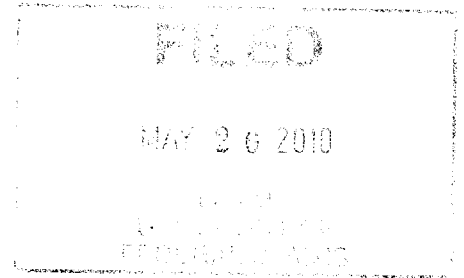


**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

**(Filed: May 20, 2010)**



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**IN RE: CLAIMS FOR VACCINE INJURIES** \*  
**RESULTING IN AUTISM SPECTRUM** \*  
**DISORDER OR A SIMILAR** \*  
**NEURODEVELOPMENTAL DISORDER** \*

**AUTISM MASTER FILE<sup>1</sup>**

VARIOUS PETITIONERS, \*

v. \*

SECRETARY OF HEALTH AND \*  
HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

**AUTISM UPDATE--MAY 20, 2010**

This Update describes a number of recent developments in the Omnibus Autism Proceeding (“OAP”) that have occurred since the last Autism Update, issued on March 25, 2010. Since that last Update, we conducted an unrecorded telephonic status conference in the OAP on May 12, 2010. Two important developments in the OAP since that previous Update were (1) the issuance of judgments in the second group of three autism “test cases,” and (2) an affirmance of the *Hazlehurst* ruling by the Federal Circuit, as will be detailed below.

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<sup>1</sup>The Autism Master File constitutes the record of the Omnibus Autism Proceeding. The complete File is maintained by the Clerk of this court, and is available for inspection by the parties. An electronic version of the File is maintained on this court’s website. This electronic version contains a complete list of all documents in the File, along with the full contents of most of those documents; the exception is that the content of some documents has been withheld from the website due to copyright considerations or due to 42 U.S.C. § 300aa-12(d)(4)(A). To access this electronic version of the Autism Master File, visit this court’s website at [www.uscfc.uscourts.gov](http://www.uscfc.uscourts.gov). From the court’s “Home” page, click on the “Vaccine Info” page, then on the “Autism Proceeding” page, then on the “Docket of Omnibus Autism Proceeding” page.

***A. Proceedings in the “test cases” concerning petitioners’ first theory of general causation***

As explained in previous Autism Updates, the Petitioners’ Steering Committee (PSC) originally stated its desire to present three different theories of “general causation” in the Omnibus Autism Proceeding, but later pared that to *two* different theories. The PSC designated three “test cases” for each of those two theories. Accordingly, during 2007 we conducted hearings in three “test cases” with respect to the PSC’s *first* “general causation” theory, *i.e.*, the theory that MMR vaccines and thimerosal-containing vaccines can combine to cause autism. On February 12, 2009, each of three special masters issued a decision in the test case assigned to that special master. Special Master Campbell-Smith issued the decision in *Hazlehurst v. Secretary of HHS*, No. 03-654V, 2009 WL 332306 (Fed. Cl. Spec. Mstr. Feb. 12, 2009). Special Master Vowell issued the decision in *Snyder v. Secretary of HHS*, 01-162V, 2009 WL 332044 (Fed. Cl. Spec. Mstr. Feb. 12, 2009). Special Master Hastings issued the decision in *Cedillo v. Secretary of HHS*, 98-916V, 2009 WL 331968 (Fed. Cl. Spec. Mstr. Feb. 12, 2009).

Later, each of those three “test case” decisions was affirmed, in separate rulings by three different judges of this court. On July 24, Judge Wiese affirmed the *Hazlehurst* decision. See *Hazlehurst v. Secretary of HHS*, 88 Fed. Cl. 473 (2009). On August 6, Judge Wheeler affirmed the *Cedillo* decision. See *Cedillo v. Secretary of HHS*, 89 Fed. Cl. 158 (2009). On August 11, 2009, Judge Sweeney affirmed the *Snyder* decision. See *Snyder v. Secretary of HHS*, 88 Fed. Cl. 706 (2009).

The petitioners in the *Hazlehurst* and *Cedillo* cases filed notices of appeal to the U.S. Court of Appeals for the Federal Circuit. (The petitioners in *Snyder* did not.) On May 13, 2010, a three-judge panel of that appellate court issued an opinion in *Hazlehurst* affirming the rulings below. The appeal in *Cedillo* remains pending, scheduled for oral argument on June 10, 2010.

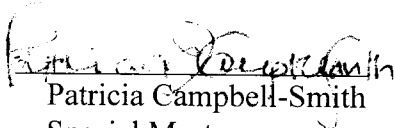
***B. Post-hearing proceedings concerning the petitioners’ second theory of general causation***

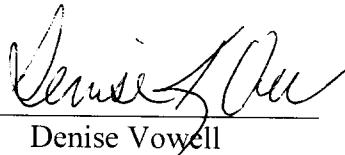
The PSC’s *second* causation theory is that thimerosal-containing vaccines alone can cause autism. As to that theory, we conducted evidentiary hearings in 2008. On March 12, each of the three special masters issued a decision in the test case assigned to that special master. Special Master Campbell-Smith issued the decision in *Mead v. Secretary of HHS*, No. 03-215V, 2010 WL 892248 (Fed. Cl. Spec. Mstr. Mar. 12, 2010). Special Master Vowell issued the decision in *Dwyer v. Secretary of HHS*, No. 03-1202V, 2010 WL 892250 (Fed. Cl. Spec. Mstr. Mar. 12, 2010). Special Master Hastings issued the decision in *King v. Secretary of HHS*, No. 03-584V, 2010 WL 892296 (Fed. Cl. Spec. Mstr. Mar. 12, 2010).

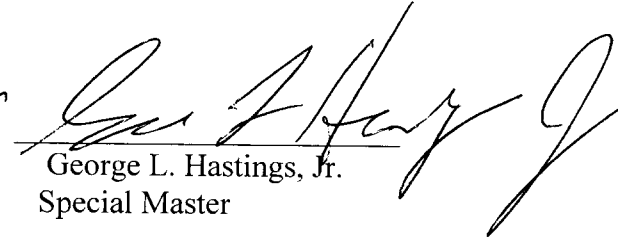
The petitioners in those three cases did not exercise their options to seek review of those decisions. Accordingly, on April 14, 2010, final judgments were entered in all three cases.

***C. Further proceedings***

We continue to meet regularly with the representatives of both the PSC and respondent, to discuss any ongoing issues concerning the Omnibus Autism Proceeding. We will continue to issue these Autism Updates describing that process. In addition, those interested in following the course of events, in between these Updates, should continue to check our Autism Proceeding webpage. The next status conference in the Omnibus Autism Proceeding is scheduled for July 21, 2010.

  
Patricia Campbell-Smith  
Special Master

  
Denise Vowell  
Special Master

  
George L. Hastings, Jr.  
Special Master