

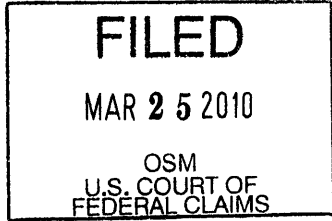
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In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: March 25, 2010)

IN RE: CLAIMS FOR VACCINE INJURIES *
RESULTING IN AUTISM SPECTRUM *
DISORDER OR A SIMILAR *
NEURODEVELOPMENTAL DISORDER * **AUTISM MASTER FILE¹**
 *
 VARIOUS PETITIONERS, *
 *
 v. *
 *
 SECRETARY OF HEALTH AND *
 HUMAN SERVICES, *
 *
 Respondent. *
 *



AUTISM UPDATE--MARCH 25, 2010

This Update describes a number of recent developments in the Omnibus Autism Proceeding (“OAP”) that have occurred since the last Autism Update, issued on October 9, 2009. Since that last Update, we have held unrecorded telephonic status conferences in the OAP on November 4, 2009, January 13, 2010, and March 16, 2010. Further, an important development in the OAP during that period was the issuance of the decisions in the second group of three autism “test cases,” as will be detailed below.

¹The Autism Master File constitutes the record of the Omnibus Autism Proceeding. The complete File is maintained by the Clerk of this court, and is available for inspection by the parties. An electronic version of the File is maintained on this court’s website. This electronic version contains a complete list of all documents in the File, along with the full contents of most of those documents; the exception is that the content of some documents has been withheld from the website due to copyright considerations or due to 42 U.S.C. § 300aa-12(d)(4)(A). To access this electronic version of the Autism Master File, visit this court’s website at www.uscfc.uscourts.gov. From the court’s “Home” page, click on the “Vaccine Info” page, then on the “Autism Proceeding” page, then on the “Docket of Omnibus Autism Proceeding” page.

A. Proceedings in the “test cases” concerning petitioners’ first theory of general causation

As explained in previous Autism Updates, the Petitioners’ Steering Committee (PSC) originally stated its desire to present three different theories of “general causation” in the Omnibus Autism Proceeding, but later pared that to *two* different theories. The PSC designated three “test cases” for each of those two theories. Accordingly, during 2007 we conducted hearings in three “test cases” with respect to the PSC’s *first* “general causation” theory, *i.e.*, the theory that MMR vaccines and thimerosal-containing vaccines can combine to cause autism. On February 12, 2009, each of three special masters issued a decision in the test case assigned to that special master. Special Master Campbell-Smith issued the decision in *Hazlehurst v. Secretary of HHS*, No. 03-654V, 2009 WL 332306 (Fed. Cl. Spec. Mstr. Feb. 12, 2009). Special Master Vowell issued the decision in *Snyder v. Secretary of HHS*, 01-162V, 2009 WL 332044 (Fed. Cl. Spec. Mstr. Feb. 12, 2009). Special Master Hastings issued the decision in *Cedillo v. Secretary of HHS*, 98-916V, 2009 WL 331968 (Fed. Cl. Spec. Mstr. Feb. 12, 2009).

Later, each of those three “test case” decisions was affirmed, in separate rulings by three different judges of this court. On July 24, Judge Wiese affirmed the *Hazlehurst* decision. See *Hazlehurst v. Secretary of HHS*, 88 Fed. Cl. 473 (2009). On August 6, Judge Wheeler affirmed the *Cedillo* decision. See *Cedillo v. Secretary of HHS*, 89 Fed. Cl. 158 (2009). On August 11, 2009, Judge Sweeney affirmed the *Snyder* decision. See *Snyder v. Secretary of HHS*, 88 Fed. Cl. 706 (2009).

The petitioners in the *Hazlehurst* and *Cedillo* cases filed notices of appeal to the U.S. Court of Appeals for the Federal Circuit. (The petitioners in *Snyder* did not.) The appeals in both *Hazlehurst* and *Cedillo* remain pending.

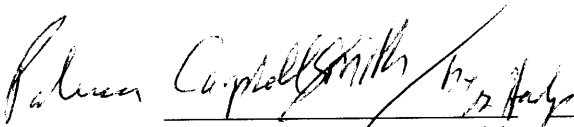
B. Post-hearing proceedings concerning the petitioners’ second theory of general causation

The PSC’s *second* causation theory is that thimerosal-containing vaccines alone can cause autism. As to that theory, we conducted evidentiary hearings in 2008. On March 12, each of the three special masters issued a decision in the test case assigned to that special master. Special Master Campbell-Smith issued the decision in *Mead v. Secretary of HHS*, No. 03-215V, 2010 WL 892248 (Fed. Cl. Spec. Mstr. Mar. 12, 2010). Special Master Vowell issued the decision in *Dwyer v. Secretary of HHS*, No. 03-1202V, 2010 WL 892250 (Fed. Cl. Spec. Mstr. Mar. 12, 2010). Special Master Hastings issued the decision in *King v. Secretary of HHS*, No. 03-584V, 2010 WL 892296 (Fed. Cl. Spec. Mstr. Mar. 12, 2010).

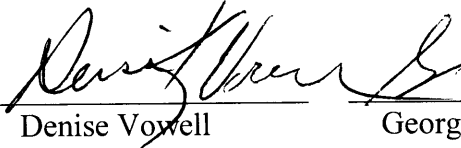
The petitioners in the three cases now have the option of seeking review of those decisions.

C. Further proceedings

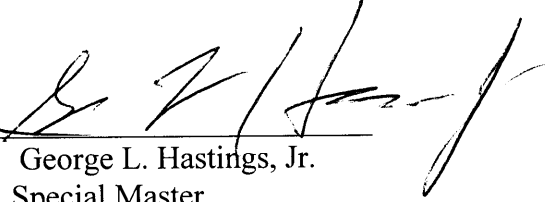
We continue to meet regularly with the representatives of both the PSC and respondent, to discuss any ongoing issues concerning the Omnibus Autism Proceeding. We will continue to issue these Autism Updates describing that process. In addition, those interested in following the course of events, in between these Updates, should continue to check our Autism Proceeding webpage. The next status conference in the Omnibus Autism Proceeding is scheduled for May 12, 2010.



Patricia Campbell-Smith
Special Master



Denise Vowell
Special Master



George L. Hastings, Jr.
Special Master