VACCINE UPDATE - CLOER

While the issue of whether attorneys' fees and costs were payable in untimely filed cases was pending before the U.S. Supreme Court, the special masters deferred ruling on fee applications in approximately 1,000 Omnibus Autism Proceeding ("OAP") cases.

Following the Supreme Court's decision in *Sebelius v. Cloer*, 133 S.Ct. 1886 (2013), respondent's counsel and petitioners' counsel from the five law firms with the largest number of pending motions negotiated a "bright line test" to avoid the lengthy litigation required to assess whether each case was filed in good faith and with a reasonable basis. Each attorney with a "Cloer-hold" case has the option of applying this test to all of his or her cases.

A petitioner's counsel with a pending fees application in an untimely-filed OAP case should contact the respondent's counsel with whom the amount of fees was negotiated to discuss the parameters of the "bright line test."

Questions or disagreements may be brought to the attention of the assigned special master in a status report or a request for a status conference.