

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	22md3043 (DLC)
IN RE: Acetaminophen - ASD-ADHD	:	22mc3043 (DLC)
Products Liability Litigation	:	
	:	<u>ORDER: APPOINTMENT</u>
-----	X	<u>OF CENSUS SPECIAL</u>
		<u>MASTER</u>

DENISE COTE, District Judge:

The plaintiffs in this MDL assert that children developed autism spectrum disorder and/or attention-deficit/hyperactivity disorder as a result of in utero exposure to acetaminophen. Because of the large number of related cases that it is anticipated plaintiffs will file and the common interest of the parties and the Court in having access to information and documents concerning the cases in this MDL and associated with any related litigation filed in state court, the Court has determined that it would be beneficial to appoint a special master to assist with the implementation and oversight of a Census of Filed Cases (the "Census").

As required by Federal Rule of Civil Procedure 53(b)(1), the parties were given notice on November 17, 2022, and an opportunity to be heard regarding the appointment of a Census Special Master. The parties jointly proposed on November 30 the appointment of Randi S. Ellis of Randi S. Ellis, LLC as the Census Special Master. On December 7, all parties were given

notice of the Court's consideration of that appointment.

Objections to the appointment of Ms. Ellis were due on December 14, and no objection was filed. On December 12, Ms. Ellis filed a declaration that states that she has no relationship that requires disqualification under the standards set out at 28 U.S.C. § 455. Accordingly, it is hereby

ORDERED that:

1. Randi S. Ellis is appointed as the Census Special Master. The Census Special Master may retain other professionals whose services she determines to be necessary and appropriate to conduct and complete her work and to assist her with her duties as Census Special Master.

2. During the course of these proceedings, the Census Special Master and the parties will notify the Court promptly if they become aware of any grounds that would require disqualification of Ms. Ellis to serve as the Census Special Master.

3. The Census Special Master shall perform any and all duties assigned to her by the Court (as well as any ancillary acts required to fully carry out those duties) as permitted by both the Federal Rules of Civil Procedure and Article III of the Constitution. The Court directs the Census Special Master to proceed with all reasonable diligence in carrying out her duties as assigned by the Court.

4. The Census Special Master shall meet and confer with Plaintiffs' Co-Lead Counsel and the members of Defendants' Leadership, individually or together in her discretion, and make reports and recommendations, including proposing orders, regarding the creation of the Census. Those recommendations shall include (a) identification of a database platform to host the Census; (b) discussion of how to best effectuate the Census, including discussion of what data and documents should be collected regarding filed cases, the means of collecting the data and documents, the timing of collection, and the means for maintaining this database; and (c) a proposed order regarding the form of the Census and the parties' obligations with respect to the Census.

5. The Census Special Master shall make periodic reports to the Court regarding the progress in executing her role and duties. At a minimum, such reports shall be made monthly.

6. The Census Special Master will file any written reports, proposed orders, findings, and/or recommendations with the Court on the MDL docket 22md3043. Such filing will fulfill the Special Master's duty to serve the parties.


7. The Census Special Master, and her agents and representatives, may communicate ex parte with the Court and with any party's counsel for the purpose of fulfilling her role and duties.

8. The Census Special Master, and her agents and representatives, shall maintain billing records of the time spent on this matter, with descriptions of the activities and matters worked on, which shall be submitted to the parties on a periodic basis for review and payment. The Census Special Master shall confer with both Plaintiffs' and Defendants' leadership regarding the timing and means of providing any such invoices for payment.

9. The Census Special Master, and her agents and representatives, shall be paid their standard hourly rate and reimbursed for reasonable out-of-pocket expenses in connection with the discharge of her duties.

10. Plaintiffs' leadership shall pay 50% of the fees and expenses of the Census Special Master, her agents, and her representatives. Defendants shall pay the other 50%.

Dated: New York, New York
December 23, 2022



DENISE COTE
United States District Judge