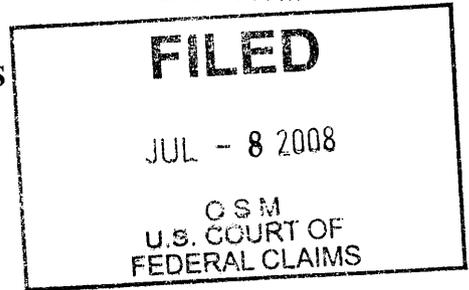


**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

**(Filed: July 8, 2008)**



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**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<sup>1</sup>**

**AUTISM UPDATE--JULY 8, 2008**

This Update describes a number of recent developments in the Omnibus Autism Proceeding (“OAP”) that have occurred since the last Autism Update, issued on April 23, 2008. Since that last Update, we conducted a three-week evidentiary hearing on May 12-29, 2008 (as discussed below), and we also held unrecorded telephonic status conferences on April 25, May 2, May 8, June 12, and June 27, 2008.

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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 home page, click on the “Vaccine Info” page, then on the “Autism Proceeding” page.

***A. Post-hearing proceedings in the “test cases” concerning petitioners’ first theory of general causation***

As explained in previous Autism Updates, the Petitioners’ Steering Committee (PSC) stated its desire to present *three different theories* of “general causation” in the Omnibus Autism Proceeding, and the undersigned special masters instructed the PSC to designate three “test cases” for *each* of the three 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. Specifically, in June we conducted an evidentiary hearing concerning the first “test case,” *Cedillo v. HHS*, No. 98-916V, with Special Master Hastings presiding. In the second case, *Hazlehurst v. HHS*, No. 03-654V, a hearing was held before Special Master Campbell-Smith in October, and in the third case, *Snyder v. HHS*, No. 01-162V, a hearing was held in November before Special Master Vowell.

After the conclusion of those three hearings in 2007, the parties engaged in a lengthy process of filing written briefs analyzing the evidence in each of the three cases. The parties have now completed that process in all three cases. Another circumstance that has delayed the closure of the record in those three cases is the fact that the PSC over the past few months has been engaged in an attempt to obtain documents from a United Kingdom court file (see description in our previous Updates). At our last status conference, however, the PSC representative informed us that the PSC’s United Kingdom attorneys have advised that there is little likelihood of obtaining such documents, so that the PSC has now elected to cease its efforts in that regard.

Accordingly, the evidentiary records are now *closed* in each of the three “Theory 1” test cases. In each of these three cases, the presiding special master has already spent many hours analyzing the evidence and briefs presented by the parties. In each case, the presiding special master will continue that process, and will issue a detailed written ruling as soon as possible.

***B. Evidentiary hearing concerning the petitioners’ second theory of general causation***

As noted above, the PSC proposed to present *three different* theories of “general causation,” and as to the PSC’s *first* theory, during 2007 we heard the evidence in the three “test cases” described above. The PSC’s *second* stated theory is that thimerosal-containing vaccines *alone* can cause autism. As to that theory, we conducted an evidentiary hearing on May 12 through \_\_, 2008. At that evidentiary hearing, the PSC and respondent presented testimony concerning both that “general causation issue” and *also* the “specific causation” issue in two of the particular “test cases” for that theory selected by the PSC, which are the cases of *King v. Secretary of HHS*, No. 03-584V, and *Mead v. Secretary of HHS*, No. 03-215V. All three of the undersigned special masters participated in that hearing. Special Master Hastings will decide the specific causation issue in the *King* case, and Special Master Campbell-Smith will decide the specific causation issue in the *Mead* case. Special Master Vowell will decide the specific causation issue in the third test case, *Dwyer v. Secretary of HHS*, No. 03-1202V; evidence specific to that case will be presented in a hearing to be held on July 21-23, 2008.

As noted in our last Update, all parties gave their consent to make our May evidentiary hearing *completely open to the public*. In addition, interested persons could download the audio of each day of the hearing from the Internet.<sup>2</sup>

During the May hearing, we heard moving testimony from the mother of Jordan King and the father of William Mead. We also heard testimony from five expert witnesses for the petitioners, and twelve expert witnesses for the respondent. We thank the counsel for both sides, who worked enormously hard in preparing, and who presented their evidence very ably during the hearing. We also thank the families for generously agreeing to have their sons' cases designated as "test cases" in the Omnibus Autism Proceeding.

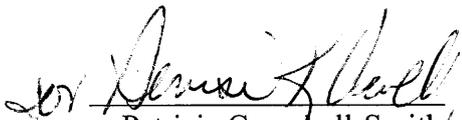
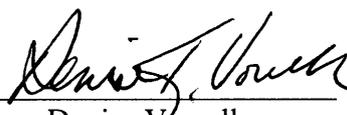
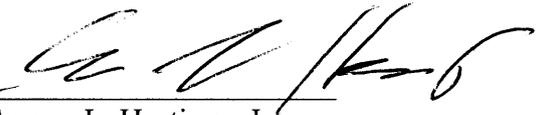
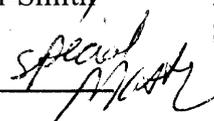
As noted above, on July 21-23, 2008, in Washington, D.C., Special Master Vowell will hear evidence concerning the *specific* causation issue in the *Dwyer* case. After that, the parties will file *written briefs* analyzing the evidence in each of the three cases. Once the last of those briefs is filed, in each of the three cases the special master will analyze the briefs, study the evidentiary record, and issue a ruling as soon as possible.

**C. PSC's third theory of general causation**

The PSC's third stated theory, as noted above, is that the MMR vaccine alone can cause autism. Under our original schedule for that theory, the PSC was to designate three test cases and file expert reports by May 5, 2008, with an evidentiary hearing to begin on September 15, 2008. However, on April 14, 2008, the PSC proposed a revision of the procedure concerning this theory. That proposal is still under consideration, pending the filing of certain expert reports from petitioners' counsel in a particular case. Further discussions concerning that proposal will take place after the filing of those expert reports.

**D. Future proceedings**

We will continue to meet regularly with the representatives of both the PSC and respondent, to plan the additional stages of the Omnibus Autism Proceeding. We will continue to issue these Autism Updates describing the 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 9, 2008.

		
Patricia Campbell-Smith Special Master	Denise Vowell Special Master	George L. Hastings, Jr. Special Master
		

<sup>2</sup>Access to the audio downloads is still available through this court's website, via the "Autism Proceeding" page.