

16, 2004, at 1. On February 12, 2004, petitioners' steering committee requested that the Special Master grant them additional time to prepare their submission. In his Order dated February 13, 2004, the Special Master notes that petitioners were unable to meet the filing deadline "due to the fact that the third batch of uncontested pages of the Merck 'Hepatitis B' PLA (approximately 3200 pages) has not yet been turned over to petitioners." Scheduling Order dated February 13, 2004. Petitioner's request for an extension of time was granted.

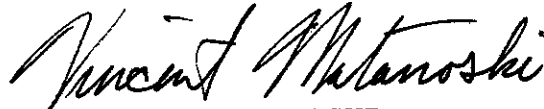
The language used in the February 13, 2004, Order may, in one sense, convey that an unforeseen delay by respondent in providing petitioners with material related to the "necessity issue" was the reason that petitioners requested additional time to submit their filing. In fact, when the filing schedule was proposed, it was never anticipated that the material currently in question would be filed before petitioners' submission was due. Indeed, respondent has always stated that this material would be provided to petitioners' steering committee and to the Special Master during the week of February 17, 2004 - the week after the scheduled submission of petitioners' "necessity filing." The issue of when this material would be filed was first linked to the completion of petitioners' submission when their request for an enlargement was made. Moreover, the anticipated schedule for respondent's filing of the material at issue here has been met, and the documents in question were filed and served upon petitioners' steering committee on February 18, 2004.

Respectfully submitted,

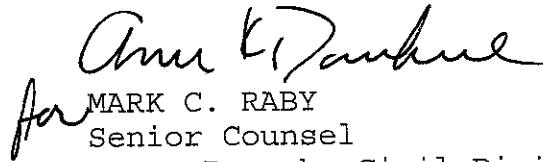
PETER D. KEISLER
Assistant Attorney General

TIMOTHY P. GARREN
Director
Torts Branch, Civil Division

MARK W. ROGERS
Acting Deputy Director
Torts Branch, Civil Division



VINCENT J. MATANOSKI
Assistant Director
Torts Branch, Civil Division



for MARK C. RABY
Senior Counsel
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 616-4111

Dated: February 18, 2004

CERTIFICATE OF SERVICE

I certify that on this 19th day of February, 2004, a copy of respondent's RESPONSE TO THE SPECIAL MASTER'S SCHEDULING ORDER OF FEBRUARY 13, 2004, was served, by prepaid first class mail, upon:

Thao Ho
Williams Bailey, LLP
8441 Gulf Freeway
Suite 600
Houston, TX 77017-5001

and

Ghada A. Anis
Petitioners' Steering Committee
105 North Alfred Street
Alexandria, VA 22314

The foregoing was also provided by facsimile on February 18, 2004, upon the following:

Thomas Powers, Michael Williams: 503-295-³⁷²⁰~~2924~~
Ghada Anis: 202-318-7518
Dino Sangiamo: 410-244-7611
Brad Wolff: 404-888-6199
Lee David Thames: 601-985-4500
Daniel Thomach: 212-506-5151
Stacy Martinez 512-536-4598

