

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: June 17, 2008)



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

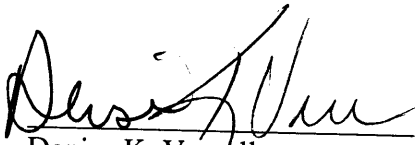
ORDER MODIFYING SCHEDULE
FOR PSC's "SECOND THEORY OF CAUSATION" CASES

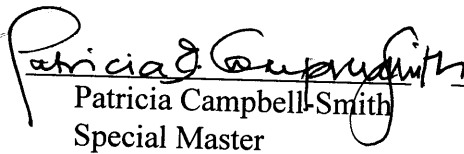
During the OAP status conference on Thursday, June 12, 2008, Mr. Matanoski indicated that respondent no longer intended to call Drs. Magos and Clarkson during the continuation of the Theory 2 causation hearing in July. Mr. Powers indicated that it was still the petitioners' intention to call Dr. Aposhian in rebuttal to matters contained in the reports of Drs. Magos and Clarkson. Mr. Matanoski correctly pointed out that in our ruling on the presentation of rebuttal evidence, we had indicated that rebuttal at the July session would be limited to matters presented in the testimony of Drs. Magos and Clarkson and to any evidence presented in the third test case.


Although Mr. Matanoski's point regarding our rebuttal evidence ruling is well taken, at earlier status conferences, petitioners did express a desire to conduct cross-examination of both of these expert witnesses. Even though respondent is not required to call Drs. Magos and Clarkson and petitioners had ample opportunity to produce rebuttal reports by their own experts prior to the May, 2008, hearing, we have decided to allow limited rebuttal evidence at the July, 2008, hearing. That evidence is limited to rebuttal of the matters presented in the reports of Drs. Magos and Clarkson. Respondent may present sur-rebuttal testimony, if desired. This procedure is a more efficient means to obtain the body of general causation evidence on the second theory of causation than hearing such rebuttal evidence piecemeal in future cases.

Evidence directly pertaining to the third test case itself is not limited by this ruling. Petitioners may call such witnesses as they deem necessary to that case, bearing in mind that all the general causation evidence already presented on Theory 2 need not be repeated.

Petitioners shall file all medical records in the third test case by Wednesday, June 18, 2008. They shall identify all witnesses they intend to call in the July hearing in the third test case by Wednesday, June 25, 2008. The reports of petitioners' expert witnesses shall be filed by Wednesday, June 25, 2008. Respondent shall identify their expert witnesses by Wednesday, July 2, 2008, and shall file the reports of any expert witnesses by Friday, July 11, 2008.


Denise K. Vowell
Special Master


Patricia Campbell-Smith
Special Master


George L. Hastings, Jr.
Special Master