

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-571V
Filed: April 15, 2007

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LANCE AND MICHELLE MORETTO,
legal representatives of a minor child,
ANTHONY MORETTO

Petitioner(s),

v.

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

Respondent.

Autism; Statute of Limitations; Untimely
Filing; Motion to Dismiss

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Albert J. Brooks, Jr., Philadelphia, PA, for petitioner.

Traci R. Patton, United States Department of Justice, Washington, DC, for respondent.

DECISION

The above-named petitioner filed a Short-Form Autism Petition For Vaccine
Compensation on July 31, 2007. Respondent filed a Motion to Dismiss on November 1, 2007,

1 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 March 25, 2008, stating that petitioners "do 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).