OFFICE OF SPECIAL MASTERS
No. 02-1467V
August 10, 2006

JOHNATHAN FRIEDMAN, by his Father and Next Friend, MARK FRIEDMAN,	*	
Petitioner,	*	
v.	*	Hepatitis B vaccines; headache began 8 months before; multiple histories of onset which were in the context of viral illnesses; causation?
SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,	*	
Respondent.	*	

ORDER TO SHOW CAUSE[1]

Petitioner filed a petition dated October 25, 2002, under the National Childhood Vaccine Injury Act, 42 U.S.C. §300aa-10 et seq., alleging that hepatitis B vaccines administered to his son Johnathan Friedman (hereinafter, "Johnathan") caused him headaches.

[1] Because this order contains a reasoned explanation for the special master's action in this case, the special master intends to post this order on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, petitioner has 14 days to identify and move to delete such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

Petitioner is ORDERED TO SHOW CAUSE by September 29, 2006 why this case should not be dismissed.

FACTS

Johnathan was born on August 7, 1989.

On January 17, 2001, Johnathan went to Suburban Emergency Center with his mother, complaining of headache and sore throat for three days. He had drainage, cough, and was dizzy. He was diagnosed with a cold. Amoxicillin was prescribed. Med. recs. at Ex. 2, p. 1.

On January 25, 2001, Johnathan saw Dr. Abel Paredes, complaining of headaches for one week and a sore throat for two weeks. Med. recs. at Ex. 1, p. 3. The doctor suggested a CT scan. *Id.*[2]

He received his first hepatitis B vaccination on August 13, 2001. Med. recs. at Ex. 1, p. 2. There is no visit to Johnathan's pediatrician for over a month.

On September 19, 2001, Johnathan saw Dr. Paredes, complaining of stomach ache and diarrhea for three days, a fever of 99-100 degrees, a headache, and a sore throat. Med. recs. at Ex. 1, p. 3. The doctor diagnosed gastroenteritis and pharyngitis. *Id.*

On September 20, 2001, Johnathan's strep culture was negative. Med. recs. at Ex. 1, p. 5.

On September 25, 2001, he received his second hepatitis B vaccination. Med. recs. at Ex. 1, p. 1.

On October 5, 2001, Johnathan went to Suburban Emergency Center with his father, complaining of stomach problems. Med. recs. at Ex. 2, p. 5. Three weeks ago, he had a low-

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[2] If this CT scan was performed, petitioner must file it. The undersigned has not seen it in the medical records filed.

grade fever and diarrhea. He had initial resolution of his symptoms. Two days ago, he developed recurrent watery diarrhea without fever or chills, nausea or vomiting. The treater was concerned about a possibility of a parasite such as giardia. (There is no mention of a headache in these records.) Mr. Friedman called and stated Johnathan still had diarrhea. *Id.*

On October 16, 2001, Johnathan saw Dr. Paredes, complaining of headache **that day**. A cough started that day as well as a sore throat. Tylenol was administered. He missed two weeks of school. Med. recs. at Ex. 1, p. 5.

On October 21, 2001, Johnathan went to the Emergency Department of Texas Children's Hospital, complaining of headaches for one and one-half months (which would put onset in the first week of September, i.e., between the first and second hepatitis B vaccinations). Med. recs. at Ex. 4, p. 85. He did not have fever, vomiting, or diarrhea. *Id.*

On October 21, 2001, a CT scan was done on Johnathan's brain which was normal. Med. recs. at Ex. 1, p. 16.

On October 24, 2001, Johnathan saw Dr. Carlos J. Rivera, a pediatric neurologist. Med. recs. at Ex. 6 (also Ex. 12), p. 1. Johnathan's parents told Dr. Rivera that Johnathan had had a headache for one month. Mrs. Friedman stated that about five weeks previously (mid-September 2001), Johnathan was sick with diarrhea for 12 days and had a low-grade fever. He was diagnosed with a viral syndrome and eventually did well, but soon after, he began to complain of a headache. Over the prior two weeks, his headache was very intense. *Id.* Mrs. Friedman stated that she took Johnathan to a doctor who felt that Johnathan may have had a parasitic infection. Johnathan had missed three weeks of school. Tylenol and Motrin did not help. Johnathan had a hepatitis B vaccination two months previously. Johnathan stated that the pain was over the top

of his head and spread to the sides. The pain was usually throbbing, associated with dizziness in the morning and nausea. He had not vomited or had any numbness, weakness, or tingling.[3] His general health had otherwise been good. *Id.*

