

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-1194V

Filed: May 21, 2013

Not To Be Published

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STEPHANIE LIMON, parent of  
KIANA LIMON, a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES

Respondent.

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Autism; Petitioners' Motion for a  
Decision Dismissing her Petition;  
Insufficient Proof of Causation; Vaccine  
Act Entitlement; Denial Without Hearing

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## DECISION<sup>1</sup>

On July 22, 2004, petitioner filed a Petition for Vaccine Compensation in the National Vaccine Injury Compensation Program ("the Program"),<sup>2</sup> alleging that Kiana was injured by a vaccine or vaccines listed on the Vaccine Injury Table. See § 14. The information in the record does not show entitlement to an award under the Program.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, such material will be deleted 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.

On May 17, 2013, petitioner filed a statement indicating “I would like to request this case be dismissed voluntarily and I would like to preserve her right to seek a civil remedy in the future.” Request for Voluntary Dismissal of Claim filed May 17, 2013.

To receive compensation under the Program, petitioner must prove either 1) that Kiana suffered a “Table Injury” – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of Kiana’s vaccinations, or 2) that Kiana suffered an injury that was actually caused by a vaccine. See §§ 13(a)(1)(A) and 11(c)(1). Examination of the record does not disclose any evidence that Kiana suffered a “Table Injury.” Further, the record does not contain a medical expert’s opinion or any other persuasive evidence indicating that Kiana’s alleged injury was vaccine-caused.

Under the Vaccine Act, a petitioner may not be awarded compensation based on the petitioner’s claims alone. Rather, the petition must be supported by either the medical records or by a medical opinion. § 13 (a)(1). In this case, the record does not contain medical records or a medical opinion sufficient to demonstrate that the vaccinee was injured by a vaccine. For these reasons, in accordance with § 12(d)(3)(A), the **petitioners’ claim for compensation is denied and this case is dismissed for insufficient proof. The Clerk shall enter judgment accordingly.** <sup>3</sup>

**IT IS SO ORDERED.**

s/  
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George L. Hastings, Jr.  
Special Master

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<sup>3</sup> This document constitutes my final “Decision” in this case, pursuant to § 12(d)(3)(A). If petitioner wishes to have this case reviewed by a Judge of the United States Court of Federal Claims, a motion for review of this decision must be filed within 30 days. After 30 days the Clerk of this Court shall enter judgment in accord with this decision. **If petitioner wishes to preserve whatever right petitioner may have to file a civil suit (that is a law suit in another court) petitioner must file an "election to reject judgment in this case and file a civil action" within 90 days of the filing of the judgment. § 21(a).**