



June 14, 2016

Mr. James D. Agresti
President, Just Facts
641 Shunpike Rd #286
Chatham, NJ 07928

Dear Mr. James:

I have reviewed your letters dated May 27 and June 1, 2016 and the various references you cited, and the article you believe should be retracted (Lee SJ, Ralston HJP, Drey EA, Partridge JC, Rosen MA. Fetal Pain: A Systematic Review of the Evidence, *JAMA*. 2005;294:947-954).

The article by Lee et al was published in 2005, and a number of the articles you suggest in your June 1 letter could support a possible different conclusion about fetal pain were published both before and after that date. None of the articles are definitive in indicating when a fetus would feel pain as defined in the 2005 *JAMA* article - “a subjective sensory and emotional experience” (p. 948). The article by Merker noted in your May 27 letter never mentions the term fetal pain.

The authors of the *JAMA* article also were quite careful in their conclusion – “Evidence regarding the capacity for fetal pain is limited but indicates that fetal perception of pain is *unlikely* before the third trimester” (p. 947 – conclusion of abstract). In the conclusion section of the article they state “Because pain perception *probably* does not function before the third trimester, discussions of fetal pain for abortions performed before the end of the second trimester should be non-compulsory” (p. 952.) In both cases, in the conclusion of the abstract and the article the authors have included modifiers that reflect their review of the evidence available at that time, including uncertainty.

Virtually all review articles, such as the article by Lee et al, represent a summary of the evidence available at the time of the review of a topic. Although subsequently published reports may add to the existing evidence on a topic, or propose alternative theories, that new information does not require retraction of previous review articles. In addition, for the article by Lee et al, there is no evidence supporting other issues that would necessitate retraction, such as fabrication or falsification.

With respect to the issue you raise regarding potential conflict of interest, the information we have indicates that the authors complied with the journal conflict of interest requirements in 2005. Moreover, in other published articles in which questions have been raised about whether authors have fully disclosed their affiliations and interests, those types of questions have not necessitated retraction.

In summary, there is no evidence that the article on fetal pain by Lee et al published in *JAMA* 2005 should be retracted.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Bauchner', with a long, sweeping underline.

Howard Bauchner, MD
Editor in Chief, JAMA