OFFICE OF SPECIAL MASTERS

No. 03-2737V

(Filed: October 28, 2004)

PRENTISS GUYTON AND ELLEN GUYTON, as Next Friends of KENNETH GUYTON, a Minor,	*	
Petitioners,	*	TO BE PUBLISHED
v.	*	
SECRETARY OF HEALTH AND HUMAN SERVICES,	*	
Respondent.	*	

William F. Blankenship, Dallas, Texas, appeared for petitioners.

Tracy Patton, U.S. Department of Justice, Washington, D.C., appeared for respondent.

RULING CONCERNING ISSUANCE OF NOTICE PURSUANT TO 42 U.S.C. § 300aa-12(g)

HASTINGS, *Special Master*.

In this case, the petitioners filed a petition seeking an award under the National Vaccine Injury Compensation Program (see 42 U.S.C. § 300aa-10 *et seq.*[1]) on account of an injury to the petitioners' son. There now arises a procedural dispute concerning whether I should issue to petitioners a notice pursuant to § 300aa-12(g). For the reasons stated below, I conclude that it is appropriate for me to issue such a notice at this time.

[1]The applicable statutory provisions defining the Program are found at 42 U.S.C. § 300aa-10 *et seq*. (2000 ed). Hereinafter, for ease of citation, all "§" references will be to 42 U.S.C. (2000 ed).

I

STATUTORY BACKGROUND

To understand the issue to be decided here, one must begin by examining certain aspects of the National Vaccine Injury Compensation Program (hereinafter the "Program"). Under the Program, compensation awards are made to individuals who have suffered injuries that are found to have been caused, or deemed to have been caused, by certain vaccines. To seek an award, a petitioner files a petition, and that petition is assigned to a special master for a decision. The statute contemplates that ordinarily a special master will issue such a decision within 240 days of the petition filing date. § 300aa-12(d)(3)(A)(ii). If the special master is not ready to issue a decision within the 240-day period, however, the statute provides an alternative means by which the petitioner may exit the Program. That is, if the special master has not filed a decision by the end of the 240-day period, the master is directed to issue a notice informing the petitioner that the petitioner now has the option of either withdrawing from the Program or remaining in the Program. § 300aa-12(g). I will refer to such notice, to be issued by the special master, as the "section 12(g) notice;" I note that special masters have also at times referred to such a notice as a "formal notice." The statute further provides that after a special master issues such a "section 12(g) notice," the petitioner may file within 30 days a notice in writing choosing either to remain in or withdraw from the Program. § 300aa-21(b).

The basic purpose behind this provision for the "section 12(g) notice" is clear. That is, under the statutory scheme any person who believes that his injury was vaccine-caused *must* in the first instance file a Program petition, before filing a civil lawsuit against a vaccine manufacturer or administrator. § 300aa-11(a)(2)(A). Then, in order to exit the Program while still preserving the right to file a civil lawsuit against a vaccine manufacturer or administrator, the petitioner must exit the Program in one of two ways. First, if that petitioner receives a "decision" of a special master, that "decision" will result in a "judgment" of the Court of Federal Claims, and the petitioner may elect to reject that judgment and file a civil action. § 300aa-11(a)(2)(A)(i); § 300aa-21(a). Second, the petitioner has another option, in which the petitioner need not wait for a decision and judgment. That is, if the 240-day period expires without a decision, the special master must issue the "section 12(g) notice," and the petitioner may then file a notice under § 300aa-21(b) to withdraw from the Program. And if the petitioner files such a notice to withdraw pursuant to § 300aa-21(b), the petitioner thereby preserves his right to file a civil action against a vaccine manufacturer or administrator. § 300aa-11(a)(2)(A)(ii).

In other words, Congress provided, via § 300aa-12(g) and § 300aa-21(b), a mechanism to ensure that a petitioner would not be required to wait indefinitely for a decision on a Program petition, before moving on to the possibility of a lawsuit against a vaccine manufacturer or administrator. If the special master's decision does not come within the 240-day period, the master must issue the "section 12(g) notice," and the petitioner may then withdraw from the Program at that time.