On physical examination, Johnathan's cranial nerves and mental status were normal. Med. recs. at Ex. 12, p. 2. His muscle bulk, tone, and strength were normal throughout. His reflexes were 2+ in the biceps, 2+ in the knees, 1+ in the ankles bilaterally. *Id.* Dr. Rivera concluded that Johnathan's neurological examination was normal. He suggested obtaining a head MRI. *Id.*

On October 26, 2001, an MRI was done on Johnathan's brain which showed one or two focal punctate[4] areas of high signal probably reflecting gliosis[5] and evidence of a remote insult, especially in the left frontal white matter. This appearance might be seen in relation to complex migraine in young adults. Med. recs. at Ex. 1, p. 30; also Ex. 6, p. 3. It did not look like multiple sclerosis, but other demyelinating processes such as Lyme's disease would have to be considered. Med. recs. at Ex. 1, p. 31; also Ex. 6, p. 4.

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[3] It is difficult to reconcile this statement with the handwritten notes for October 24, 2001, which state that Johnathan has had continuous headache, abdominal pain, numbness, and tingling of arms and legs. Med. recs. at Ex. 6, p. 6. The handwritten note of October 25, 2001, states that tingling continued until 2:00 a.m. and Johnathan still had a headache. *Id.*

[4] Punctate means "resembling or marked with points or dots." Dorland's Medical Illustrated Dictionary, 30th ed. (2003) at 1546.

[5] Gliosis is "an excess of astroglia in damaged areas of the central nervous system...." Dorland's Illustrated Medical Dictionary, 30th ed. (2003) at 778. Astroglia are astrocytes. *Id.* at 170. An astrocyte is "a neuroglial cell of ectodermal origin, characterized by fibrous, protoplasmic, or plasmatofibrous processes. Collectively, such cells are called *astroglia*." *Id.* at 169.

On November 2, 2001, Johnathan saw Dr. Susan B. Kern for severe headaches, hepatitis B reaction, and demyelinization. Med. recs. at Ex. 3, p. 2. He was dizzy and had diarrhea. She prescribed Amitriptyline. *Id.*

On November 8, 2001, Johnathan against saw Dr. Kern. In a very hard to read note, she writes that Johnathan had no reaction to his first hepatitis B vaccination (August 13, 2001), but after his second hepatitis B vaccination (September 25, 2001), he had effects of headache and pain. Med. recs. at Ex. 3, p. 1.

On November 13, 2001, Johnathan went to the Blue Bird Clinic for Pediatric Neurology at Texas Children's Hospital and saw Dr. Stanley D. Johnsen, a neurologist. Med. recs. at Ex. 4, p. 170. Mr. and Mrs. Friedman reported that Johnathan's headaches began two days after his first hepatitis B vaccination on August 13, 2001. He also developed diarrhea with abdominal cramps but no nausea, vomiting, fever, or bloody stool. He complained of dizziness. He developed night sweats. The diarrhea resolved in 12 days but he continued to have headaches with decreased appetite and dizziness. One week later, he had a recurrence of diarrhea for one week. He was treated with Flagyl for five days with resolution of the diarrhea. On September 23, 2001 (it should be September 25), he received his second hepatitis B vaccination and continued to complain of headache and now some hearing abnormalities. He reported hearing the family's grandfather clock chime differently than he had heard it in the past. He also reported that he lost hearing in his left ear for about 10 minutes. On October 21, 2001, his headaches worsened. *Id.*

Johnathan's biological mother had a cocaine addiction. Med. recs. at Ex. 4, p. 171. Johnathan reported a headache but no blurry vision, facial pain, or rhinorrhea. He had a sore

throat for several months. He had no joint pain. Photophobia and phonophobia worsened the headache. Mrs. Friedman smoked in the house. *Id.*

Johnathan's motor examination was 5/5 strength, normal tone, and normal bulk. He had downgoing bilateral big toes (Babinkski's). Med. recs. at Ex. 4, p. 172. His reflexes were 2+ in his patella, biceps, and triceps. He had a negative Romberg and no sensory deficits. His gait and stance were normal. Dr. Johnsen's impression was chronic headache with a component of depression. *Id.*

On November 19, 2001, Dr. Marcos J. Valdez spoke with Mrs. Friedman who told him that Johnathan had been having a sore throat and pain in his eyes and continued with his headaches. Med. recs. at Ex. 4, p. 168.

