black suffering has fueled innumerable medical progress and profit, without just compensation or recognition. Various studies, both documented and undocumented, have thrived off the dehumanization of Black people.

3. In the 1950s, a group of white doctors at Johns Hopkins preyed on Black women with cervical cancer. While treating Black women in racially segregated wards, the white doctors would cut away tissue samples from their patients' cervixes without their patients' knowledge or consent. A leading figure in this conspiracy—Dr. George Gey, then head of tissue culture research at Hopkins—once proclaimed himself “the world’s most famous vulture, feeding on human specimens almost constantly.”

4. To be clear, these tissue samples were not taken for purposes of medical treatment or with the informed consent of those operated upon.

5. Henrietta Lacks was one of the victims of this conspiracy. Ms. Lacks was admitted to the racially segregated ward at Johns Hopkins Hospital—one of the only hospitals that would treat Black patients—for a malignant tumor on her cervix. On February 5, 1951, during a surgical procedure and with her under anesthesia, a white doctor at Johns Hopkins used a sharp knife to cut two parts of Ms. Lacks' cervix away under the guise of treating her cervical cancer with radium. This surgical procedure to harvest Ms. Lacks' tissue was not medically necessary and was not an operation to which Ms. Lacks consented. Nor was she warned about the risks of the aggressive course of treatment she was subjected to, which left her infertile. Months later, when Ms. Lacks was told that the course of treatment for her cancer had left her infertile, she stated clearly that she would never have agreed to be treated had she been informed of the risk of infertility. The treatment was also completely ineffective. Henrietta Lacks ultimately died of cervical cancer on October 4, 1951.

6. The cells taken from Henrietta Lacks have unique properties. While most cell samples die shortly after they are removed from the body, Ms. Lacks' cells survived and reproduced in the laboratory. This exceptional quality meant that it was possible to cultivate Ms. Lacks' cells into a cell line that could reproduce indefinitely in laboratory conditions—an immortal cell line. Indeed, Ms. Lacks' cells were the first known immortalized human cell line. Medical researchers refer to Henrietta Lacks' cultivated cell line as the HeLa cell line, using the first letters of Ms. Lacks' first and last names.

7. The origins of this cell line were not known to medical researchers outside Johns Hopkins for decades after Ms. Lacks' death. Before the revelation that HeLa cells were obtained without Ms. Lacks' consent, medical researchers used HeLa cells to develop a huge number of scientific and medical innovations, including the polio vaccine, gene mapping, in vitro fertilization and many more. The HeLa cell line is one of the most important and widely used cell lines in human history. But Henrietta Lacks was never told why her tissue was taken and never gave permission for her cells to be used as they have been.

8. Today, however, the origins of the HeLa cell line have been widely publicized—including by a bestselling book, a film starring Oprah Winfrey, and thousands of media reports. The publicity surrounding Ms. Lacks' cells is such that no reasonable person who works with HeLa cells could be unaware of the fact the cell line was wrongfully taken from Henrietta Lacks' body without her consent or knowledge. There is a widespread consensus today that the theft of Ms. Lacks' cells was profoundly unethical and wrong.

9. Despite this, one of the largest biotechnology companies in the world—Thermo Fisher Scientific—has continued to mass-produce and sell Ms. Lacks' bodily tissue for its own

profit without permission of Ms. Lacks' Estate. To this day, Thermo Fisher Scientific cultivates and sells HeLa cells in multiple product lines to buyers across the globe.

10. In other words, Thermo Fisher Scientific literally sells Ms. Lacks' cellular material, develops and manufactures cellular products incorporating HeLa cells, and seeks intellectual property rights on these products, staking a claim to the genetic material of Ms. Lacks. Thermo Fisher Scientific has appropriated Ms. Lacks' genetic material for its own pecuniary gain, all without payment, permission, or approval from the Lacks Estate or family.

11. In the last several years, Thermo Fisher Scientific has made staggering profits by using the HeLa cell line—all while Ms. Lacks' Estate and family haven't seen a dime. In 2020, Thermo Fisher Scientific recorded \$32.22 billion in revenue. These commercialization efforts occurred after the widespread publicity around the origins of the HeLa cell line. Thermo Fisher Scientific has known that HeLa cells were stolen from Ms. Lacks and chose to use her body for profit anyway. A human being—Henrietta Lacks—is behind every cell, every sample sold by Thermo Fisher Scientific.

12. Because of Thermo Fisher Scientific's actions, Henrietta Lacks' children and grandchildren have been forced to live with the reality that living tissue of their mother or grandmother is being sold by a large corporation against her and her family's will. This robs the family of one of the most basic comforts any grieving person can ask for—the knowledge that a loved one's body has been treated with respect.

13. Beyond this harm, the widespread dissemination of Henrietta Lacks' tissue means Ms. Lacks' genetic information is now commonly available—and, as a consequence, some of the most private information about Ms. Lacks and her family has been exposed to the general public.

14. Thermo Fisher Scientific’s choice to continue selling HeLa cells in spite of the cell lines’ origin and the concrete harms it inflicts on the Lacks family can only be understood as a choice to embrace a legacy of racial injustice embedded in the US research and medical systems. Black people have the right to control their bodies. And yet Thermo Fisher Scientific treats Henrietta Lacks’ living cells as chattel to be bought and sold.

15. The Estate of Henrietta Lacks brings a single cause of action—unjust enrichment—against Thermo Fisher Scientific for its choice to profit from the unlawful conduct of Johns Hopkins’ doctors. Under settled law, as articulated in the Third Restatement of Restitution “a defendant who is enriched by misconduct and who acts [] with knowledge of the underlying wrong to the claimant” is a conscious wrongdoer liable for its profits. Restatement (Third) of Restitution and Unjust Enrichment § 51(3) (2011). Put simply, because it made the conscious choice to profit from the assault of Henrietta Lacks, Thermo Fisher Scientific’s ill-gotten gains rightfully belong to Ms. Lacks’ Estate.

PARTIES

16. Plaintiff Henrietta Lacks was a natural person, resident of Baltimore County, Maryland, and citizen of the state of Maryland. The executor of Ms. Lacks’ estate is Ron L. Lacks, Ms. Lacks’ grandson.

17. Thermo Fisher Scientific Inc. is a Delaware corporation headquartered in Waltham, Massachusetts. As used in this complaint, “Thermo Fisher Scientific” refers both to Thermo Fisher Scientific Inc. and to its subsidiaries, affiliates, agents, and other entities within its control that have owned, manufactured, distributed, monitored, or sold HeLa cells or related products.

18. Thermo Fisher Scientific is one of the largest biotechnology companies in the world. Its stock trades on the New York Stock Exchange and as a component of both the S&P 100

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