

OFFICE OF SPECIAL MASTERS

No. 99-0380V

Filed: June 7, 2005

KARI ANDERSEN, *
*
 Petitioner, *
*
 v. *
*
SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *
*
 Respondent. *

ORDER¹

A telephonic status conference call was held in this case on June 3, 2005. Pursuant to this call:

1. **Within thirty (30) days, by no later than Tuesday, July 5, 2005**, respondent shall file a status report updating the court with information regarding outside “interaction” with “working groups” in the federal government regarding data sharing and access to the Vaccine Safety DataLink (VSD) database. The information should include whether and how the appropriate government entity would: 1) consider information regarding vaccines and alleged injuries provided from cases filed under the Vaccine Act; and 2) provide a study on those vaccines and alleged injuries utilizing the Vaccine Adverse Event Reporting System (VAERS) data and/or data from the VSD database. Respondent shall also provide

¹Because 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). Therefore, as provided by Vaccine Rule 18(b), each party has fourteen (14) days within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” order will be available to the public. Id.

information to the court regarding the length of time and any costs required to complete such a study using the VAERS and VSD data.

2. **Within thirty (30) days, by no later than Tuesday, July 5, 2005**, petitioners shall file a status report for each of the following cases: Andersen v. Secretary of Health and Human Services, 99-380V; Brister v. Secretary of Health and Human Services, 99-110V; Carpenter v. Secretary of Health and Human Services, 99-465V; Carr v. Secretary of Health and Human Services, 00-180V; Fluck v. Secretary of Health and Human Services, 99-321V; Gabbard v. Secretary of Health and Human Services, 99-451V; Hunt v. Secretary of Health and Human Services, 99-356V; and Jarvis v. Secretary of Health and Human Services, 03-295V. In each report, counsel for petitioners shall describe how each case is factually the same and/or different than Capizzano v. Secretary of Health and Human Services, No. 00-759V, 2004 WL 1399178 (Fed. Cl. Spec. Mstr. June 8, 2004), **with citations to the record, and including, but not limited to, the following factors**: 1) appropriate timing for development of the disease; 2) evidence provided by treating physicians; 3) the absence of other causes for the disease; and 4) evidence of rechallenge.
3. **Within sixty (60) days, by no later than Tuesday, August 2, 2005**, counsel for petitioners shall file a status report such as described in paragraph 2 of this Order for the following cases: Mabee v. Secretary of Health and Human Services, 99-230V; Melbourne v. Secretary of Health and Human Services, 99-694V; Miller v. Secretary of Health and Human Services, 99-551V; Neyens v. Secretary of Health and Human Services, 03-868V; Riggins v. Secretary of Health and Human Services, 99-382V; Saari v. Secretary of Health and Human Services, 99-328V; Sanders v. Secretary of Health and Human Services, 99-430V; Suarez v. Secretary of Health and Human Services, 01-700V; Thigpen v. Secretary of Health and Human Services, 00-319V; and Valdes v. Secretary of Health of Human Services, 99-310V.
4. **By no later than Wednesday, June 8, 2005**, petitioners' counsel shall submit a status report indicating under which cause of action (either rheumatoid arthritis or chronic fatigue syndrome caused by the hepatitis B vaccine) the case McNett v. Secretary of Health and Human Services, 99-684V, will be pursued. If counsel indicates that McNett will be pursued as a hepatitis B/rheumatoid arthritis case, then petitioners' counsel shall file a status report comporting with the guidelines in paragraph 3 of this Order.

Finally, the undersigned acknowledges receipt of petitioners' June 3, 2005 status report summarizing the June 3, 2005 status conference.² Please note that the undersigned concurs with the first two paragraphs of petitioners' summation. The undersigned, however, does not agree with the remainder of the report – an ad hominem discussion of the VSD/VAERS reports and the Vaccine Program.

As always, counsel for both parties are encouraged to contact my staff attorney, Michelle Mendelson, at (202) 357-6344 with any questions, comments, or concerns regarding this Order or any other issues involving the aforementioned cases.

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

²The court received a copy of petitioners' status report on June 6, 2005. The document, however, was returned to counsel for correction of deficiencies in the filing.