

Affidavit of Virginia Farver in Support of Standing

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Children's Health Defense, Michele Hertz,)
 Petra Brokken, Dr. David O. Carpenter, Dr.)
 Paul Dart, Dr. Toril H. Jelter, Dr. Ann Lee,)
 Virginia Farver, Jennifer Baran, Paul)
 Stanley, M.Ed.)
 Petitioners)

Case No: 20-1138

Petition for Review of Order by the Federal
 Communications Commission
 (FCC 19-126)

v.)

Federal Communications Commission and)
 United States of America,)
 Respondents)

(Consolidated with Case No. 20-1025)

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1. My name is Virginia Farver. My home address is [REDACTED], Fort Collins, Colorado 80526. I am one of the named Petitioners in the above captioned proceeding. I am a member of the Children's Health Defense.
2. The purpose of this Affidavit is to provide evidence of my standing to pursue the matter or the Children's Health Defense's Article III standing to pursue the matter. I will provide some of the basic facts particular to my individual circumstances but also rely on the Affidavits of Dafna Tachover, Dr. Paul Dart, Dr. Toril Jelter and Dr. David Carpenter to explain why the basic facts I present below demonstrate that I have suffered an injury-in-fact traceable to the FCC Order that could be redressed by an order from this Court holding unlawful, vacating, enjoining, and/or setting aside the FCC Order and remanding the matter to the FCC for further consideration and action.
3. I filed comments at the FCC in the proceedings below on two occasions in 2013. I advised them my son had died as a direct result of RF exposure within the FCC's safety guidelines. I asked them to change their rules to protect the population from further harmful exposure. I hoped then, and still hope now, that others will not suffer like my son or lose a family member like I did.
4. I lost my son due to Glioblastoma Multiforme (GBM) brain cancer in 2008. This has been devastating for me and my family. Loss of a child is beyond comprehension for most, and a wound that never heals. I now have only one remaining son, Lee.
5. On March 13, 2008, my son Rich Farver, who was 29 at the time, called me at 9:20PM, whispering and complaining of a severe headache and projectile vomiting. I told him to "get to the hospital." I paced at home until 1:13AM, when we finally received a phone call from the attending emergency room physician, who told us, "Rich had bleeding in the brain." My husband Craig and I caught the first flight out and arrived at Sharp's Memorial Hospital the morning of March 14 at 10AM. Upon arrival, we were informed by neurosurgeon Dr. V.S. Tantuwaya, M.D. from Poway, California that Rich had a brain tumor located in the right frontal lobe of his brain.
6. On March 14th at 5:30PM Rich had brain surgery. Then we waited a week for the pathology report. On March 21, 2008, Dr. Tantuwaya gave us the news that Rich's brain tumor was a Glioblastoma type brain tumor (GBM). This was a very serious and devastating diagnosis. Dr. Tantuwaya advised us that Rich's tumor was caused by "cell phone usage." Rich was right-handed and his tumor was on the right side of his brain, where he

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held his cell phone. While studies show cancer from cell phone use can develop on the opposite side of the head, the risk is higher for the side where the cell phone is used.¹

7. After Rich's diagnosis, Dr. Tantuwaya told the family that Rich needed to be home for therapy. Rich was given a 20% 5-year survival rate. Sitting next to Rich on the flight home was heartbreaking. I would watch tears streaming down his cheeks. He was leaving the place he had made home and the life he'd made for himself in San Diego. Rich wasn't sure if he would ever return. He passed away less than 7 months later.

8. After arriving home to Colorado, we made appointments with Fort Collins oncologist Dr. Richard Marschke. Treatments started immediately. On March 28, Dr. Marschke told the family that Rich's tumor was "not genetic." Whole brain radiation and chemo started right away.

9. At that time, the national news was reporting on Senator Ted Kennedy's brain surgery and treatments at Duke University with a Dr. Friedman. We immediately contacted Dr. Friedman's office and got an appointment for June 9th at the Tisch Brain Tumor Center in North Carolina. The day Rich and I arrived at Duke University; Ted Kennedy was being released from the hospital. We witnessed all of the national news media reporters and cameras waiting outside.

10. Duke University was offering a new experimental treatment called Avastin. Rich would need to be slowly taken off steroids to receive this treatment. I wanted to know if Rich could receive Avastin in Colorado. We were informed that to have this option in Colorado, it would cost \$30,000.00 per month for a year. Our only choice was to get Rich to North Carolina twice a month for a year. I would do anything and go to any expense to make this happen.