On November 20, 2001, Johnathan was admitted to Texas Children's Hospital, which diagnosed him with migraine headaches and psychogenic[6] headaches. Med. recs. at Ex. 4, p. 1. He was discharged the next day. Med. recs. at Ex. 4, p. 2. The Emergency Center wrote a history that Johnathan had three and one-half months of migraine in the front and back of his head which was thumping and never went away, according to his parents. He had not been to school in two months. He had no focal neurologic deficits. Med. recs. at Ex. 4, p. 5. He had normal tone and 2+ DTRs. *Id.*

On November 20, 2001, Dr. Fabio Fernandez, a neurologist, noted that Johnathan's MRIs showing two small white matter lesions did not explain his symptoms. He explained to Johnathan's parents that Johnathan should have a neuropsychiatric evaluation. Med. recs. at Ex.

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[6] Psychogenic means "produced or caused by psychological factors." Dorland's Illustrated Medical Dictionary, 30th ed. (2003) at 1539.

4, p. 14. Johnathan had no history of nausea, vomiting, double vision or changes in language or motor skills. *Id.*

On November 20, 2001, Dr. Fernandez's history and physical notes state that Johnathan was in his usual state of health until August 2001 when he had a viral gastroenteritis associated with headache. The diarrhea resolved in days, but the headache had persisted for the prior three months. Med. recs. at Ex. 4, p. 91. Johnathan described the headache as both frontal and occipital, spreading bitemporally, pounding, constant, and intense. It has prevented him from attending school. He reported photophobia, phonophobia, and dizziness which was worse in the morning. He had a CT scan which was normal and an MRI which showed a few punctate foci of hyperintensity on flair imaging. *Id.* None of his medications helped, including Neurontin, amitriptyline, nortriptyline, Zanaflex, Tylenol #3, Claritin, Vioxx, Midrin, Periactin, and fiorinal. *Id.* On motor examination, Johnathan gave a poor effort, with about 4+/5 strength throughout and equal. DTRs were 2+ throughout. Tone was normal. Coordination was intact. Since Johnathan felt too weak to walk, his gait was not tested. Med. recs. at Ex. 4, p. 92. Dr. Fernandez considered neuropsych testing and broached with Johnathan and his parents the possibility of a psychogenic component to his headache. *Id.*

On November 21, 2001, Johnathan had an EEG done which Dr. Richard A. Hrachovy interpreted as revealing an excess of slow activity in the occipital leads bilaterally, a nonspecific finding diagnostically. Med. recs. at Ex. 1, p. 29. There were no focal or lateralizing features. Johnathan had a sleep tracing of occasional episodes of phantom spike and wave pattern which can be related to clinical complaints or be of uncertain diagnostic significance. *Id.*

On December 13, 2001, Johnathan went to the Blue Bird Clinic for Pediatric Neurology at Texas Children's Hospital. Dr. Johnsen wrote that Johnathan's parents stated his headaches started abruptly on August 15, 2001 with no prior headaches.[7] Hepatitis B vaccine had been administered on August 13, 2001. Concomitant with the headache were diarrhea and abdominal cramps, but no nausea or vomiting. Med. recs. at Ex. 1, p. 25. He had some night sweats at the time. He had a recurrence of diarrhea. Johnathan had complained of some peculiar intermittent hearing sensation, but had no other major symptomatology. The headaches were continuous and the only medication that worked was Toradol administered intravenously and maintained orally for seven days. His MRI and CT scan were normal. An EEG revealed generalized slow activity, predominating in the 3-5 hertz range, of uncertain significance, possibly related to medication. He had rare episodes of phantom spike and wave pattern on EEG, whose significance was not clear. *Id.*

A review of Johnathan's symptoms was not remarkable. He had some sound distortion, but only with a few things like a clock sound. Light seemed to bother him and increase his headache. One in a while, he had a sore throat, but no cardiorespiratory or GI symptoms. He felt bad all over. *Id.* He described the pain as throbbing frontally and occipitally. Med. recs. at Ex. 1, p. 26. He had not lost weight. His general physical examination was unremarkable. Muscle tone and strength were intact. Deep tendon reflexes were symmetrical with the toes downgoing (i.e., normal). His gait and station (toe-walking, heel-walking, tandem walking, and Romberg) were normal. He had normal response to light touch, sharp position sense, and vibration sense.

