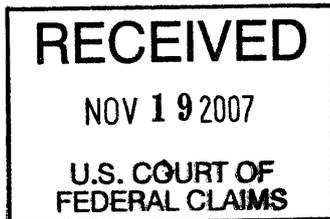


In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: November 19, 2007



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, *

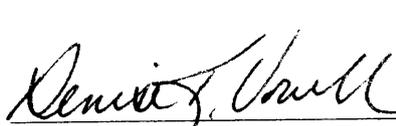
Respondent. *

ORDER

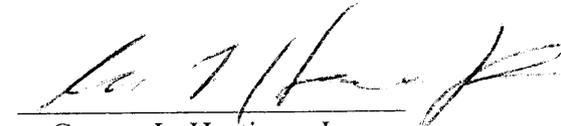
Modifying Schedule for PSC's "Second Theory" Cases

The attached e-mail was sent to my office by Thomas Powers, on behalf of the Petitioners' Steering Committee, on November 16, 2007. This item is hereby made part of the record of the Omnibus Autism Proceeding.*

In addition, in light of the representations made in the e-mail from the PSC, we hereby modify the schedule for the PSC's "second theory of causation" cases, as follows. The PSC shall designate and file case-specific expert reports in two test cases today. The time for designating the third test case, and filing a case-specific expert report in that case, is hereby extended until November 30, 2007.


Denise K. Vowell
Special Master


Patricia Campbell-Smith
Special Master


George L. Hastings, Jr.
Special Master

*Redactions have been made to preserve the privacy of individuals.



"Tom Powers"
<TPowers@wdolaw.com>
11/16/2007 03:39 PM

To [REDACTED],
[REDACTED]
cc [REDACTED],
"Lynne Shea"
<l Shea@wdolaw.com>, [REDACTED],
"Mike Williams" [REDACTED]
Subject OAP Test Cases for Monday, November 19

Special Masters,

The PSC is preparing to file its expert reports in three test cases this coming Monday, November 19. These are test cases selected from among a group of potential test cases we identified in August. Within the past week we learned that respondent is conceding in one of the potential cases ([REDACTED]) that vaccines caused the "significant aggravation" of an underlying condition. That concession places the [REDACTED] case in procedural posture that makes it inappropriate as a test case for hearing in May 2008. I understand that Mr. Shoemaker, who represents the [REDACTED] family, is continuing to work on this case in light of the government's concession and among other things is contemplating the filing of additional expert reports. In any case, we can no longer rely on that case as a test case for hearing in May 2008. That case is one that the PSC intended to designate Monday, and we must now go back to other cases that we've worked up, reevaluate those cases, and confer with our experts about which among those cases ought to be designated instead of [REDACTED] claim.

We believe that such a reassessment can happen quickly, but not before Monday. **For that reason we are requesting leave to designate two, rather than three test cases Monday, with leave to designate the third test case no later than Friday, November 30.** I conferred with Mr. Matanoski about this earlier today and respondent does not object to this request, given the circumstances in the [REDACTED] matter, and given the expectation that two cases and their expert reports will be available to the Special Masters and respondent on Monday.

I trust this email is an appropriate method of communicating this request to the three of you. I am available by phone or email if there is need to discuss this request, and I am prepared to make a formal motion for the record if you all believe that is needed.

Thank you,
Tom Powers

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