A bit of additional complexity to this scheme is added by § 300aa-12(d)(3)(C), which provides that on the motion of either party, the special master may "suspend the proceedings" on the petition for up to 180 days. Any such suspension days do not count toward the 240-day limit for the special master's decision. § 300aa-12(d)(3)(A)(ii). Thus, taken together, § 300aa-12(d)(3)(C) and § 300aa-12(d)(3)(A)(ii), in effect, mean that upon motion of a party the special master may extend the initial 240-day period for decision by up to 180 additional days. However, at the end of that additional period of up to 180 days, the special master must *then* issue the "section 12(g) notice."

II

PROCEDURAL HISTORY OF THIS CASE

On November 24, 2003, the petitioners filed a petition (styled as a "Complaint") alleging that their son, Kenneth Guyton, suffered the condition known as "autism" as a result of a series of vaccinations, and that, accordingly, they are entitled to an award on his behalf under the Program. The petition indicated that petitioners wished to defer any case-specific proceedings on the petition pending the completion of the Omnibus Autism Proceeding. See *Autism General Order #1*, 2002 WL 31696785 (Fed. Cl. Spec. Mstr. July 3, 2002).[2] On January 21, 2004, respondent filed a motion to dismiss the petition, on the ground that the petition allegedly was untimely filed. On February 5, 2004, I issued an order directing petitioners to respond to that motion, and petitioners filed responses on May 24, 2004, and July 15, 2004, opposing the motion.

In late July 2004, the initial 240-day period for the special master's decision concerning the petition was about to expire, meaning that I would be obligated under the statute to issue the notice specified under § 300aa-12(g). However, petitioners' counsel communicated to this office that petitioners desired to seek a formal suspension of proceedings, pursuant to § 300aa-12(d)(3)(C), of *up to 180 days*, thereby putting off, for up to 180 days, the "due date" for the special master to issue either a decision or a notice under § 300aa-12(g). Accordingly, on August 5, 2004, I issued an order formally suspending proceedings for up to 180 days, stating that "at any time during the 180-day period the petitioners may *withdraw* the motion for suspension of proceedings." On August 20,

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[2]This case is one of over 4,200 pending Program petitions involving claims that a condition known as "autism," or a similar condition, was caused by one or more vaccinations. These claims have been linked together in a proceeding known as the Omnibus Autism Proceeding. See the *Autism General Order #1*, 2002 WL 31696785 (Fed. Cl. Spec. Mstr. July 3, 2002). A committee of attorneys, known as the Petitioners' Steering Committee, has been formed to represent the general interests of the autism petitioners in the course of the Omnibus Autism Proceeding. As noted in the *Autism General Order #1*, the Petitioners' Steering Committee is attempting to develop evidence concerning the *general issue* of whether thimerosal-containing vaccines and/or MMR vaccines can cause or aggravate autism. When such evidence is developed, it will be presented to me at a hearing concerning the general causation issue. Any conclusions reached as a result of that hearing will then be applied to the individual autism cases.

2004, petitioners filed a "Request for Formal Notice," requesting that I end the suspension of proceedings pursuant to § 300aa-12(d)(3)(C), and issue the "section 12(g) notice."[3]

III

THE ISSUE FOR RULING

Respondent, as noted above, has filed a motion arguing that this petition was not timely filed. Petitioners have argued, in response, that the petition should be deemed timely-filed. Due to the press of other business, including the Omnibus Autism Proceeding, I have not yet been able to analyze and resolve that dispute. If the petitioners had not requested that I end the "suspension of proceedings" pursuant to § 300aa-12(d)(3)(C), I would at this time proceed to analyze the timeliness issue, and, if appropriate, dismiss the petition on timeliness grounds.

However, at this time the petitioners have indicated that they want to *abandon* their effort to obtain a Program award. They have indicated: (1) that they wish to end the suspension of proceedings that they themselves had requested; (2) that they desire that I issue the "section 12(g) notice;" and (3) that after I issue the "section 12(g) notice," they will choose to withdraw from the Program pursuant to § 300aa-21(b).

Thus, it is clear that the desire of *both* sides in this case is that the petitioners *not be granted a Program award*. Respondent desires that I dismiss the petition as untimely filed, while petitioners want to withdraw from the Program via a different avenue, *i.e.*, a withdrawal under § 300aa-21(b).