11. As we were slowly taking Rich off of steroids, we realized that he was losing his eyesight and balance. Rich ended up at Poudre Valley Hospital in Fort Collins at the beginning of August 2008. We were told that the tumor had advanced and spread. Hospice was called.

12. Rich passed away on October 11, 2008, at home, in my arms. He was 29 years old when he died. I was devastated and no longer wanted to live. To this day, it is very hard.

13. After Rich's death, I decided to research cell phones and electromagnetic radiation (EMR). I decided I could either curl up and die, or I could try to find answers. Rich had always been so healthy at 6'2" and 190 lbs. By 2009, during my intense research, I started looking at cell phone manuals where, in small font, they all said to "keep these devices at least 1 inch away from the head or body or it may exceed FCC guidelines for exposure limits." My responsibility as a parent is to keep my child safe at any age. I felt like a failure.

14. Then I asked myself, how come the FCC allows cell phones knowing that in the way they are actually being used they exceed the FCC guidelines? How come the FCC didn't make sure that every person using a cell phone know that if they use it in close proximity, they may exceed FCC guidelines?

15. I continued reading the science and was shocked to discover, that thousands of studies including US government studies prove the FCC guidelines are obsolete and are not biologically based. I was devastated. But there was more. On August 7, 2009, I found articles online about a "Brain Cancer Cluster" on the San Diego State University (SDSU) campus where Rich had been earning his graduate degree. After reading several

¹ Hardell L, Carlberg M, Söderqvist F, Hansson Mild K. Meta-analysis of long-term mobile phone use and the association with brain tumors. *Int J Oncol.* 32(5):1097-1103, 2008. A meta-analysis paper by Dr. Hardell who is a leading scientist on the connection between cell phones and brain tumors. The scientists concluded: a consistent pattern of an association between mobile phone use and ipsilateral glioma and acoustic neuroma. Submitted below at:

[https://ecfsapi.fcc.gov/file/1092820574235/12a%20%20Cell%20Phone%20Studies%20\(Attachment%2012-%20900%2B%20Studies-%20General%20Opposition%20Statement%20-%20File%2013-0953\).pdf](https://ecfsapi.fcc.gov/file/1092820574235/12a%20%20Cell%20Phone%20Studies%20(Attachment%2012-%20900%2B%20Studies-%20General%20Opposition%20Statement%20-%20File%2013-0953).pdf)

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articles online and reading them over and over, I was floored. A graduate student described in these articles was my son Rich.

16. The articles were in the Daily Aztec, NBC, CBS, ABC, and US News, among others. Four men had died from brain cancer, including my son. They all worked in one building on campus (Nasatir Hall), and in the same room (Room 131). Since the original 2009 articles, other people who worked nearby have passed away as well. Ms. Laurel Amtower was diagnosed with GBM brain cancer in November 2009 and died August 29, 2010. She was forty-four years old. Laurel left behind a 12-year-old daughter. Her office was located in the building next to Nasatir Hall on campus. Dr. Paul Sargent, a professor who also spent considerable time in Nasatir Hall, passed away in 2013 from cancer. There have been other suspected cases as well.

17. I wanted answers from the SDSU administration. I contacted them but got no answers. They were no help. I also contacted the Governor's office, the Occupational Safety and Health Administration (OSHA), the Cancer Registry and other agencies and organizations. All referred me back to SDSU. I drove to San Diego in September 2009, to get answers. I met with two professors off campus, Professor Nancy Speckmann (Rich was her Teaching Assistant) and Professor Farid Abdel-Nour. Both told me that Rich was a special young man.

18. They also told me that they had requested a toxicology study of Nasatir Hall, but the request was denied by the Administration. To this day, I continue to request a toxicology study. Professor Nancy Speckmann, not the SDSU administration, sent me an email forwarded from Ms. Laurel Amtower disclosing her diagnosis in November 2009.

19. In fall 2011 I drove to San Diego again and went to the campus. I walked to Nasatir Hall, Room 131, and found the room closed and used for storage. I noticed that cardboard was lining the windows of Room 131. You could not see into the room from outside at all.

