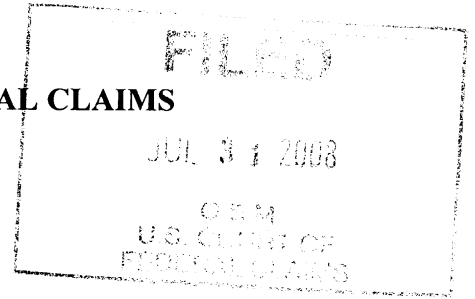


IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS



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.

AUTISM MASTER FILE

**PSC NOTICE RE: UK LITIGATION  
MATERIALS AND THE FIRST THEORY  
OF GENERAL CAUSATION**

**Special Masters George Hastings, Patricia  
Campbell-Smith and Denise Vowell**

By this notice, the PSC informs the Special Masters that the petitioners will not pursue any further the effort to obtain for use as evidence in the OAP general causation hearings any confidential, sealed documents generated during MMR litigation in the United Kingdom. The UK material would potentially have been offered as general causation evidence in the "combined" thimerosal/MMR exposure test cases heard in the OAP in May-November, 2007.

In reluctantly terminating this effort, the PSC notes that it first sought to obtain expert reports filed in the UK litigation by the pharmaceutical company defendants in February 2004. The PSC anticipated that the information in those documents would be relevant to the OAP proceedings on MMR causation, and argued to the Special Master that the evidence would be reasonably necessary to addressing the scientific questions likely to arise in the general causation hearings. The pharmaceutical companies refused informal requests by the PSC to produce the reports, the PSC sought relief from the Special Master, and the Special Master denied the PSC motion to obtain third-party discovery of those documents. In the proceedings on that motion for discovery, the PSC made it clear that the petitioners believed all of the expert reports from the UK would be informative in the OAP, both the defense reports and the claimants' reports. None of the UK reports were produced.

Respondent later obtained a select group of defense-side expert materials from the UK, and at the 11th hour introduced them as evidence at the *Cedillo* hearing, over petitioners' vigorous objection, including the filing of a motion to exclude the one-sided, selective evidence. That motion was denied, and the evidence was admitted. Additional defense-side-only evidence from the UK was admitted in the *Snyder* case as well. In the period between the *Cedillo* and *Snyder* hearings, the petitioners sought, unsuccessfully, to obtain the claimant-side reports from the UK.

The Special Masters directed the petitioners at the end of the *Snyder* hearing to seek expert reports from the UK that would be relevant to issues of the testing methodology and practices employed by the Unigenetics Laboratory, issues central to the MMR litigation in the UK as well as to the MMR element of these test cases. The PSC requested that the Special Masters petition directly to the UK court to obtain the reports, but the Special Masters declined, instead joining the PSC petition by letter. After several months of effort, the PSC was unable to obtain the required consent of all of the UK claimants' experts to release or unseal the confidential reports of all of the claimants' experts. Given the considerable delay and expense that would be involved in litigating for the release of the reports without consent of the experts, the PSC informed the Special Masters that it would not continue the effort.

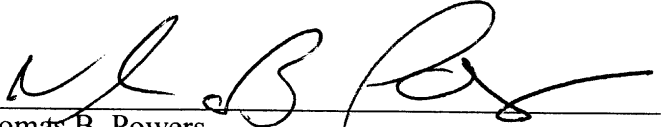
It is also unclear that laboratory notebooks and other original source materials relating to the laboratory methods and procedures would be available even if the reports were produced with the experts' consent and the UK court's order. The respondent's experts in these cases relied on what was alleged to be in those notebooks, but neither the Special Masters nor the petitioners have access to the documents to evaluate the veracity or credibility of the experts' testimony on these issues.

Petitioners in each of the three "combined" thimerosal/MMR test cases therefore rest on the record developed in those cases relating to the reliability and validity of the evidence involving the Unigenetics Laboratory and the lab's investigators and researchers, a record

including objections to the admission of evidence from the UK as was introduced during these hearings.

DATED this 30th day of July, 2008.

WILLIAMS LOVE O'LEARY & POWERS P.C.

By:   
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**CERTIFICATE OF SERVICE**

I hereby certify that on July 30, 2008, I served the foregoing **PSC NOTICE RE: UK LITIGATION MATERIALS AND THE FIRST THEORY OF GENERAL CAUSATION** on the following individual(s):

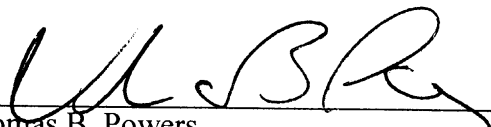
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Vincent Matanoski, Esq.  
US Department of Justice  
Torts Branch, Civil Division  
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Suite 3100  
Washington DC, 20005

By UPS 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