One difference in the two parties' approaches to ending this proceeding, of course, is that respondent's approach requires that I analyze and rule upon the disputed points raised by the timeliness issue. On the other hand, there is no need for analysis of a withdrawal under § 300aa-21(b); once I issue a "section 12(g) notice," petitioners plainly are *automatically* entitled to withdraw from the Program under § 300aa-21(b). This much would seem to indicate that petitioners' approach makes more sense. Why should I spend time resolving the issue of whether the petition was timely filed, when the outcome of the Program claim--*i.e.*, *no award to petitioners*--will be the same no matter which way I resolve that issue?

Respondent, nevertheless, argues that I should not issue the "section 12(g) notice," but that I should instead first address the timeliness issue, and dismiss the petition as untimely if I resolve that issue in respondent's favor. I will address respondent's two arguments in support of that position, in the next section of this Ruling.

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[3]On August 12, 2004, counsel for petitioner filed a "Notice of Withdrawal of Complaint," citing § 300aa-21(b). That notice was ineffective, however. That is, as explained at p. 2 below, the right to withdraw from the Program under § 300aa-21(b) is triggered by the issuance of the special master's notice under § 300aa-12(g). And in this case, as of August 12, 2004, I had not yet issued a notice pursuant to § 300aa-12(g).

IV

RESOLUTION

In respondent's response filed on September 7, 2004, respondent essentially raises two different arguments in support of respondent's position here. In this section IV of this Ruling, however, I will discuss first, in subsection (A), certain key wording of § 300aa-12(g), and then, in parts (B) and (C), address respondent's two arguments.

A. The word "shall" in § 300aa-12(g)

I conclude that one key to the controversy here is the word "shall" in § 300aa-12(g). That statutory provision states that if the special master's decision is not filed within the requisite 240-day period (whether or not that 240-day period is extended by all or part of the additional 180 days available under § 300aa-12(d)(3)(C)), the special master "shall" issue the "section 12(g) notice." The use of the word "shall," of course, indicates, that issuance is *mandatory*, not discretionary. The section does *not* provide an exception for situations in which a dismissal motion alleging untimely filing is pending--it simply states, rather, that the special master "shall" issue the notice at the appropriate time, without providing any exception to that rule. Thus, it seems to me that respondent's argument in this case fails to give proper effect to the word "shall," in suggesting that I should refrain from issuing a "section 12(g) notice" when a dismissal motion is pending.

B. Respondent's primary argument

Respondent's primary argument, set forth at pp. 11-13 of respondent's response filed on September 7, 2004, seems to be a concern about whether petitioners may be permitted at some time in the future, by some other court, to file a civil action against a vaccine administrator or manufacturer. Respondent asserts that if I were to allow the petitioners here to withdraw from the Program via a withdrawal under § 300aa-21(b), "it would create the false impression that petitioners have gained the right to file a civil action." (Response at 13.) Though this concern is not well-explained, respondent seems to have in mind the language of § 300aa-11(a)(2), which may be interpreted as indicating that if a person with an allegedly vaccine-related injury fails to file a *Program* claim within the Vaccine Act's limitations period, then that person is also barred from filing a *tort suit* against a vaccine manufacturer or administrator on account of that injury.[4] Respondent seems to be worried by the possibility that if at some future date the Guytons file a civil suit in a state or federal court against a vaccine manufacturer or administrator, my action of issuing the "section 12(g) notice" in this case may somehow give the judge in such suit the "false

[4]Section 300aa-11(a)(2) provides that no civil action may be filed against a vaccine manufacturer or administrator "unless a petition has been filed, *in accordance with section 300aa-16 of this title*, for compensation under the Program * * *." Since § 300aa-16 provides the time deadlines for Program petitions, it is arguable that pursuant to the italicized language, if the Program petition was not timely-filed, then a tort suit is also barred.

impression" that I concluded that the Program petition had been timely filed. I do not find merit in this argument.

First of all, I note that it seems to make no practical difference at all, to either respondent or the Program, whether (1) I dismiss the case for untimeliness, or (2) the petitioners withdraw from the Program pursuant to § 300aa-21(b). In either event, the petitioners will *not* receive any Program award as a result of this petition. And it is not clear why it would matter, to the respondent or the Program, whether or not the petitioners might later prevail in a suit against a vaccine manufacturer or administrator.

