

# ORIGINAL

## In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: June 5, 2007)



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

AUTISM MASTER FILE

### ORDER CONCERNING CASE PROCESSING

At the request of the Petitioners' Steering Committee ("PSC"), we have agreed to hold separate hearings on the three theories the PSC has advanced in the Omnibus Autism Proceeding ("OAP"). At the first general causation hearing on June 11, 2007, we will hear evidence on the theory that the combination of the measles, mumps, and rubella vaccine and thimerosal-containing vaccines can cause autism, autism spectrum disorder, or similar neurologic conditions. The PSC has represented that this theory encompasses 70-80% of the approximately 4800 pending OAP cases.

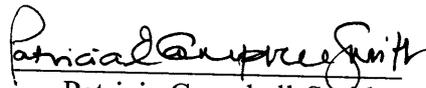
In numerous communications to the PSC over the past six months, we have stressed the importance of designating three "test cases" for this theory of vaccine causation, as well as for each of the other two theories. The May 25, 2007, Autism Update contains a detailed description of the difficulties we have encountered in getting the PSC to designate three test cases for trial on the combination theory of causation. Without reiterating all the reasons for requiring three test cases, we emphasize the importance of having three special masters hearing and evaluating the general causation evidence and applying that evidence in the individual test cases. Three opinions applying the evidence to the facts of specific cases will provide more guidance for the resolution of the remaining cases and will provide three separate evaluations of the evidence and

law for appellate review. Additionally, three opinions will reduce the concern that the fate of so many petitioners and their families might rest on the opinion of only one special master.

In December 2006, the PSC designated the *Cedillo* case as the first test case for the June 11, 2007 hearing. On May 31, 2007, a second test case was designated. A third case has not yet been identified. Since December 2006, we have been emphatic that PSC must designate three cases for the combined theory of causation. To date, it has failed to do so.

Accordingly, we will begin ordering petitioners in the OAP to file the materials required by 42 U.S.C. §300aa-11(c). Based on the medical records and other filings, we will select a third case in which the vaccinee received both thimerosal containing vaccines and the MMR vaccine. The special master assigned to that case will apply the general causation evidence from the June 2007 hearing, and any additional evidence that the parties may present, to the facts of the selected case. We anticipate that these orders will issue, beginning with the oldest cases on our dockets, on or before July 13, 2007.

  
Denise K. Vowell  
Special Master

  
Patricia Campbell-Smith  
Special Master

  
George L. Hastings, Jr.  
Special Master