

San Diego Star

To Seal or Not To Seal: What You Don't Know Could Be On Purpose — Perspectives from the Bench, Bar, and Media

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Biotech battle in court today

University professors accused of using stem cells for profit

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The legal battle over who owns the secrets behind a medical breakthrough that extends human life by slowing the aging process will inch forward in a San Diego courtroom today.

At issue is potential evidence in the \$100 million civil suit the University of La Jolla brought earlier this year against biotech company NeverDie, Inc.

Both sides are seeking to close the hearing to the media and the public, including protestors of the controversial technology, which uses fetal stem cells to regenerate organs and skin.

The University of La Jolla accuses four of its professors of developing the technology at the school, then forming their own company to sell and profit from the process.

The four professors are the minds behind NeverDie, which lays claim to the trade secrets behind the sought-after technology.

Based in San Diego, NeverDie recently took its company public. After a successful initial offering, the four founders' stock value skyrocketed to more than \$100 million — the amount that University of La Jolla is seeking through the



Dr. William Blade

suit, filed earlier this year in San Diego Superior Court. The school argues in court documents that NeverDie's product comes through work the four professors — research scientists led by Dr. William Blade — developed as part of their duties at the school. The university also maintains that the stem cells NeverDie uses come from a strain the school used purely for scientific research.

The founders of NeverDie said in



A technician works inside a laboratory at NeverDie, Inc., in this July 2013 file photo. The biotech company faces a civil suit filed by University of La Jolla related to trade secrets behind a medical breakthrough that slows the aging process.

court documents that the suit has no merit, that they developed the company and its technology after working hours.

Both sides will be in front of Judge Henry Hacker to grapple over just what potential evidence NeverDie must turn over to the school.

Looking for proof of its claims, the university wants NeverDie to turn over all documents and communications addressing how the company obtained the fetal stem cell strain. The school wants all hard drives images from the company's computers, as well as all business emails, particularly those related to NeverDie's processes.

The school also wants NeverDie to turn over all its correspondence with other biotech researchers, as well as all materials the four professors generated while at work for the university but still have in their possession.

The case has grabbed national attention, but the school and the company are trying to keep details of their legal battle quiet. They want Hacker to close the hearing for fear the proceedings could include confidential and proprietary information.

Attorneys on both sides declined comment.

The San Diego Star and other me-

dia organizations will ask Hacker to keep the proceedings open. Local station KML-TV wants to televise the hearing, and firm Biotech Cable Consultants wants Hacker to allow it to stream the proceedings to its worldwide network of subscribers — some of whom are competitors of NeverDie.

Intellectual property attorney David Samson said it's unlikely that details of the trade secrets will come out during this pretrial hearing.

"At this stage, this is a broad fight over all their emails, that kind of thing," Sampson said. "There's no way the attorneys will talk about what the (genome) sequences were. They aren't going to discuss the formula. No one will testify about it."

The Star will also ask Hacker to unseal transcripts and settlement details from a two-year-old legal battle that pitted Dr. Carla Menudo, the chief of the university's lab, against researcher Blade.

Menudo — who was not invited to be a part of NeverDie — sued Blade in 2012, claiming sexual harassment. Blade countersued, arguing that Menudo's suit was payback after he went public with claims that school administrators wasted millions of taxpayer dollars. The case settled, but the details are confidential.

Her attorney declined comment. Outside of the courtroom, the use of fetal stem cells by the university and the biotech company has picked up fierce opposition, and protestors are planning to rally in front of the Hall of Justice before the hearing.

"These people are playing God," said NeverDie critic and rally organizer Joe Johnson. "The destruction of an embryo is the destruction of human life."

Fictional story. For educational purposes only.



Dr. Carla Menudo



Science laboratory, University of La Jolla.