20. In the 2009 articles, the SDSU spokesman Greg Block stated that people had been concerned about a garbage facility and a wireless tower outside of Nasatir Hall Room 131. One article stated that the tower was "installed in 2005." I started researching and found it was part of a fixed wireless network called HPWREN (High Performance Wireless Research & Educational Network). I also found pictures of its installation from 2002. Mr. Block was incorrect that the tower near Room 131 had been installed in 2005. It was in place by 2002 and could transmit electromagnetic waves up to 72 miles so it could reach the San Diego Supercomputer Center and San Clemente Island. The network now relies on several transmitters and bands (900 MHz, 2.4 GHz, 4.9 GHz, 5.3/5.8 GHz, 6 GHz and 11 GHz²) but all of the transmitters are individually licensed or use FCC authorized "unlicensed" frequencies. What this means is the HPWREN emissions – like those from cell provider facilities – were authorized and permitted by the FCC and had to operate within the FCC's emission "safety" guidelines.

21. While he was working in Nasatir Hall, Rich suffered from daily nose bleeds, headaches, nausea, extreme fatigue, underarm sweating, panic attacks, and many other symptoms. One of the most prominent was memory problems. Rich was applying for law school and wasn't sure if he could study and comprehend. Rich told me, "Mom, I cannot seem to remember anything." I knew something was wrong but had no idea what these symptoms were or what they meant. I now know. Reading the science about the adverse effects of radiation from RF and Microwave antennas, there is no doubt in my mind that the HPWREN emissions contributed to my son's brain cancer, probably in combination with his concurrent exposure to cell service-related emissions.

22. Since the death of my son Rich in 2008, I have dedicated myself to this cause. I focused my efforts on preventing harm to children from this deadly toxin. I have been contacting as many people as possible about the effects of wireless radiation on children. For the past twelve years, I have worked every day solely on this issue. I felt that my efforts were the way I would get justice for my son.

² See <http://hpwren.ucsd.edu/Topo/>

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23. Among other activities I have contacted media and participated in the “Take You’re your Power” documentary. I contacted influential groups and have provided information to politicians and doctors. I have contacted principals of schools and many fire districts as well. I have spoken several times in front of my local city council and have attended several meetings and I’ve met with county commissioners.
24. I even met with the Colorado Attorney General. This meeting is how I met Dafna Tachover, now with Children’s Health Defense. Just like me, Dafna has focused her work on the harms to children. Dafna organized this meeting and asked me to join her. Other parents from Colorado whose children have been injured by this radiation and developed Microwave Sickness. One child who developed microwave sickness attended the meeting as well. Dr. David Carpenter who is also a Petitioner in this case attended along with a Professor of Engineering from Colorado who developed Microwave Sickness. We had a long meeting.
25. Throughout the years, I have been contacted by groups of parents from schools with cancer clusters, who suspected that a cell tower located within the school or nearby was the cause of the cancer. I helped investigate six such cancer clusters. Of course, these schools and/or school districts deny the connection to cell tower by claiming that they pose no health hazard as they comply with the FCC standards.
26. I felt some relief and hope when the first results of the National Toxicology Program (NTP) of the National Institute of Environmental of Health Services (NIEHS) study came out in 2016. The study found clear evidence of cancer and DNA damage and the scientists who conducted the study called to warn the public. The NTP is the US premier authority on toxins “whose goal is to safeguard the public by identifying substances in the environment that may affect human health.”³ NTP determinations are considered a golden standard.
27. In 1999, the NTP was nominated by the FDA to conduct the study⁴. The FDA allocated \$25 million for this study. It is the largest study of its kind. NTP published its “Partial Report”⁵ in 2016. Ron Melnik, PhD, Senior Toxicologist and Director of Special Programs in the Environmental Toxicology Program at the National Institute of Environmental Health Sciences (NIEHS) and designer of the study states, “The NTP tested the hypothesis that cell phone radiation could not cause health effects and that hypothesis has now been disproved. The experiment has been done and, after extensive reviews, the consensus is that there was a carcinogenic effect.”⁶

³ Report of Partial Findings from the National Toxicology Program 2 Carcinogenesis Studies of Cell Phone Radiofrequency Radiation in 3 Hsd: Sprague Dawley® SD rats (Whole Body Exposures) 4 Draft 5-19-2016, Submitted below at:

<https://ecfsapi.fcc.gov/file/10709642227609/NTP%20Study%20on%20Rodents%20Draft%20report%20Glioma%20May%202016.pdf>, Page 4.

⁴ Quotes from the nomination letter and link to the letter submitted to the docket below at

<https://ecfsapi.fcc.gov/file/10011773529766/EHTrustNTP.pdf>, page 3.

