

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: April 2, 2003)

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

AUTISM UPDATE AND ORDER--APRIL 2, 2003

This Update describes a number of recent developments in the Omnibus Autism Proceeding that have occurred since the last Update dated February 26, 2003. I note that counsel for both parties and I have continued to work diligently on the Proceeding during that time period. Status conferences were held on March 10 and March 27, 2003,¹ while counsel were also working extensively with one another in between these conferences, in order to keep the Proceeding moving forward.

A. Petitioners' Steering Committee

The Petitioners' Steering Committee has significantly expanded. A roster of the expanded committee is attached to this update.

¹Counsel participating in those conferences were Jeffrey Thompson and Ghada Anis for petitioners, Vincent Matanoski and Mark Raby for respondent.

B. Discovery

As indicated in my previous Autism Updates, a tremendous amount of work has been done by counsel for both parties concerning the petitioners' extensive discovery requests. I will not reiterate developments covered in my previous updates, but I will summarize below our progress and certain new developments in the discovery area.

1. Much material responsive to the petitioners' extensive Requests for Production was made available to petitioners during the fall of 2002 via various government web sites, and petitioners' counsel have analyzed that data. Extensive additional material has been supplied to petitioners over the last several weeks, in large batches produced on December 23, January 6, January 21, January 22, January 27, February 26, and March 11, and petitioners' counsel are in the process of analyzing those extensive documents as well. At this point, the respondent has now complied with most, though not all, of the petitioners' Requests for Production.

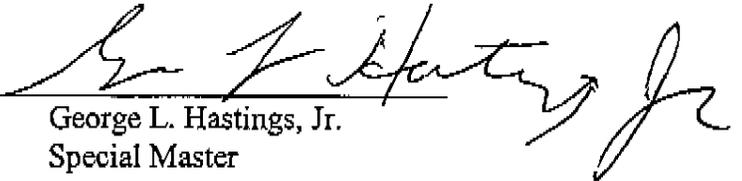
2. One category of documents requested, pursuant to petitioners' Requests for Production Nos. 10 and 12, involves vaccine license applications. In this area, efforts to produce material are proceeding more slowly, due in part to the massive amount of material involved (more than 400,000 pages of material potentially relevant to those requests have been identified so far), and in part to the fact that funds for the relevant agency for the current fiscal year were not appropriated until just a few weeks ago. The process of production of that material has begun, and is moving forward. Opposing counsel are continuing to work to speed the production of this material.

3. As previously indicated, the parties have been in disagreement concerning the issue of production of materials relating to certain ongoing and proposed studies. However, the parties have engaged in efforts to resolve that issue, and believe that they are close to reaching an amicable resolution of that disagreement. They will soon inform me as to whether those efforts have been successful.

4. Because the *first round* of discovery in this Proceeding is not yet complete, the parties have jointly requested that we postpone certain deadlines for the potential *second round* of discovery, which was to have recently begun, pursuant to the Master Scheduling Order that was attached to the Autism General Order #1 filed on July 3, 2002. Those deadlines are hereby postponed by another 30 days each, with the goal being that the second round of discovery can be shortened from its current projected duration, so that the entire discovery process can still be completed by the scheduled date.

5. Finally, I again state my impression that all parties involved have been working very hard on these discovery issues. It is clear that a massive effort involving a number of government agencies has taken place, in an effort to provide a thorough response to the discovery requests. I continue to perceive that both sides are acting very diligently, and in good faith. I note that in those areas where discovery is not yet complete, opposing counsel continue to work amicably with each other with the goal of completing production cooperatively. The parties have not yet reached an

impasse concerning any issue that they have needed to present to me for formal resolution, although I am ready to do so if they need me. My role in the discovery process, thus far, has mainly been to work informally with the parties to foster their cooperative efforts. I extend my thanks to all counsel involved for their tremendous efforts, as well as their cooperative attitudes, in these difficult matters. I further note that all counsel, as well as myself, are doing everything in our power to expeditiously conclude discovery matters so that we can comply with the projected schedule for conclusion of the Omnibus Autism Proceeding.


George L. Hastings, Jr.
Special Master

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