Second, it is also unclear why respondent believes that I, as an officer of the U.S. Court of Federal Claims, should spend time resolving a factual issue that is *not* necessary to the disposition of the controversy before *this court*, simply because that issue might become relevant to a case that might be filed in *another court* at another place and time. It is an accepted principle of judicial economy that a court need not decide issues that are unnecessary to granting or denying the relief that a party seeks before that court. See, e.g., *Cheney v. U.S. Dist. Court for Dist. of Columbia*, __ U.S. __, 124 S.Ct. 2576, 2586 (2004); *Lion's Estate v. C.I.R.*, 438 F. 2d 56, 59 (4th Cir. 1971); *Young v. Director, U.S. Bureau of Prisons*, 367 F.2d 331 n.2 (D.C. Cir. 1966); *In re Remeron Antitrust Litigation*, 2004 WL 2058267, *3 (D.N.J. 2004); *Advance Bank, F.S.B. v. U.S.,* 52 Fed. Cl. 286 n. 7 (2002). Therefore, for me to spend time resolving an issue that is not necessary to the resolution of this Program petition[5] would seem to be an inappropriate use of the time of a special master of this court.

Third, even assuming that it somehow made sense for a special mater of *this court* to resolve a controversy that would be relevant only in an action in *another court*, there is no way to tell at this time if the petitioners will *ever* file a lawsuit against a vaccine manufacturer or administrator. By withdrawing from the Program under § 300aa-21(b), they may *theoretically* preserve their option of filing such a suit, but we do not know if *in fact* they will ever file such a suit. In this regard, I note that the petitioners may in fact have *many years* in which to decide whether to file such a suit, because in many states the statute of limitations for tort suits by a minor extends until the minor reaches the age of majority, or even for several years thereafter. It is certainly possible, for example, that, due to the future development of scientific knowledge concerning the cause of autism, the petitioners in this case may *never* file such a tort action. This factor, therefore, makes it seem particularly ill-advised for a special master to spend time resolving an issue which is irrelevant in this court, simply because that issue might become relevant in a lawsuit in another court, when in fact such a lawsuit *may never be filed*.

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[5]It is true that if the petitioners request an award of attorneys fees with respect to this Program petition (see § 300aa-15(e)), it may *at that point* become relevant to this proceeding whether their petition was timely filed, since the case law seems to mandate that a petitioner may obtain such a fees award only if the petition was timely filed. But we do not know at this time if they will ever file such a request.

Fourth, I note that the timeliness issue that respondent wishes me to address in this case might not be a simple issue, as might be the case with respect to timeliness issues in other types of legal actions. Rather, "timely filing" issues in Program autism cases have the potential to be far more complicated than timeliness issues in other types of cases, in or out of the Program. Under the Program statute, petitions must be filed within 36 months after the occurrence of "the first symptom or manifestation of onset or of the significant aggravation" of the claimant's injury. § 300aa-16(a)(2). Autism, however, seems to be a disorder with no dramatic and obvious onset, so that determining what was the "first symptom" of an autistic disorder is a question of fact that might be quite complex in many cases. See, e.g., *Setnes v. Secretary of HHS*, 57 Fed. Cl. 175 (2003). In some cases, resolution of that complex factual question might even require a lengthy factual hearing involving expert witnesses. Therefore, this potential complexity of the timeliness issues with respect to the autism cases adds, in my view, another very strong reason why a special master of this court should refrain from spending time on giving what amounts to an "advisory opinion" concerning an issue, simply because that issue *may* become relevant to the resolution of a different suit in a different court.

Finally, it simply seems extremely dubious that my action of issuing a "section 12(g) notice" in this case would ever actually give a judge in a civil action the "false impression" that I had concluded that the Program petition was timely filed. To the contrary, the record of this Program proceeding should make it completely clear that I did *not* rule on the issue of whether the petition was timely filed.

Accordingly, for all the reasons set forth above, I do not find the respondent's primary argument on this point to be persuasive.

C. Respondent's alternative argument

Respondent also raises a secondary argument, in which respondent states the following reasoning:

> 42 U.S.C. § 300aa-21(b) allows petitioner to withdraw a "petition filed under section 300aa-11 if a special master fails to make a decision on such petition within 240 days." A petition cannot be considered filed in accordance with 42 U.S.C. § 300aa-11 if it is not timely. Because the petition would not be considered filed under 42 U.S.C. § 300aa-11, the 240 day count would not be triggered and the option to withdraw under 42 U.S.C. § 300aa-21(b) is not available to petitioner.

