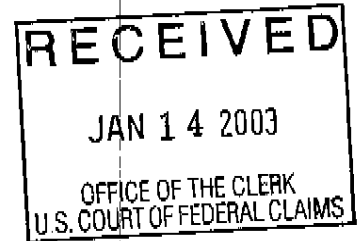


In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: January 14, 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---JANUARY 14, 2003

This Update describes a number of recent developments in the Omnibus Autism Proceeding that have occurred since the last Update dated December 20, 2002. 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 December 23, 2002, and January 8, 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

Meetings of the expanded Petitioners' Steering Committee are being scheduled for later this month. (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.)

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

B. Discovery

1. 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. The parties have worked out many disagreements as to the scope of the petitioners' Requests for Production, and the various governmental agencies continue to identify and review potentially responsive material. Much material responsive to those Requests for Production was made available to petitioners during the fall of 2002 via various government web sites, and petitioners' counsel are in the process of analyzing that data.

2. As also previously noted, actual production of additional documents, beyond the material disclosed via government websites, was delayed because of a difference of opinion concerning whether a "protective order" should be issued. As noted in my last update, after additional discussions between the parties, it was determined that respondent will produce additional requested discovery material in one of the autism cases, *Taylor v. Secretary of HHS*, No. 02-699V, and simultaneously give consent that such discovery material may be used in any Vaccine Act proceeding. The respondent has filed a motion to withdraw the respondent's motion for a protective order. By this Update and Order, I hereby *grant* the respondent's motion for leave to withdraw the protective order motion.

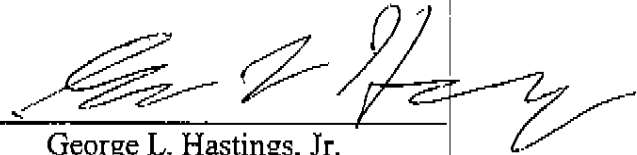
3. I am pleased to report that since the development described in the previous paragraph, production of documents from respondent to the petitioners has, in fact, been taking place. The first batch of documents was forwarded to petitioners' counsel in December, and a second large batch was forwarded in early January. The parties have developed a schedule for further document deliveries in the next several weeks, under which additional documents will be delivered on or about January 18, January 21, and January 27, 2003. When these deliveries are completed, respondent will have complied with most of petitioners' Requests for Production of documents.

4. As to one category of documents requested, pursuant to petitioners' Requests for Production Nos. 10 and 12, efforts to produce material are proceeding more slowly, due in part to the massive amount of material involved (more than 185,000 pages of material potentially relevant to those requests have been identified so far), and in part to the fact that Congress has not yet appropriated funds for the relevant agency for the current fiscal year. The parties will work together to determine whether these requests can be narrowed or other steps can be taken to speed the production of this material.

5. As previously indicated, the parties have been unable to resolve their differences concerning production of materials relating to certain ongoing and proposed studies. An evidentiary hearing concerning that issue will be held on January 31, 2003.

6. Finally, I wish to reiterate my continued impression that all parties involved have been working very hard on these discovery issues. It appears that a massive effort at a number of government agencies has taken place to provide a thorough response to the discovery requests. I

believe that both sides are acting very diligently, and in good faith. 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