OFFICE OF SPECIAL MASTERS

No. 05-123V

(Filed: June 2, 2005)

* * * * * * * * * * * * *	*
JODY NORDWALL and JOSE TORI	*
on behalf of their minor child,	*
MATEO TORI, deceased,	*
	*
Petitioners,	*
	*
V.	*
	*
SECRETARY OF THE DEPARTMENT	*
OF HEALTH AND HUMAN SERVICES,	*
	*
Respondent.	*
-	*
* * * * * * * * * * * * *	*

ORDER¹

On 14 January 2005, *pro se* Petitioners mailed the petition to the Court of Federal Claims and to the Respondent. That petition was marked filed by the Clerk of the Court on 19 January 2005, one day shy of the statute of limitations.

The statutory provision governing this program states that "if a death occurred as a result of the administration of such vaccine, no petition may be filed for compensation under the Program for such death after the expiration of 24 months from the date of the death \dots " 42 U.S.C.A 300aa-§16(a)(3).

According to the petition, Mateo passed away on 17 January 2003. Hence, the petition should have been filed by 17 January 2005. However, as that day was a legal holiday, the petition was actually due 18 January 2005. Yet the petition was received and marked on 19 January 2005.

¹ Because this order contains a reasoned explanation for the special master's action in this case, the special master intends to post this order on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Therefore, 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.*

Petitioners have filed a Motion to Correct the Filing Date Pursuant to Rule 60(a). In addition they have filed a Memorandum of Law supported by documentation concerning the actual receipt date of the petition. Their documentation includes a delivery receipt from the United States Postal Service indicating that the petition was delivered to the Court at 1:20 p.m. on 18 January 2005. Moreover, a second delivery receipt indicates that Respondent received its copy on 17 January 2005.

For whatever reason, the petition was not marked filed by the Court till 19 January 2005. However, the Court is authorized to correct such clerical mistakes. Respondent does not object. Therefore, the Clerk of the Court is directed to mark the above captioned petition as received and filed on 18 January 2005.

The parties shall contact the Court to set a status conference in this case. Any issues or queries may be addressed to my law clerk, David Lee Mundy, Esq., at (202) 357-6351.

IT IS SO ORDERED.

s/ Richard B. Abell

Richard B. Abell Special Master