

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: October 11, 2002)

IN RE: CLAIMS FOR VACCINE INJURIES *
RESULTING IN AUTISM SPECTRUM *
DISORDER OR A SIMILAR *
NEURODEVELOPMENTAL DISORDER *

AUTISM MASTER FILE
Not for publication

VARIOUS PETITIONERS,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

AUTISM UPDATE---OCTOBER 11, 2002

The chief purpose of this Update and Order is to inform autism claimants of the progress of discovery matters in the Omnibus Autism Proceeding. Two other matters are discussed briefly at the end of this document.

A. Discovery

As indicated in my Autism Updates of September 4 and September 25, 2002, the Petitioners' Steering Committee has filed an extensive discovery request, and respondent has filed a formal response. (Copies of both those documents have been filed in the Autism Master File.) I have conducted several status conferences, working with both sides to see if agreement can be reached as to these discovery requests.

At the most recent status conference, on October 8, 2002, I was informed that the two sides have been continuing to work together intensively on the discovery matters. The petitioners' lead

1Counsel participating in the October 8 conference were Jeffrey Thompson and Ghada Anis for petitioners, Vincent Matanoski for respondent.

counsel, who have been working very closely with respondent's counsel on the discovery issues, have represented that the discovery process is proceeding very promptly and productively. I will summarize some of the progress made.

1. As to certain production requests (see especially Production Requests 4, 6, and 7), respondent has already effectively complied by identifying material that is already available for inspection by petitioners at certain Internet websites. Petitioners' representatives are in the process of identifying particular individuals to inspect and analyze that material. Petitioners' representatives expect to have particular individuals assigned to inspect each website by the end of this week.

2. As to most of the other production requests--with the exception of requests 10, 11, and 12--the various government agencies have been identifying and assembling relevant documents, and the parties are close to agreement as to a procedure and schedule for producing the material. For example, as to Production Request #15, part 1, documents are to be produced on October 21, 2002. With the exception of Requests 10, 11, 12, production is expected to take place on a staggered basis, with production beginning on all requests by November 25, 2002. The parties will soon provide me with written schedules concerning these production agreements.

3. As to Production Requests 10, 11, and 12, members of the Petitioners' Steering Committee have been attempting to substantially narrow the requests, in order to make production feasible. They expect to produce revised requests very soon.

4. Respondent's personnel in the various agencies are in the process of assembling a log of relevant documents that respondent seeks to withhold on privilege grounds. If there prove to be disputes about whether privilege claims are appropriately asserted, I can then resolve such disputes.

5. As to the interrogatories, after discussion between the parties, the Petitioners' Steering Committee members are attempting to reach agreement on a reduced number of interrogatories. They expect to reach agreement this week.

6. The parties are still unsure whether an evidentiary hearing regarding discovery issues will be necessary. They do not yet know which items, if any, will require a ruling by me. The dates of December 17, 2002, and January 8, 2003, have been set aside for one or more evidentiary hearings, if necessary. The parties stress, in this regard, that postponing an evidentiary hearing on discovery disputes will not delay the next stage of the master schedule for the Omnibus Autism Proceeding (that schedule was attached to the Autism General Order #1 filed on July 3, 2002). That next stage, when petitioners file any *supplemental* discovery requests arising from the first round of discovery, is scheduled to take place on February 3, 2003. The parties agree that they will be able to complete the first round of discovery in sufficient time so that any supplemental discovery requests can be submitted by that date.

7. I emphasize that, as the parties have agreed, this delay in the discovery evidentiary hearing will not be permitted to delay the overall schedule for completing the first round of

discovery. I remain firmly committed to adhering to the master schedule for the entire Omnibus Autism Proceeding.

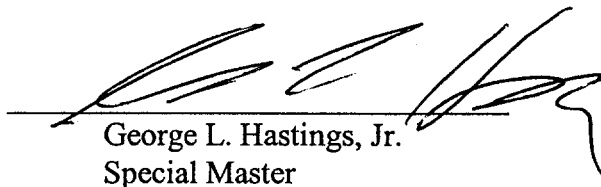
8. In the meantime, I will continue to conduct regular status conferences to ensure that progress continues on the discovery issues.

B. Petitioners' Steering Committee

The petitioners' representatives reported that the Petitioners' Steering Committee is in the process of expanding to include additional counsel. (Counsel desiring to serve on the Steering Committee should contact committee member Ghada Anis, *not* my office or the Court. See Ex. D to Autism General Order #1 for contact information.) They expect to soon notify me of the expanded roster.

C. Promulgation of information concerning Omnibus Autism Proceeding

A committee has been working to include on this court's website both a docket sheet for the Master Autism File and copies of other documents in the file that are not already available electronically. I anticipate that a docket sheet and additional documents will be available very soon on that website. Further, I will continue to file, and place on the website, periodic updates concerning the Omnibus Autism Proceeding. The next such update will likely follow in early November. Interested persons may access the portion of this court's website dedicated to the Omnibus Autism Proceeding at www.uscfc.uscourts.gov/osm/osmautism.htm.


George L. Hastings, Jr.
Special Master