(Response filed 9-7-04, footnote 7.) In this regard, respondent relies upon the reasoning set forth in *Kuehn v. Secretary of HHS*, No. 02-996V, 2003 WL 22416683, at *3 (Fed. Cl. Spec. Mstr. July 23, 2003). (See also *Willingham v. Secretary of HHS*, No. 02-867V, 2003 WL 22424988 (Fed. Cl. Spec. Mstr. Aug. 7, 2003), another ruling by the same special master as in *Kuehn*, stating the same analysis as *Kuehn*.) This second argument has at least some appeal, but after full consideration I find it unpersuasive.

It is true, of course, that the "section 12(g) notice" is to be issued 240 days after the date on which the petition was "filed." § 300aa-12(g); § 300aa-12(d)(3)(A)(ii). And the relevant limitations provision does state that "no petition *may be filed* for compensation under the Program after the expiration of 36 months after the date of the first symptom or manifestation of the injury." § 300aa-16(a)(2), emphasis added. Does this mean, as respondent argues, that an untimely petition should be considered *to have never been legally "filed" at all* for purposes of § 300aa-12(d)(3)(A)(ii), so that a special master should not issue a "section 12(g) notice" at all in such a case? Though the question is a close one, I disagree with respondent.

My view is that when § 300aa-12(g) and § 300aa-12(d)(3)(A)(ii), taken together, require that a special master issue a "section 12(g) notice" 240 days "after the date the petition was filed," the phrase "the date the petition was filed" refers to *the date upon which the Clerk of this court accepted the petition* and entered it onto the court's docket. This conclusion stems from the fact that the clear intent of the "notice" requirement of § 300aa-12(g), as explained above, is that a Program petitioner shall be entitled, within 240 days of depositing his petition with the court, either to receive a "decision" on his petition, or, in the alternative, to receive the "section 12(g) notice" that affords him an opportunity to leave the Program without a decision. Under respondent's interpretation of the statutory scheme, however, a petitioner would *not* necessarily have the right to either a decision or a "section 12(g) notice" within 240 days. Under respondent's interpretation, in some cases a special master would be *unsure* whether to issue the "section 12(g) notice" after 240 days, if the master had not yet determined whether the petition was deposited with the clerk in a *timely* fashion. Therefore, the petitioner would not necessarily receive either a decision or a "section 12(g) notice" after 240 days. Such a result would, in my view, be contrary to the plain Congressional intent behind the "section 12(g) notice" provision.

In other words, it seems to me that when one considers the "notice" scheme of § 300aa-12(g) and § 300aa-12(d)(3)(A)(ii) as a whole, the interpretation that respondent urges here is *not* the most logical interpretation. Respondent's interpretation would simply leave it unclear in many cases whether or not a "section 12(g) notice" should be issued. In my view, § 300aa-12(g) and § 300aa-12(d)(3)(A)(ii), taken together, are best interpreted as simply and straightforwardly requiring that a special master issue a "section 12(g) notice" 240 days after *the date upon which the petition was received* and entered on the docket by the Clerk of this court.

In reaching this interpretation, I conclude that the word "filed" is simply utilized in this "notice" scheme of § 300aa-12(g) and § 300aa-12(d)(3)(A)(ii) in a fashion somewhat *different* from the way that it is used in § 300aa-16, the "limitations of actions" section. These are two different sections of the statute, with two very different purposes, and, accordingly, it seems to me that the words of each section should be interpreted in a way that produces a logical functioning *of that section*. In § 300aa-16, when the statute says that "no petition may be filed" more than a certain number of months after the occurrence of a symptom, it seems clear and obvious that Congress intended that a special master should *dismiss* a petition if the master determines that such petition was not submitted to the court in a timely fashion under § 300aa-16. In the "notice" scheme of § 300aa-12, on the other hand, the intent of Congress clearly seems to have been to create an easy,

clearly-defined "opt-out" provision for a petitioner, to be available 240 days after the petitioner submitted his petition to the court. Therefore, it seems to me that it would be inappropriate to look to the wording of § 300aa-16 in order to interpret the words of § 300aa-12, and to thereby produce an interpretation of the "notice" scheme of § 300aa-12 that unnecessarily complicates that scheme and defeats its central purpose. I believe that the wording of § 300aa-12(g) and § 300aa-12(d)(3)(A)(ii) should be interpreted in the context of *§ 300aa-12 itself*, to produce a clear, straightforward, easily-administered notice scheme.

