

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

(Filed: November 23, 2005)

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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 REGARDING “ELECTRONIC CASE FILING” (ECF), AND FILING OF RECORDS BY OPTICAL DISC (“CD-ROM”), IN AUTISM CASES

The Office of Special Masters recently adopted General Order #12,<sup>1</sup> entitled “Supplemental Procedures for Electronic Case Filing.” Accordingly, I hereby issue this Order for the purpose of clarifying the procedures in *Autism* cases with regard to (1) electronic case filing and (2) filing of records via optical disc (*e.g.*, “CD-ROM”).<sup>2</sup>

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<sup>1</sup>To find General Order #12, visit the court’s website at [www.uscfc.uscourts.gov](http://www.uscfc.uscourts.gov), click on the “Office of Special Masters” page, and then on the “Court Orders” page.

<sup>2</sup>This order does *not* change Autism General Order #1, 2002 WL 31696785, 2002 U.S. Claims LEXIS 365 (Fed. Cl. Spec. Mstr. July 3, 2002) (available at <http://www.uscfc.uscourts.gov/OSM/Autism/Autism%20General%20Order1.pdf>), insofar as that document permits an Autism petitioner, if desired, to postpone the filing of medical records until after my ruling on the *general issue* of a causal relationship between certain vaccinations and autism.

### ***A. Filing of new cases***

As pointed out in General Order #12, an attorney *who has established an active electronic case filing (ECF) account* with this court,<sup>3</sup> and who wishes to file a *new* Vaccine Act petition, may, from this point forward, file the petition and immediately designate it as an ECF case. However, as also pointed out in General Order #12, in order to comply with the Court Clerk's system of filing, for the time being in all Vaccine Act cases, the initial petition itself--*i.e.*, the "short and plain statement of the grounds for an award of compensation," as described in Vaccine Rule 2(d)--must be filed and served *in paper form*. The petition shall clearly indicate petitioner's desire to have the case designated for ECF. Any records and affidavits intended to accompany the petition, as discussed in Vaccine Rule 2(a), shall *thereafter* be filed electronically, immediately *after* receipt of a docket number from the Clerk's office. (*See also* section C below, discussing the alternative method of filing records, via optical disc.)

### ***B. Conversion of currently pending Autism cases to ECF status***

An attorney *maintaining an active ECF account*, who represents a petitioner with a petition *currently pending* in the Omnibus Autism Proceeding, may file a paper notice with the court requesting that such individual case be designated for electronic case filing. (*See* Exhibit A to this Order for an example of such a notice.) *Once I grant that request*, counsel will be able to file documents electronically.

Since conversion of cases is not automatic and requires several actions by my office and the Clerk's office, any attorney wishing to convert numerous cases simultaneously is advised to contact my staff by telephone to make arrangements.

### ***C. Filing of documents via optical disc***

As explained in General Order #12 (part D), technical limitations in this court's ECF system may make it difficult to electronically upload very lengthy documents, such as the voluminous medical records typical of Vaccine Act cases. Accordingly, that General Order specifies that an exception to the standard ECF filing requirements is made for files that are large enough to make uploading impractical--*i.e.*, files consisting of more than 10 megabytes of scanned material (approximately 150-200 paper pages). Such voluminous records may, instead, be filed via optical disc (*e.g.*, CD-ROM).

In the Autism cases, I have already given permission to petitioners to file records via optical disc even in cases *not* converted to ECF status, per my Order filed into the Autism Master File on

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<sup>3</sup>An attorney wishing to establish an ECF account with this court should visit the court's website ([www.uscfc.uscourts.gov](http://www.uscfc.uscourts.gov)) and click on "Electronic Filing." At this time, a non-attorney *pro se* petitioner may not establish an ECF account.

December 16, 2003. This Order simply modifies the *technical procedures* set forth in that prior Order.

Therefore, in any Autism case pending before me, *whether or not* that case has been converted to ECF status, an attorney or *pro se* petitioner may file voluminous records via optical disc according to the following procedures.

**1. Organization of files on disc**

All documents shall be Adobe Portable Document Format (“PDF”) Files, and each PDF file should be named in the following manner. First, each PDF file should be named according to the subject matter of the records, including the institution or physician providing the records. Second, each PDF file should be labeled as a consecutively-numbered exhibit, and should contain a brief description of the records contained therein.