⁵ Report of Partial Findings from the National Toxicology Program 2 Carcinogenesis Studies of Cell Phone Radiofrequency Radiation in 3 Hsd: Sprague Dawley® SD rats (Whole Body Exposures) 4 Draft 5-19-2016, Submitted below at:

<https://ecfsapi.fcc.gov/file/10709642227609/NTP%20Study%20on%20Rodents%20Draft%20report%20Glioma%20May%202016.pdf>

⁶ Submitted below at <https://www.fcc.gov/ecfs/filing/1001076789440>

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28. The scientists drafting the 2016 partial report: "Given the widespread global usage of mobile communications among users of all ages, even a very small increase in the incidence of disease resulting from exposure to RFR could have broad implications for public health."⁷

29. In February 2018, The NTP Study's cancer results were peer reviewed by a panel of 11 experts. The final report regarding the cancer findings was released in November 2018 and adopted the experts' panel conclusion. The final report determined a "clear evidence" was established. After hearing the positions of industry, the FDA and the public, the panel found the study found "clear evidence," despite the FDA objection. As explained by Dr. Melnick in his paper "in contrast to FDA criticisms, the expert peer-review panel concluded that the NTP studies were well designed, and that the results demonstrated that both GSM- and CDMA-modulated RFR were carcinogenic to the heart (schwannomas) and brain (gliomas)."

30. The American Cancer Society's statement on the significance of this new study was cited: "The NTP report linking radiofrequency radiation (RFR) to two types of cancer marks a paradigm shift in our understanding of radiation and cancer risk. The findings are unexpected; we wouldn't reasonably expect non-ionizing radiation to cause these tumors."⁸

31. Dr. Melnick explained the application of the findings to human health: "The NTP findings are most important because the International Agency for Research on Cancer (IARC) classified RFR as a "possible human carcinogen" based largely on increased risks of gliomas and acoustic neuromas (which are Schwann cell tumors on the acoustic nerve) among long term users of cell phones. The concordance between rats and humans in cell type affected by RFR strengthens the animal-to-human association. This commentary addresses several unfounded criticisms about the design and results of the NTP study that have been promoted to minimize the utility of the experimental data on RFR for assessing human health risks."⁹

32. This study should have been a game changer. I thought that finally the public will be told the truth; that children would henceforth be warned about the potential harms and learn how to practice caution so they would not suffer like my son and die when their death could be avoided and mothers would not have to go through the same devastation of losing a son as I have.

33. But despite the NTP results and scientists' recommendations to warn the public, and despite the expert panel conclusions, including a consideration of FDA criticisms, instead of warning the public, the FDA and the FCC capriciously and arbitrarily dismissed the study and continue to hide the truth from the public.

34. The FCC's rejection of this report is outrageous. It left me feeling very depressed and filled with anxiety. I feel a sense of torture. I wonder what it will take for the FCC to finally take action, to tell the truth to the public so people can protect themselves. When will the FCC provide biologically based safety standards for the public?

⁷ Submitted below at

<https://ecfsapi.fcc.gov/file/10709642227609/NTP%20Study%20on%20Rodents%20Draft%20report%20Glioma%20May%202016.pdf>

⁸ Link to the letter was submitted to the docket below at

<https://ecfsapi.fcc.gov/file/10011773529766/EHTrustNTP.pdf>, page 4.

⁹ Melnick RL, Commentary on the utility of the National Toxicology Program study on cell phone radiofrequency radiation data for assessing human health risks despite unfounded criticisms aimed at minimizing the findings of adverse health effects, *Environ Res.* 2019 Jan;168:1-6. " Submitted below at

<https://ecfsapi.fcc.gov/file/1091330786203/Wireless%20radiation%20and%20EMF%20abstracts%20August%202016%20-%20August%202019%20Joel%20Moskowitz%209-13-2019.pdf>.

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35. Contrary to the absurd denial of the FCC and the FDA, already in 2012, before the NTP results, the Supreme Court of Italy found a “causal link” between mobile phone use and brain tumor risk, acoustic neuroma specifically. Acoustic Neuroma is a Schwannoma type cancer, the type of cancer found by the NTP.

36. The NTP results were confirmed by the Ramazzini Institute study published in 2018¹⁰, a 6 million Euro study. The Ramazzini findings of Schwann cell tumors in rat hearts’ is consistent with the findings by the NTP. Both reported an increase in the incidence of tumors of the brain and heart in rats from exposure to RFR. While the NTP levels of radiation were similar to those emitted by cell phones, the Ramazzini study used levels up to 6,000 times lower, with the purpose of examining the harms of radiation from cell towers.

