

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: October 8, 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.

NOTICE TO COUNSEL

The appellate process in the OAP test cases has recently concluded. This Update provides information to counsel concerning the processes for resolving the remaining OAP cases. The Court recently contacted *pro se* petitioners to inform them of the conclusion of the appellate process and to require them to inform the court whether they intend to dismiss their petition² or continue to prosecute their claim. Those petitioners intending to prosecute their cases will receive subsequent orders with filing deadlines requiring them to identify their theory of causation, file additional records, and produce expert reports. Counsel who represent OAP petitioners should expect orders imposing similar requirements in the near future.

As an initial step in the process of resolving the remaining OAP cases, we suggest that counsel begin contacting their clients to ascertain how the clients wish to proceed on their

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.


² The order directed petitioners to the court's website link containing information on how to exit the Vaccine Program. That link can be found at http://www.uscfc.uscourts.gov/sites/default/files/autism/OAP_filed_10_08_09.pdf.

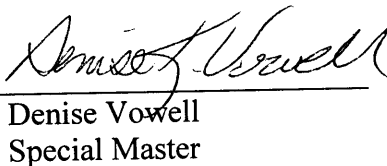
claims. Two members of the Petitioners' Steering Committee have developed a letter for their own OAP clients, informing them that all appeals have been denied and soliciting the clients' desires about how to proceed. These PSC members are willing to share the letter and attachments with other attorneys representing OAP petitioners. Information on the letter can be obtained from Mr. James Ferrell at jferrell@rgtaylorlaw.com.

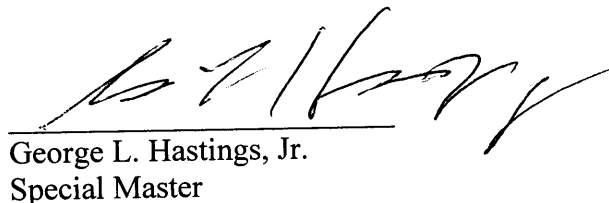
Locating some *pro se* petitioners has proven difficult, and petitioners' counsel may encounter similar difficulties in locating clients. Counsel who are unable to contact clients may seek leave of court to withdraw from representation, but motions to withdraw **will not be favorably considered** without documentation of efforts to contact clients at their last known address and reasonable efforts to locate a new address for the clients.

We recognize that a key issue in finally resolving the claims of clients who request a dismissal decision or a ruling on the record is that of attorney fees and costs. We have begun facilitating discussions between respondent's counsel and several petitioners' counsel who have a substantial number of pending OAP cases in order to develop informal methods to resolve the issue of attorney fees and costs. This process involves special masters evaluating attorney billing records in cases at specific stages of case development and issuing published factual findings in order to develop a matrix to guide resolution of other cases filed by that attorney or law firm. These orders will be publically available as soon as the orders are filed. Petitioners' counsel who are not currently a part of this process may wish to delay filing applications for fees and costs until they have an opportunity to review the results in this informal process. We expect to make these initial results available before the end of the year.

We encourage you to attend the panel discussion with the special masters who decided the test cases, to be held on October 26, 2010, at 2 PM in Washington, D.C. The location of the panel, as well as the number to participate by telephone, will be provided via the court's website as soon as they are available.


Patricia Campbell Smith
Special Master


Denise Vowell
Special Master


George L. Hastings, Jr.
Special Master