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[7] The parents' history conflicts with Johnathan's history of one week of headaches in January 2001 in the context of a sore throat. Med. recs. at Ex. 1, p. 3.

There was no tremor. His finger to nose, and heel and knee tests were normal. Dr. Johnsen's impression was persistent cephalalagia (headache), etiology uncertain with a most unusual history of a very abrupt onset shortly after an immunization. *Id.*

On December 14, 2001, a lumbar puncture showed a protein of 18 mg/dl in the cerebrospinal fluid, which is normal (the range being 15-45). Med. recs. at Ex. 4, p. 191.

On December 20, 2001, Johnathan returned to Texas Children's Hospital because of chronic headaches. Med. recs. at Ex. 4, p. 100. He was given an epidural blood patch. Med. recs. at Ex. 4, p. 105.

On January 5, 2002, Johnathan saw Dr. Johnsen again. Med. recs. at Ex. 1, p. 21. His spinal tap was normal. Within the last week, he had had dramatic improvement with no headache for five days. The only significant findings were changes in the white matter on MRI. He rather tentatively concluded that Johnathan probably had a subtle acute disseminated encephalomyelitis (ADEM). *Id.*

On January 20, 2002, Dr. Paredes filled out a VAERS form, giving the onset of Johnathan's headaches August 15, 2001. Med. recs. at Ex. 1, p. 24. He described the adverse events as headache, diarrhea, abdominal cramps, and night sweats, which cleared. The recurrence of diarrhea was treated. *Id.*

On January 25, 2001, Mr. Friedman left a voice message with Dr. Johnsen who was on vacation that Johnathan was having a severe headache. Med. recs. at Ex. 4, p. 153.

On February 8, 2002, Johnathan had another brain MRI. The first analysis by Dr. Michael C. Morriss was before he had a prior MRI to which to compare it. There was mild scattered ethmoid and very mild inflammatory disease in the maxillary sinuses. Med. recs. at Ex. 1, p. 13.

Dr. Morriss found the MRI unremarkable. However, he wrote an addendum in which he compared the February 8, 2002 MRI with the October 26, 2001 MRI. On the previous study, there were several small, rounded, and linear foci of hyperintensity in the frontal subcortical white matter of each hemisphere which were commented upon and a differential given. Med. recs. at Ex. 1, pp. 13-14. This included at least two small, 2 mm-sized lesions in the right frontal subcortical white matter, possibly a third in the anterior most right frontal subcortical white matter, and approximately three in the left frontal subcortical white matter. On the prior report, it was felt that those lesions could represent non-specific foci of hypomyelinated white matter and might not be of clinical significance. These are seen fairly commonly. They do overlap to some degree with non-specific findings which can be seen in Lyme's disease. Some literature has discussed that these findings can be seen also in migraine headaches. They were unchanged as compared to the previous MRI and there had been no progression of white matter disease. The brain was otherwise unremarkable except for some mild sinus disease. Med. recs. at Ex. 1, p. 14.

From February 9 to April 29, 2002, Johnathan had acupuncture treatments and percutaneous nerve stimulation (PENS) for his headaches. Dr. Duong Hoang stated Johnathan felt much better after 22 treatments but Dr. Hoang advised him to return for further therapy if his headache recurred. Med. recs. at Ex. 8, p. 1.

On March 28, 2002, Johnathan had a CT scan done of his paranasal sinuses. Med. recs. at Ex. 7, p. 2. He had minimal mucous membrane thickening within the right ethmoid air cells. Otherwise, his paranasal sinuses were within normal limits. *Id.*

On August 21, 2002, Johnathan saw Dr. Marietta M. DeGuzman, a rheumatologist, because of bilateral ankle swelling and pain. Med. recs. at Ex. 4, p. 212. Johnathan stated that,

for years, he had been having episodes of bilateral ankle pain occurring sporadically and lasting only for a few minutes to a few hours. After his camp, about six to seven weeks previously, he started to experience significant pain, swelling, and limitation of mobility in both ankles especially on the right side. He claimed to be stiff in both joints in the morning. Mr. Friedman stated Johnathan limped in the morning. ANA screen was negative. X-rays of both ankles were normal. An MRI on July 24, 2002 of the foot showed intact tendon, muscles, and ligaments with no joint effusion or soft tissue edema noted. *Id.* He was confined **for one day** about a year ago because of persistent, severe headache, and was **noted not to have any central nervous system abnormalities by several studies.** *Id.*