37. The NTP and the Ramazzini studies’ results, combined with the epidemiological studies, confirm a likely causal link between my son’s death from brain cancer to cell phone use and to exposure to RFR antenna. But despite the clear evidence, the FCC and FDA in their servitude of the industry continue to deny the harm. And while the evidence is become clearer, absurdly, their statements of “no harm” are becoming more acute.

38. I fear for my only two granddaughters that I will ever have. I fear for all the children in this country, that will have nothing but a future of cancers and DNA damage that will be passed on from generation to generation. All of which can be avoided if the FCC would do their job.

39. Based on my continuing research up to the present, the FCC guidelines are woefully inadequate and outdated and do not protect the public from harmful radio frequency radiation. If the FCC guidelines were protective, transmitting antennas would not have been put on university campuses, and my son would not have died. If the FCC guidelines were protective, my son would have known that RF emissions can cause cancer and would have taken measures to reduce his exposure. If the FCC did its job, the FCC testing regulations would have required that phones be tested the way they are being used, without any distance from the head. The FCC would do a better job ensuring that network transmitters do not irradiate people who work or live nearby and constantly expose them to harmful emissions, often without their knowledge or consent. If the FCC does its job now perhaps other mothers will not experience the pain and suffering I face every day. But the public is being told there is no evidence of harm, that these devices are safe. The public is not being warned that if a phone is placed in contact with the body the radiation may exceed even the FCC’s obsolete thermally based guidelines.

40. My family and I have suffered an injury and death as a result of the FCC guidelines. Emissions from cell phones, cell towers and the HPWREN network killed my son. My son is dead because the FCC and other government agencies failed to fulfill their duties under the law, and they are still abandoning their highest obligation to keep the public safe from activities they authorize and regulate. I am full of anxiety and even panic about my remaining son and two little granddaughters.

41. The FCC Order did not adequately consider or reasonably respond to my comments or those of others who raised similar issues. Their complete failure to acknowledge the science or address the pleas by those like me who told their personal story and sought relief was an insult that caused me serious mental anguish. The decision to retain existing rules and in such a dismissive and inconsiderate way, entirely fails to resolve the problems I, my family and my loved ones faced in the past and now face in daily life as a result of constant non-consensual exposure to harmful radiation. I, my family and my loved ones have been harmed by rules that do not adequately protect health and safety, and in fact directly allowed and continue to allow harm. The FCC’s decision below to maintain current exposure guidelines revived my feeling of loss and helplessness; I had to relive the horror of my son’s death and increase all my efforts to cope. This harm will continue until the FCC

¹⁰Falcioni et al (2018), Report of final results regarding brain and heart tumors in Sprague-Dawley rats exposed from prenatal life until natural death to mobile phone radiofrequency field representative of a 1.8 GHz GSM base station environmental emission, Environmental Research. 2018 Mar 7. Submitted below at <https://ecfsapi.fcc.gov/file/1091330786203/Wireless%20radiation%20and%20EMF%20abstracts%20August%202016%20-%20August%202019%20Joel%20Moskowitz%209-13-2019.pdf>, page 288.

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recognizes the problem, stops dismissing the clear evidence and the suffering its guidelines allow, changes its rules to truly protect health and safety and takes into account the needs of those who are or may become injured by electromagnetic radiation.

42. If the FCC amends its guidelines to address the science and the evidence of harm to humans, and adopts standards that reduce or eliminate the harm then my family will be better protected and the chances for further illness and death in my family will be substantially reduced. The FCC must be required to cease its willful participation in and encouragement of the mass non-consensual and harmful poisoning of the public.

43. This concludes my Affidavit, but as noted above I am also relying on the Affidavits of Dafna Tachover, Dr. Paul Dart, Dr. Toril Jelter and Dr. David Carpenter to further explain why the particular facts above demonstrate standing.

Virginia Farver
Virginia Farver

SUBSCRIBED AND SWORN TO BEFORE ME this 5 day of May, 2020, to certify which witness my hand and official seal.

Subscribed and sworn before me in the
State of Colorado, County of Larimer, this
5 day of May, 2020
Expiration Date 01/15/2024
Notary
Signature Susan Maestas

SUSAN MAESTAS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20164001791
MY COMMISSION EXPIRES 01-15-2024