

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: November 18, 2002)

 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
Not for publication

AUTISM UPDATE---NOVEMBER 18, 2002

This Update describes a number of recent developments in the Omnibus Autism Proceeding that have occurred since the last Update on October 11, 2002.

A. Petitioners' Steering Committee

The petitioners' representatives reported that the Petitioners' Steering Committee has heard from a number of attorneys who wish to join that committee, and that those attorneys will be formally added to the committee in the very near future. (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.) The committee expects to soon notify me of the expanded roster.

B. Promulgation of information concerning Omnibus Autism Proceeding

I am pleased to report that we have now placed on this court's website both a docket sheet for the Master Autism File and copies of all documents in the file. Further, I will continue to file, and place on the website, periodic updates concerning the Omnibus Autism Proceeding. Interested persons may access the portion of this court's website dedicated to the Omnibus Autism Proceeding

at www.uscfc.uscourts.gov/osm/osmautism.htm. I note that on the page devoted to the Omnibus Autism Proceeding, one can always obtain access to all documents filed in the Proceeding by clicking on "Docket of Omnibus Autism Proceeding." Further, my *latest update* concerning the Proceeding will always appear below that "Docket" option.

C. Discovery

As indicated in my previous Autism Updates, the Petitioners' Steering Committee has filed an extensive discovery request, and respondent has filed a formal response. (Copies of both those documents have been filed in the Autism Master File.) I have conducted several status conferences, working with both sides to see if agreement can be reached as to these discovery requests.

At the most recent status conferences, on November 6, 12, and 15, 2002,¹ I was informed that the two sides have been continuing to work together intensively on the discovery matters. Considerable progress has been made, though it has become apparent that certain disagreements between the parties will require my resolution.

1. As to certain production requests (see especially Production Requests 4, 6, and 7), respondent has already effectively complied by identifying material that is available for inspection by petitioners at certain Internet websites. Petitioners' representatives have already inspected and analyzed that material.

2. As to most of the other production requests--with the exception of requests 10, 11, and 12--the various government agencies have identified and assembled the relevant documents, and the parties are in agreement as to a general procedure for producing the material.

3. As to Production Requests 10, 11, and 12, members of the Petitioners' Steering Committee have substantially narrowed the requests, in order to make production feasible. The parties believe that they are close to agreement concerning a revised scope of those requests.

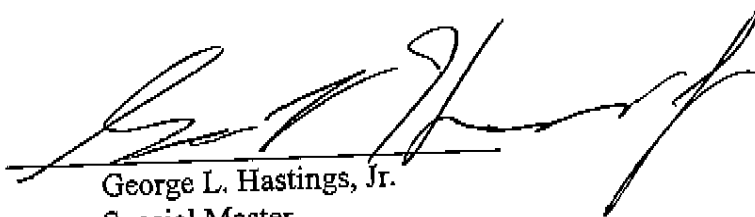
4. Actual production of documents, however, beyond the data identified on the websites noted in point 1 above, has not taken place, though much material is ready for production. That is because a difference of opinion has developed between the parties concerning whether petitioners should be able to utilize information obtained in this discovery process under the Omnibus Autism Proceeding for any purposes beyond Vaccine Act proceedings. The parties have been unable to bridge this difference, so respondent will file on November 19, 2002, a motion for a "protective order" placing limitations on the use of the discovered material. The Petitioners' Steering Committee will file a response by November 22, 2002, and oral argument concerning the motion will be heard on November 25, 2002. I will then promptly rule upon the motion. I anticipate that actual

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

production of the many assembled discovery materials will then begin to take place speedily after my ruling upon that motion.

5. The parties also have been unable to resolve their differences concerning production of materials relating to certain ongoing and proposed studies. The Petitioners' Steering Committee will soon file a "motion to compel production" of such documents, and an evidentiary hearing concerning that issue will be held on December 17, 2002.

6. Finally, I note my continued impression that all parties involved have been working extremely 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 and their cooperative attitudes in these difficult matters. I further note that all counsel, as well as myself, are doing all 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