

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 07-0563V**

Filed: February 27, 2008

Not To Be Published

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JENNIFER SPOKAS, as Parent and  
Natural Guardian of Minor,  
RUSSELL SPOKAS

Petitioner(s),

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES

Respondent.

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*Alfred J. Brooks, Jr., Philadelphia, PA, for petitioner.*

*Linda S. Renzi, United States Department of Justice, Washington, DC, for respondent.*

**DECISION**<sup>1</sup>

The above-named petitioner filed a Short-Form Autism Petition For Vaccine Compensation on June 26, 2007, as well as a “Statement Regarding Timely Filing” and medical records on October 10, 2007. Respondent filed a Motion to Dismiss on December 3, 2007,

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<sup>1</sup> Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” decision will be available to the public. Id.

asking that the undersigned dismiss this petition because it was untimely filed.<sup>2</sup> Petitioner filed a Reply to Respondent's Motion to Dismiss on January 25, 2008, stating that petitioner "does not oppose Respondent's Motion to Dismiss." Petitioner's Reply to Respondent's Motion to Dismiss at one.

Respondent's Motion to Dismiss is **GRANTED**. Accordingly, the undersigned finds that petitioner's claim must be dismissed as petitioner has not proved by a preponderance of the evidence that the petition was filed within "36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury" as required by the Vaccine Act. Petitioner's claim is dismissed. The Clerk shall enter judgment accordingly.

**IT IS SO ORDERED.**

s/ Gary J. Golkiewicz  
Gary J. Golkiewicz  
Chief Special Master

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<sup>2</sup>In relevant part, the Vaccine Act provides "in the case of"

a vaccine set forth in the Vaccine Injury Table which is administered after October 1, 1988, if a vaccine-related injury occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such injury after the expiration of 36 months after the date of the occurrence of the first symptom or manifestation of onset or of the significant aggravation of such injury . . . .

42 U.S.C. § 300aa-16(a)(2).