

OFFICE OF SPECIAL MASTERS

January 19, 2006

KEITH BERNARD HARRIS, Jr., By His Mother *
and Next Friend, BEVERLY WATSON *

Petitioner, *

v. *

No. 02-1045V

SECRETARY OF THE DEPARTMENT OF *
HEALTH AND HUMAN SERVICES, *

Respondent. *

ORDER TO SHOW CAUSE¹

Petitioner filed a petition pro se on August 23, 2002 under the National Childhood Vaccine Injury Act, 42 U.S.C. § 300aa-10 et seq., alleging that her son Keith Harris (hereinafter, “Keith”), was exposed to mercury from hepatitis B vaccine, weakening his immune system. This case was reassigned to the undersigned on November 25, 2003. On January 28, 2004, petitioner

¹ Because this order to show cause 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.

signed approval for law students under Prof. Peter Meyers at the George Washington University School of Law to represent her in this petition. Since that time, petitioner's counsel have been gathering and filing medical records which, as of July 19, 2005, are complete. Petitioner has never filed an expert report stating what illness, if any, Keith actually has and that hepatitis B vaccine (or allegedly DPT) is the cause of his illness.

During the July 19, 2005 telephonic status conference, Prof. Meyers stated that he had sent the medical records to Dr. Sein-Khiong Yeo, one of Keith's treating physicians, in Chicago. He asked for 60 days to get a medical expert report.

During the September 26, 2005 telephonic status conference, Prof. Meyers stated he had spoken to Dr. Yeo but the doctor could not help in this case. Prof. Meyers also stated he had spoken to two other treating physicians who similarly could not help in this case.

During the November 28, 2005 telephonic status conference, Prof. Meyers stated he had sent Keith's medical records to Dr. Mary Elizabeth Lattimer to review and give him a yes or no answer.

During the December 15, 2005 telephonic status conference, Prof. Meyers stated that he had not heard from Dr. Lattimer. The undersigned set a deadline of January 13, 2006, and another status conference for January 18, 2006. Prof. Meyers did not appear for the telephonic status conference on January 18, 2006. He had not filed a report from Dr. Lattimer.

Petitioner has now sought expert medical reports from four doctors, the first three being treating physicians. Although the undersigned does not know if Dr. Lattimer has consented to help petitioner in this case, so far the record is barren both of a diagnosis for Keith and an expert opinion stating hepatitis B and/or DPT vaccine caused Keith's condition and the basis therefor.

This case is now four and one-half years old. Petitioner is ORDERED TO SHOW CAUSE by March 3, 2006 why this case should not be dismissed.

IT IS SO ORDERED.

DATE

Laura D. Millman
Special Master