

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

FILED
APR 11 2008
U.S. COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

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.

**MOTION TO WITHDRAW THE CLAIM
OF ALEXANDER KRAKOW AS A TEST
CASE (1:03-vv-00632)**

AUTISM MASTER FILE

Special Master George Hastings

Pursuant to a telephonic status conference held on Friday, April 4, 2008, petitioner hereby moves for an Order withdrawing his claim as a "test case" set for hearing on May 12, 2008, withdrawing his claim from the Omnibus Autism Proceeding, and for other appropriate relief. Specifically, petitioner seeks an Order that by its terms will:

1. Withdraw his claim as a "test case" currently scheduled for hearing on May 12, 2008. Petitioner originally designated his claim for consideration as a test case to proceed under the theory that thimerosal-containing vaccines (TCVs) were a substantial contributing cause of his autistic symptoms. Petitioner has since decided that his case is not appropriate for adjudication solely under this theory of causation because he believes there may be case-specific facts and evidence supporting a claim that additional other causes contributed to his autistic symptoms. By withdrawing his claim as a test case petitioner does not mean to imply any waiver whatsoever of the claim that TCVs contributed to his autistic symptoms; instead, petitioner withdraws his claim as a test case because he seeks an opportunity to develop and present evidence of additional and alternative causative factors.

2. Withdraw his claim from the OAP pursuant to *Autism General Order No. 1* (July 3, 2002) in order to proceed to an individual hearing on compensation.


3. Withdraw from the Autism Master File any case-specific material he submitted to the Special Masters in support of his test case compensation hearing, specifically the case-specific report of Dr. Elizabeth Mumper, MD. Petitioner formally seeks to withdraw his permission to allow any case-specific information concerning his claim to be filed into the Autism Master File or to be made publicly available. Counsel for petitioner will confer with respondent to withdraw respondent's references to this petitioner's case-specific information, as appropriate, from the master file.

4. Maintain in his individual file all materials the petitioner submitted in support of his test case claim, including all information submitted by petitioner relating to both general causation and individual, case-specific causation. That is, petitioner does not intend at this point to withdraw any documents or evidence from his individual case file, and anticipates at this point relying on all of that information in his individual claim for compensation.

5. Any other procedural relief as the Special Master deems appropriate. Petitioner is simultaneously filing this motion in both the Autism Master File and his individual case file with the Court. Upon entry of the requested Order, petitioner will then file a substitution of counsel, and the newly-substituted counsel will pursue and prosecute this compensation claim without need for associated counsel from the Petitioners' Steering Committee.

DATED this 10th day of April, 2008.

WILLIAMS LOVE O'LEARY & POWERS P.C.

By: 
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CERTIFICATE OF SERVICE

I hereby certify that on April 10, 2008, I served the foregoing **MOTION TO WITHDRAW THE CLAIM OF ALEXANDER KRAKOW AS A TEST CASE** on the following individual(s):

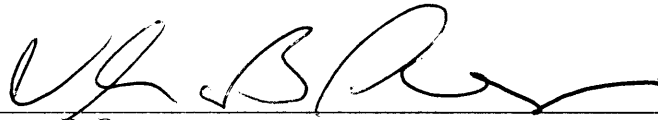
John Fabry, Esq.
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Vincent Matanoski, Esq.
US Department of Justice
Torts Branch, Civil Division
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By DHL, next day delivery.

Petitioners specifically authorize the Court and the Office of Special Masters to post this document, and any attachments or exhibits thereto, on the Court/OSM website, expressly waiving any confidentiality as to the contents of these materials. Petitioners expressly wish to publicly disclose this filing in any other forum designated by the Court or the OSM.

WILLIAMS LOVE O'LEARY CRAINE & POWERS, P.C.



Thomas B. Powers
Of Attorneys for Petitioners' Steering Committee