

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 03-0348V

Filed: 24 April 2009

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ERIC SHAW FINET, a minor,
by his parents and natural guardians
SCOTT FINET AND ANGELA FINET
AND RHONDA RODRIGUEZ,

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

* * * * *

PUBLISHED¹

42 U.S.C. § 12(d)(4)(B); Redaction;
"Information"

ORDER DENYING MOTION FOR REDACTION,
GRANTING LEAVE TO AMEND

On 17 April 2009, Petitioners filed a "Motion for Redaction," requesting from the Court the redaction of any mention of Petitioners' name(s) from the entire written Decision of the Court (a So-Ordered Stipulation between the parties). Petitioners' Motion bases this demand for relief merely on the asseveration of "the personal nature of the medical information and financial information that is included in the decision that is an invasion of the Petitioner's [sic] privacy."

The general rule of 42 U.S.C. § 12(d)(4)(B) is that the Court's decision "shall be disclosed."

The exception to the general rule as it relates to a petitioner (contained within that same provision of the Act) is that "the decision shall be disclosed without [certain] information" if:

- (a) the decision includes "financial information which is privileged and confidential" or "medical files and similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy" (jointly or severally, the "information"), and if

¹ This Order will be published and posted to the Court of Federal Claims website. Therefore, Petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Vaccine Rule 18(b), she has 14 days from the date of this Order 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" may be made available to the public per the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

(b) the person who submitted such information objects to the inclusion of such information in the decision.

If Petitioner demonstrates to the Court that *both* of those conditions obtain, then “the decision shall be disclosed without such information.”

Petitioner has not yet demonstrated the former of these statutory prerequisites for the relief sought, so the Court is left with little alternative to **DENY** the Motion in its current permutation.

The Court hereby **GRANTS** Petitioner leave to file a renewed motion *to redact the disclosure of information regarding Petitioner*, identifying the content constituting the statutorily-defined information, as well as its disclosure in the Court’s Decision, referencing specific page and line number therein.² A nonspecific demand without supporting proof or legal support will not suffice.

A status conference is not currently pending, but may be had at the request of either party. Any questions or problems may be directed to my law clerk, Isaiah Kalinowski, Esq., at 202-357-6351.

IT IS SO ORDERED.

Richard B. Abell
Special Master

² The Court cannot fail to point out that the Vaccine Act does not provide a right of redaction of a petitioner’s name in the case caption. The Act does grant an affirmative right to a petitioner to have the statutorily-defined “information” excluded from the Court’s written decision, provided that the statutory elements are demonstrably met. However, redaction of a party’s name is not there addressed. Therefore, such irregular relief lies in the sound discretion of the Court.