In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: August 29, 2008)

IN RE: CLAIMS FOR VACCINE INJURIES RESULTING IN AUTISM SPECTRUM DISORDER OR A SIMILAR NEURODEVELOPMENTAL DISORDER	**AUTISM MASTER FILE**
VARIOUS PETITIONERS,	
v.	
SECRETARY OF HEALTH AND HUMAN SERVICES,	
Respondent.	

ORDER CONCERNING DR. APOSHIAN'S SUPPLEMENTAL REPORT

On July 29, 2008, the PSC filed, into the Autism Master File, a motion, attached to which was a supplemental expert report of Dr. Aposhian. The motion seeks, in substance, that the special masters deciding the King and Mead "Theory 2" test cases consider that supplemental report in deciding those cases. The petitioners in the King and Mead cases filed identical motions into the records of those cases.* On August 11, 2008, the respondent filed an opposition to the PSC's motion.

We note that the King and Mead cases are individual Vaccine Act petitions, and the ruling in each case is the province of the assigned special master in that case. Nevertheless, because the PSC has also filed the same motion into the Autism Master File, we hereby attach to this order

*No similar motion was filed in the third test case, Dwyer.

copies of the rulings of Special Masters Hastings and Campbell-Smith in the King and Mead cases. We note that both special masters have elected to consider Dr. Aposhian's report.

Patricia Campbell-Smith
Special Master

Denise Vowell
Special Master

George L. Hastings, Jr.
Special Master

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-584V

(Filed: August 28, 2008)

* *

FRED KING and MYLINDA KING, parents of Jordan King, a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

* *

ORDER CONCERNING DR. APOSHIAN'S SUPPLEMENTAL REPORT

On July 28, 2008, the petitioners filed a motion, attached to which was a supplemental expert report of Dr. Aposhian. The motion seeks, in substance, that I consider that supplemental report in deciding this case. On August 11, 2008, the respondent filed an opposition to that motion.

Respondent's opposition supplies reasonable arguments, which would arguably justify a ruling excluding that supplemental report from consideration in this case. Nevertheless, in an effort to give the petitioners every reasonable chance to prove their case, I have elected to consider that supplemental report.

Accordingly, respondent may, if desired, file, on or before October 10, 2008, an expert report narrowly tailored to rebutting Dr. Aposhian's supplemental report. (Alternatively, respondent might elect to respond to Dr. Aposhian's supplemental report during the briefing process in this case, via the method of referring to testimony of Dr. Brent or other experts that is already in the record of this case.)

/s/ George L. Hastings, Jr.

George L. Hastings, Jr.
Special Master

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(E-Filed: August 26, 2008)

GEORGE and VICTORIA MEAD as parent(s) of and WILLIAM MEAD	)	
Petitioners,	)	No. 03-215V
v.	)	
SECRETARY OF HEALTH AND HUMAN SERVICES,	)	
Respondent.	)	

ORDER CONCERNING DR. APOSHIAN'S SUPPLEMENTAL REPORT

On July 28, 2008, petitioners filed a motion, attached to which was a supplemental expert report of Dr. Aposhian. Effectively, the motion seeks consideration of the supplemental report in deciding this case. On August 11, 2008, respondent filed an opposition to that motion.

Respondent's opposition supplies good arguments, which would certainly justify a ruling excluding that supplemental report from consideration in this case. Nevertheless, in an effort to give the petitioners every reasonable chance to prove their case, the undersigned has elected to consider that supplemental report.

Accordingly, **on or before Tuesday, October 10, 2008**, respondent may, if desired, file an expert report narrowly tailored to rebutting Dr. Aposhian's supplemental report. (Alternatively, respondent might elect to respond to Dr. Aposhian's supplemental report during the briefing process in this case, via the method of referring to testimony of Dr. Brent or other experts that is already in the record of this case.)

IT IS SO ORDERED.

s/Patricia Campbell-Smith
Patricia Campbell-Smith
Special Master