

# ORIGINAL

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS

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.

**PSC RESPONSE TO RESPONDENT'S  
FILING RE PUBLIC ACCESS TO  
PROCEEDINGS**

AUTISM MASTER FILE

Special Master George Hastings

**FILED**

APR 18 2007

OSM  
U.S. COURT OF  
FEDERAL CLAIMS

**PSC RESPONSE TO RESPONDENT'S FILING RE PUBLIC ACCESS TO  
PROCEEDINGS**

The Special Masters directed the PSC to reply to the respondent's recent submission concerning public access to the first of several general causation hearings in the Omnibus Autism Proceeding scheduled to begin June 11, 2007. Because it appears that the PSC and respondent are of the same mind on several key issues, this submission will be brief.

**1. Daily Transcripts**

While providing expedited daily transcripts might help accomplish the goals of providing public access to the proceedings, petitioners are concerned about the cost of preparing expedited transcripts. It is the experience of many PSC attorneys that producing expedited transcripts, particularly same-day transcripts, is exponentially more expensive than producing transcripts in the regular course (which itself can be costly). The PSC therefore urges that if daily transcripts are to be provided, then the cost be shared by petitioners, respondent and the Office of Special Masters.

**2. Public Access to the Courtroom**

Petitioners have argued for nearly one year that the courtroom be open to the public generally, and the PSC is pleased that respondent has finally dropped its opposition to this

position. It appears that both sides agree the courtroom should be generally open to the public.

It is insulting for respondent to claim, however, that the PSC made its request for an open hearing without regard for the logistical problems that an open hearing might present (Resp's Brief, p. 4). To the contrary, petitioners' counsel is acutely aware of the logistical challenges posed by a public proceeding. Many of petitioners' counsel have been involved in complex multidistrict litigations involving thousands of plaintiffs, intense media scrutiny, industry attention, and public interest. Petitioners' lawyers are used to working in the civil justice system where openness and transparency are a given, and where trials are always public rather than secret. Dealing with logistical problems is a small price to pay for the openness and transparency that is a foundation of public confidence in the judicial system. The PSC is as concerned about security and decorum as much as anyone else involved in these proceedings, and petitioners remain ready and willing to work with the Office of Special Masters, court staff, and respondent to take steps ensuring an orderly, fair and open proceeding.

**3. Live Audio Broadcast**

The PSC is again pleased that respondent has dropped its opposition to unlimited access to any audio broadcast of the proceedings. The PSC looks forward to working with the Office of Special Masters, court staff, and respondent to implement a technologically feasible method of making a live audio broadcast available to the public.

**4. Televised Broadcasts**

Given a courtroom open to the general public, the provision of live audio broadcasts, the opportunity for some material to be posted on the OSM website in advance of and during the hearing, and the possible availability of daily transcripts, the PSC does not believe that television coverage is essential to making these proceedings accessible to the public and to petitioners and their families.

**5. Trade Secret Information**

The PSC is somewhat confused by respondent's statements regarding "potential trade secret information" at p. 2, fn. 1 of the Respondent's recent filing. Petitioners were under the

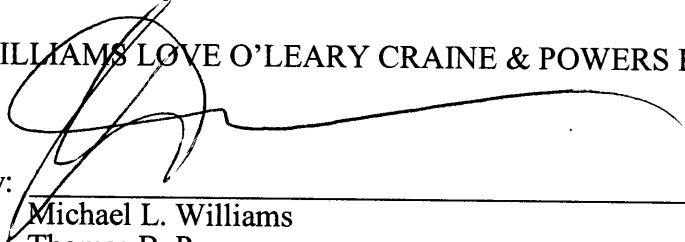
impression that all PLA material produced by the government in the course of discovery had been reviewed in a very lengthy process with the goal of redacting all trade secret, proprietary or other confidential information protected by statute or rule. This footnote appears to indicate that such information was not redacted. Petitioners do not know at this point whether any information from the PLAs will be introduced or relied on as evidence at any of the several Omnibus hearings between now and September 2008, but petitioners would appreciate clarification as to whether trade secret information was redacted from the PLA material or not.

In summary, the PSC looks forward to working with the Special Masters, court staff, and respondent to ensure that the general causation hearings proceed in an open, fair and secure manner.

DATED this 17<sup>th</sup> day of April, 2007.

WILLIAMS LOVE O'LEARY CRAINE & POWERS P.C.

By:

  
Michael L. Williams  
Thomas B. Powers  
Counsel for Petitioners' Steering Committee

Williams Love O'Leary Craine & Powers, P.C.  
9755 S.W. Barnes Road, Suite 450  
Portland, Oregon 97204  
Tel: (503) 295-2924  
Fax: (503) 295-3720

**CERTIFICATE OF SERVICE**

I hereby certify that on April 7, 2007, I served the foregoing **PSC RESPONSE TO RESPONDENT'S FILING RE PUBLIC ACCESS TO PROCEEDINGS** on the following individual(s):

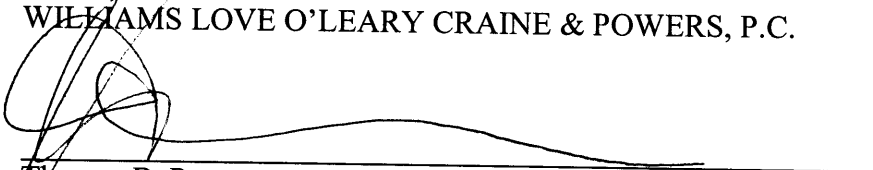
John Fabry, Esq.  
Williams Bailey Law Firm, LLP  
8441 Gulf Freeway, Suite 600  
Houston, TX 77017-5001

Vincent Matanoski, Esq.  
Mark Raby, Esq.  
US Department of Justice  
Torts Branch, Civil Division  
1425 New York Avenue NW  
Suite 3100  
Washington DC, 20005

By United Parcel Service, next day delivery.

Petitioners specifically authorize the Court and the Office of Special Masters to post this document, and any attachments or exhibits thereto, on the Court/OSM website, expressly waiving any confidentiality as to the contents of these materials. Petitioners expressly wish to publicly disclose this filing in any other forum designated by the Court or the OSM.

WILLIAMS LOVE O'LEARY CRAINE & POWERS, P.C.



Thomas B. Powers  
Of Attorneys for Petitioners' Steering Committee

cc: George Hastings  
Denise Vowell  
Patricia Campbell-Smith  
U.S. Court of Federal Claims  
Office of the Special Master  
1440 New York Avenue, NW  
Suite 200  
Washington, D.C. 20005