

ORIGINAL
In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: February 20, 2004)

FILED
FEB 20 2004
**U.S. COURT OF
FEDERAL CLAIMS**

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

SCHEDULING ORDER

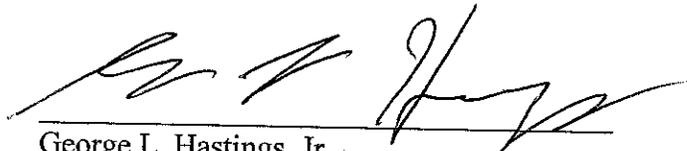
An unrecorded telephonic status conference was held on February 19, 2004. Participating were Thomas Powers and Ghada Anis for the petitioners, along with Vincent Matanoski and Mark Raby for the respondent. At the time for discussion of the petitioners' pending motion for discovery from Merck & Co., we added the following participants: Dino Sangiamo, attorney for Merck, and four attorneys representing other vaccine manufacturers: Bradley Wolff, representing Aventis Pasteur; Daniel Thomach, representing Wyeth; Stacey Martinez, representing GlaxoSmithKline; and Lee Davis Thames, representing Baxter. Pursuant to discussion at that conference, I hereby Order as follows.

Concerning the Merck discovery issue, as discussed at the conference, the Petitioner's Steering Committee has elected to redirect its pursuit of discovery from Merck. First, at that conference, the Committee, with my permission, temporarily withdrew its currently- pending request for discovery concerning the Merck Hepatitis B vaccine, subject to the option of reinstating that request at some future time. Second, the Committee will, within the next several days, file a request for discovery from Merck concerning the MMR vaccine. Concerning the latter point, a briefing schedule has been established.

1. By March 22, 2004, the Committee shall file its documentation and argument in support of the "necessity" showing that the Committee must make in order to obtain issuance of the subpoena. (That submission shall be filed with the Court and served on respondent, and a courtesy copy shall be sent directly to my office. However, as discussed, due to the nondisclosure provision

of 42 U.S.C. 300aa-12(d)(4)(A), the submission should *not* be served on the *vaccine manufacturers* until after consultation with the special master.* A status conference involving only the respondent and the Committee has been scheduled for March 15, 2004, at 2:00 p.m. Eastern (11:00 a.m. Pacific) time, to discuss the disclosure issue, as well as other Omnibus Autism Proceeding matters.)

2. By April 21, 2004, Merck shall file its response.
3. By May 5, 2004, the Committee shall file its reply.
4. Oral argument will be held on May 26, 2004.



George L. Hastings, Jr.
Special Master

*This precaution shall also apply to the Committee's reply (see point 3 above) if that reply contains copies of documents submitted by respondent, or references to any "information" submitted by respondent, in the *Taylor* case, No. 02-699V.