Johnathan developed gastrointestinal symptoms and severe headache **after the second hepatitis B vaccination** a year previously. Med. recs. at Ex. 4, p. 213. Arthritis was relatively common on his biological paternal side. On neurological examination, he was non-focal. DTRs were full and symmetrical. Muscle strength was 5/5 in all groups. He had stiffness in both ankles. Rheumatoid factor was negative. Dr. DeGuzman's impression was arthritis of both ankles and significant Achilles enthesitis.[8] She thought he had spondyloarthropathy and, with his intermittent, chronic scaly cutaneous lesions, she suspected psoriatic arthropathy. *Id.*

On August 23, 2002, nurse Valerie D. Marcott called Mrs. Friedman to give her test results and Mrs. Friedman told the nurse that Johnathan had a severe headache after taking naprosyn. Dr. DeGuzman suggested stopping the naprosyn for two days and start Johnathan on Vioxx. Med. recs. at Ex. 4, p. 220.

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[8] Enthesitis is "inflammation of the muscular or tendinous attachment to bone." Dorland's Illustrated Medical Dictionary, 30th ed. (2003) at 622.

On August 26, 2002, Mrs. Friedman called to report that Johnathan had a bad weekend. He came home early from school on Friday being unable to walk because of pain. He had bilateral leg pain and swelling. He crawled in the house over the weekend and was not sleeping at night due to pain. He did not want to play that weekend. Tylenol and Vioxx did not help. Dr. DeGuzman prescribed Prednisone. Med. recs. at Ex. 4, p. 221.

On August 27, 2002, Mrs. Friedman called to report that Johnathan was only slightly better. He had a difficult night sleeping and had difficulty walking. He reported the pain to be 9 on a scale of one to ten. He could not go to school that day or the day before. Dr. DeGuzman suggested giving Prednisone more time. Med. recs. at Ex. 4, p. 223.

On August 29, 2002, Mrs. Friedman called to report that Johnathan was getting relief from pain, although not 100%. Med. recs. at Ex. 4, p. 224.

On August 30, 2002, Mrs. Friedman called and reported that Johnathan was doing much better and could walk without much pain. He began physical therapy the day before. Med. recs. at Ex. 4, p. 225.

On September 4, 2002, Johnathan saw Dr. DeGuzman. Med. recs. at Ex. 4, p. 226. He complained of worsening pain in his ankles. About a week previously, he started to complain of severe pain in his feet and his ankles. He was unable to walk and go to school. He refused to bear weight on his feet. There was no significant change in the swelling. He had missed school since then. Flexeril was added to the Prednisone without improvement. On examination, his ankles looked better in terms of the absence of swelling or warmth. Tenderness over the insertions and body of both Achilles tendons was less than on the prior examination. *Id.* Dr. DeGuzman explained to Johnathan that his condition had not worsened.

On September 25, 2002, Mrs. Friedman called to report that Johnathan had a sinus infection for three weeks and was started on Amoxicillin. She read the package insert for Vioxx which warns of the adverse reaction in the sinuses. Johnathan was having joint pain. Dr. DeGuzman thought it highly unlikely that Vioxx caused Johnathan's sinusitis, but would change him to either Celebrex or Voltaren. Med. recs. at Ex. 4, p. 232.

Petitioner filed an absence report from Beck Junior High which begins on September 7, 2001. Med. recs. at Ex. 5, p. 14. Johnathan was absent due to illness on September 7, 18, 19, 20, and 21; October 3, 4, and 5. He had unexcused absences on October 17, 18, 19, 22, 23, 24, 25, 26, 29, 30, 31; November 1, 2, 5, 6, 7, 8, 9, 12, 13, 14, 15, 16, 26, 27, 28, 29, 30; December 3, 4, 5, 6, 7, l0, 11, 12, 13, 14, 17, 18, 19, 20, 21; January 14, 15, 16, 17, 18, 22, 23, 24, 25, 28, 29, 30, 31; February 1, 4, 5, 6, 7, 8, 11, 12, 13, 14, 15, 18, 19, 20, 21, 22, 26, 27, 28, 2002. Med. recs. at Ex. 5, pp. 14-16. The school counted up a total of 8 excused absences, and 75 unexcused absences, with one lateness. The undersigned assumes an unexcused absence means there was no doctor's note to excuse the absence due to illness.

