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VIP Bar Association Board on the COVID-19 Vaccine lawsuit against HRSA

The Vaccine Injured Petitioners (VIP) Bar Association is the leading advocacy group for adults and children injured by vaccines represented in the Vaccine Injury Compensation Program (VICP). Led by vaccine injury practitioners with decades of experience in the VICP, and with the additional experience of watching the Countermeasures Injury Compensation Program's (CICP) response to the H1N1 vaccine injury claims, the Board has been advocating for – since before the COVID-19 vaccines existed – for the ultimate transfer of COVID-19 vaccines and associated injuries from the CICP to the VICP. VIP Board members have been working with the Office of Special Masters, who administer claims in the VICP, supporting legislation to ensure the proper staff is in place, and making recommendations as to the most efficient procedural path for COVID-19 vaccine injury claims to take when they may be covered under the VICP. The Board is fully aware of the limitations and outright inability of the Countermeasures Program to handle the influx of COVID-19 vaccine claims that have already been filed, and more significantly, those additional claims that were never filed, but are potentially viable in the VICP.

The Board completely understands and empathizes with the frustrations of the plaintiffs expressed in this case, whose criticisms of the CICP are not wrong. However, we strongly believe the best place for COVID-19 vaccine injury claims is the VICP and not a separate court (either within the CICP or within the Court of Federal Claims) that would, at best attempt to replicate the VICP, which has successfully adjudicated thousands of vaccine injury claims since its inception in 1986, while awarding over \$4 billion to the injured.

The VICP through the Office of Special Masters at the US Court of Federal Claims is the appropriate venue, and the reasonable alternative to prolonged and protracted civil litigation that Congress envisioned. All parties in the VICP are well-versed in vaccine injury claims and relevant law. The transfer of coverage for COVID-19 vaccines to the VICP would also facilitate COVID-19 vaccine injured individuals having access to an experienced Bar to advocate for them, as well as procedural and due process protections akin to civil litigation, including a right of appeal. Its proceedings are transparent and its compensation more closely akin to civil litigation.

The VICP has an over 30-year history of success in administering vaccine injury claims - albeit strained recently due to the lack of modernization. Thankfully, there is already legislation introduced that addresses those shortfalls: HR5142, the “Vaccine Injury Compensation Modernization Act of 2023” and the companion legislation, HR 5143, the “Vaccine Access Improvement Act” which streamlines new additions to the Vaccine Injury Table - both of which have bipartisan support.

These two pieces of legislation provide the best opportunity for justice for those injured by the COVID-19 vaccine. Treating the COVID-19 vaccine-injured differently from other vaccines potentially sets a dangerous precedent for adding new vaccines and seriously risks driving up vaccine hesitancy. Vaccines are overwhelmingly safe and a critical public health tool. A successful immunization program absolutely requires a vibrant safety net for those rare individuals that experience vaccine injuries. The VICP needs to remain that safety net.