

In the United States Court of Federal Claims

ORIGINAL

OFFICE OF SPECIAL MASTERS

(Filed: May 17, 2004)

FILED
MAY 17 2004
U.S. COURT OF FEDERAL CLAIMS

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.

ORDER RE MERCK'S "MOTION FOR INFORMATION RE DISCOVERY TO DATE"

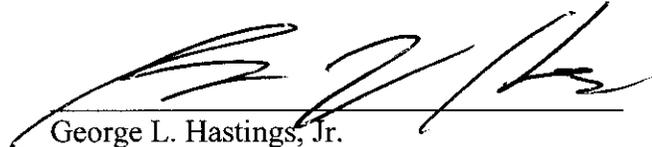
On April 26, 2004, Merck & Co. filed a "Motion for Information re Discovery to Date." I hereby deny that motion, pursuant to 42 U.S.C. § 300aa-12(d)(4)(A), which states that-

information submitted to a special master or the court in a proceeding on a petition may not be disclosed to a person who is not a party to the proceeding without the express written consent of the person who submitted the information.

The information that Merck seeks was submitted to me (and to the Petitioners' Steering Committee) by respondent "in a proceeding on a petition"--i.e., in the individual Vaccine Act autism case of Taylor v. Secretary of HHS, No. 02-699V. Therefore, neither I nor the Petitioners' Steering Committee may disclose that information to Merck, which is not a party to the Taylor proceeding nor to any other Vaccine Act proceeding, without the "express written consent" of respondent.

I note that Merck's argument in favor of its request has some logic to it. If I had discretion to disclose the information in question on my own, I might do so. The "person who submitted the information," however, is respondent. Thus, according to law, that information may not be disclosed to the non-party Merck without respondent's consent.

Accordingly, I must deny Merck's motion, which seeks that I grant Merck access to the information in question, because I am not authorized to do so under the statutory section quoted above. Instead, to gain access, Merck needs to obtain respondent's consent.



George L. Hastings, Jr.
Special Master