Filenames shall begin with the letters “Ex” followed by the exhibit letter or number. Exhibit numbers shall be two digits so that a directory listing sorts in the proper order, e.g., 01, 02, ... 09, 10, 11. A brief description of the content of the exhibit, and then the docket number, expressed in six digit format (e.g., “05-0123”), shall follow. (No “V” character shall be appended to the docket number.) Spaces shall be represented by an underscore character. All files shall have “.pdf” as their file extension. The following is an example of the appropriate file format:

Ex03\_University\_Hospital\_05-0123.pdf

In all other respects, the organization and designation of the exhibits shall be as set forth in the Vaccine Rules and the Guidelines to Practice, which can be found at [www.uscfc.uscourts.gov/OSMPage.htm](http://www.uscfc.uscourts.gov/OSMPage.htm).

**2. Pagination**

For each exhibit of more than one page, the pages thereof shall be paginated (hand-printed pagination is sufficient) before scanning; pagination of each exhibit shall be independent.

**3. Disc format**

Discs shall be “CD-ROM compatible.” Parties shall “close” or finalize the disc so that additional material cannot be written into it. Media shall not be re-writable to avoid accidental erasure, and to enhance compatibility with various computers. Discs shall be scanned by anti-virus software after creation.

#### **4. Labeling**

The surface of each disc and the disc's container shall be appropriately printed or labeled with: 1) the case caption, and 2) the range of exhibits the disc contains, *e.g.*, Exhibits 01-20. Each disc shall be contained in a paper, plastic, or waxed paper envelope, which shall also bear a caption.

#### **5. Format of files**

Graphics and handwriting shall be scanned using a resolution of ***no less than 300 Dots Per Inch*** ("DPI"). All files shall be converted to Adobe 5.0 PDF. No password protection for *opening* the files may be used. However, password protection preventing *modification* of the files may be used.

#### **6. Filing and service**

Filing of exhibits on disc shall be accomplished by: 1) delivering an original and one copy of the disc to the Clerk's office, and 2) serving upon opposing counsel one copy of the disc containing the exhibits. A printed copy of the Notice of Filing shall accompany the disc. This Notice of Filing shall contain: 1) an index of exhibits on the disc, 2) a statement certifying that the contents of the disc have been scanned using anti-virus software with up-to-date anti-virus definitions and providing the date of such definitions, and 3) a certificate of service stating when the disc was mailed or delivered to opposing counsel.

### ***D. This court's General Order No. 42A***

Some counsel may have read this court's *General Order No. 42A*, issued November 4, 2004, which specified interim ECF procedures for this court's *general docket*. (General Order No. 42A can be found on this court's website at [www.uscfc.uscourts.gov](http://www.uscfc.uscourts.gov).) It is important to note, ***however, that several provisions of that General Order have been modified for Vaccine Act cases***, as will be set forth below.

#### ***1. Privacy provisions***

The "Privacy Provisions" set forth at Part VII of General Order No. 42A ***do not*** apply in Vaccine Act cases. This is because the special privacy provisions built into the Vaccine Act itself generally make the provisions of Part VII unnecessary. Instead, the following privacy provisions will apply in *Vaccine Act* cases that become part of the ECF system.

##### ***a. Access to electronic file***

Documents electronically filed in Vaccine Act cases will ***not*** be accessible electronically by ordinary users of the ECF system. Instead, ***all*** such documents shall be considered to have been filed

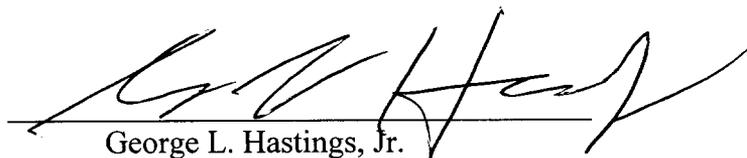
“under seal.” This means that the *only* persons who will be able to access the electronic file in such a case, besides personnel of this court, will be the *counsel of record* in the case.

***b. No need to delete personal identifiers from documents***

Contrary to the procedure set forth at paragraph 25 of Part VII of General Order No. 42A, parties *need not* and *should not* delete personal identifiers from documents filed in Vaccine Act cases. This is because the *entire documents* are filed under seal, and thus are already protected from public view. Therefore, documents containing personal identifiers, such as medical records, shall *not* be redacted, but should be filed in their original form. Similarly, contrary to the procedure set forth at paragraph 3 of General Order No. 42A, parties in Vaccine Act cases should in general not file “excerpts” from documents, but instead file the *entire* documents, thereafter utilizing a memorandum or brief, if appropriate, in order to direct the special master’s attention to the most relevant portions of each document.

***2. Paper copies***

Please note that, contrary to General Order No. 42A (para. 5), unless otherwise specified, parties in Vaccine Act cases **will not be required** to file paper courtesy copies of electronic documents which exceed 50 pages when printed.

  
George L. Hastings, Jr.  
Special Master

