

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-1561V

Filed: May 17, 2012

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PAUL O'MEARA and CATHERINE  
O'MEARA, on behalf of minor,  
BLAINE JOSEPH O'MEARA,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent,

\*\*\*\*\*

DECISION<sup>1</sup>

On October 15, 2004, petitioners filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),<sup>2</sup> alleging that Blaine was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14.

Respondent filed a Motion to Dismiss on February 23, 2009 urging that the undersigned dismiss petitioners' claim because it was untimely filed under the Vaccine

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post this decision on the United States Court of Federal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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will delete such material from public access.

<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter "Vaccine Act" or "the Act"). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

Act's statute of limitations.<sup>3</sup> On March 11, 2009, petitioners filed a response indicating that petitioners "do not oppose Respondent's Motion to Dismiss."

**As such, the undersigned finds that petitioners' claim was untimely filed under the Vaccine Act's statute of limitations and it is accordingly dismissed. § 16(a)(2).<sup>4</sup>**

**The clerk is directed to enter judgment accordingly.**

**IT IS SO ORDERED.**

s/Patricia E. Campbell-Smith  
Patricia E. Campbell-Smith  
Chief Special Master

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<sup>3</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 . . . .

16(a)(2).

<sup>4</sup> Due to an administrative error this Decision was not filed directly subsequent to petitioners' Response filed March 11, 2009.