DISCUSSION

This is a causation in fact case. To satisfy his burden of proving causation in fact, petitioner must offer "(1) a medical theory causally connecting the vaccination and the injury; (2) a logical sequence of cause and effect showing that the vaccination was the reason for the injury; and (3) a showing of a proximate temporal relationship between vaccination and injury." Althen v. Secretary of HHS, 418 F. 3d 1274, 1278 (Fed. Cir. 2005). In Althen, the Federal Circuit quoted its opinion in Grant v. Secretary of HHS, 956 F.2d 1144, 1148 (Fed. Cir. 1992):

> A persuasive medical theory is demonstrated by "proof of a logical sequence of cause and effect showing that the vaccination was the reason for the injury[,]" the logical sequence being supported by "reputable medical or scientific explanation[,]" *i.e.*, "evidence in the form of scientific studies or expert medical testimony[.]"

In Capizzano v. Secretary of HHS, 440 F.3d 1274, 1325 (Fed. Cir. 2006), the Federal Circuit said "we conclude that requiring either epidemiologic studies, rechallenge, the presence of pathological markers or genetic disposition, or general acceptance in the scientific or medical communities to establish a logical sequence of cause and effect is contrary to what we said in Althen...."

Without more, "evidence showing an absence of other causes does not meet petitioners' affirmative duty to show actual or legal causation." Grant, supra, at 1149. Mere temporal association is not sufficient to prove causation in fact. Hasler v. US, 718 F.2d 202, 205 (6th Cir. 1983), cert. denied, 469 U.S. 817 (1984).

Petitioner must show not only that but for the vaccines, Johnathan would not have had headaches, but also that the vaccines were substantial factors in bringing about his headaches. Shyface v. Secretary of HHS, 165 F.3d 1344, 1352 (Fed. Cir. 1999).

There are a number of problems with this case. The first problem is that Johnathan did not have a neurological disorder. He did not have demyelinating disease, much less MS, TM, GBS, or CIDP which were the diseases discussed in the Omnibus proceeding on hepatitis B vaccine-demyelinating diseases. The mention in the record that he might have ADEM is untenable. Dr. Johnsen, a neurologist, stated that slowing that on Johnathan's EEG was probably due to the medication he was on. Dr. Fernandez, a neurologist, explained that Johnathan's white matter hyperintensity on his brain MRI was unlikely to cause his symptoms. Every neurological

examination Johnathan took was normal. Petitioner had headaches but no blurred vision, nausea, or vomiting. His CSF protein was normal. His motor examination was normal in tone, bulk, strength, and deep tendon reflexes. More than one doctor suggested a psychological component to Johnathan's complaints, which his parents recognized. His refusal to go to school was not medically-sanctioned, as was borne out by the absence of any medical excuse.

The second problem in this case is onset. Johnathan's headaches began in January 2001, eight months before his first hepatitis B vaccination. Those headaches were in the context of a sore throat. The initial medical records after Johnathan's August 13, 2001 do not reflect headache onset of August 15, 2001. In fact, in a later history, Mr. Friedman denied that Johnathan reacted to his first vaccination and said he reacted to his second vaccination on September 25, 2001. But the records reflect a viral gastroenteritis at the end of August 2001 during which Johnathan had both diarrhea and headache. His diarrhea resolved after a few days but the headache remained. A week later, the diarrhea was back, prompting one medical treater to posit the possibility of a parasite.

The parents' histories vary depending on the treater to whom they are speaking. To Dr. Paredes, they vary the onset from August to September. To some, they say onset was two days after the first vaccination. To others, they state onset was after the second vaccination. To the rheumatologist Dr. DeGuzman, they state Johnathan was out from school for one day due to headache. In a subsequent visit, when Johnathan is again avoiding school only this time due to ankle and tendon pain, he reveals that he missed so much school in 2001 that he lost the school year and was anxious not to have that happen again.

If petitioner intends to pursue this case, petitioner must file an expert medical report that either or both of Johnathan's hepatitis B vaccinations caused his headache and the basis therefor, explaining which history the expert is relying upon and why the expert chose that history if it varies from the contemporaneous medical records. The expert must also explain what is the nature of Johnathan's headache: migraine, psychogenic? If the expert actually believes there is a neurologic basis for Johnathan's headache, he shall give the reason therefor.

Petitioner must file an expert report by **September 29, 2006** or this case will be dismissed. Petitioner is ORDERED TO SHOW CAUSE why this case should not be dismissed by **September 29, 2006**.

IT IS SO ORDERED.

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DATE Laura D. Millman
Special Master