Finally, I note again that this argument raises a close question, about which reasonable minds can differ. I note that Special Master Abell reasonably reached a different conclusion in *Kuehn* and *Willingham, supra*. However, those opinions do not provide in great detail the reasoning behind that special master's conclusion. And in any event, I simply, respectfully, disagree with the conclusion stated in *Kuehn* and *Willingham* on this point.[6]

D. Summary

Although it is a close question, I simply disagree with the arguments advanced by respondent concerning this issue. As indicated in part (A), above, I find it quite important that the statute

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[6]I also note that in reaching this conclusion it is *not* my purpose to avoid ruling on timeliness issues in Program cases, in situations in which such an issue is actually *relevant* to the outcome of the Program proceeding. For example, if the petitioners in this case intended to stay in the Program and prosecute their case to a decision, then I would resolve the timeliness dispute. Indeed, I have, in fact, ruled on timeliness disputes in numerous Program cases, dismissing a number of such cases. See, e.g., *Weinstein v. HHS*, No. 02-2059V (Fed. Cl. Spec. Mstr. Oct. 25, 2004) (published citation not yet available); *Tucker v. HHS*, No. 03-346V, 2004 WL 950012 (Fed. Cl. Spec. Mstr. Apr. 15, 2004); *Kinsala v. HHS*, No. 03-1289V, 2004 WL 828459 (Fed. Cl. Spec. Mstr. March 19, 2004); *Wood v. HHS*, No. 02-1317V, 2003 WL 23218062 (Fed. Cl. Spec. Mstr. Nov. 26, 2003); *Herbert v. HHS*, No. 02-2050V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Popson v. HHS*, No. 02-2052V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Canaday v. HHS*, No. 02-2053V (Fed. Cl. Spec. Mstr. October 25, 2004) (unpublished); *Boyce v. HHS*, No. 02-2055V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Cloar v. HHS*, No. 02-2058V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Brown v. HHS*, No. 02-2060V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Parry v. HHS*, No. 02-2063V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Boriskie v. HHS*, No. 02-2064V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Glaze v. HHS*, No. 02-2065V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Glaze v. HHS*, No. 02-2066V (Fed. Cl. Spec. Mstr. October 26, 2004) (unpublished); *Glaze v. HHS*, No. 02-2067V (Fed. Cl. Spec. Mstr. October 27, 2004) (unpublished); *Weinmaster v. HHS*, No. 02-920V (Fed. Cl. Spec. Mstr. Apr. 22, 2004) (unpublished); *Willis v. HHS*, No. 03-48V (Fed. Cl. Spec. Mstr. March 26, 2004) (unpublished); *Best v. HHS*, No. 03-1422V (Fed. Cl. Spec. Mstr. Apr. 16, 2004) (unpublished); *Samuel v. HHS*, 03-1709V (Fed. Cl. Spec. Mstr. March 31, 2004) (unpublished); *Thomas v. HHS*, No. 03-17V (Fed. Cl. Spec. Mstr. Dec. 11, 2003) (unpublished); *Robinson v. HHS*, No. 02-2073V (Fed. Cl. Spec. Mstr. Dec. 16, 2003) (unpublished). Where, as here, however, the petitioners do *not* wish to remain in the Program, it appears pointless and wasteful to spend time resolving an issue that is *not relevant* to the outcome of the Program proceeding.

provides that the notice pursuant to § 300aa-12(g) "shall" be issued. As noted in part (B), I conclude that basic principles of judicial economy contradict the respondent's argument that I should resolve an issue that is irrelevant to the outcome of *this* proceeding, simply because that issue *might* become relevant to a separate lawsuit filed in a *different* court. And finally, as set forth in part (C), I conclude that the approach that I adopt here produces an interpretation of the "notice" scheme of § 300aa-12(g) and § 300aa-12(d)(3)(A)(ii) that is more logical, straightforward, and easily-administered than would be the case under respondent's proposed interpretation.

V

FURTHER PROCEEDINGS

For the reasons stated in this Ruling, I will promptly issue a document that (1) ends the suspension under § 300aa-12(d)(3)(C) in this case, and (2) issues the "section 12(g) notice."

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George L. Hastings, Jr.
Special Master