

NOTE: This order is nonprecedential.

**United States Court of Appeals
for the Federal Circuit**

MARY CAPRI,
Petitioner-Appellant

v.

**SECRETARY OF HEALTH AND HUMAN
SERVICES,**
Respondent-Appellee

2024-1513

Appeal from the United States Court of Federal Claims
in No. 1:22-vv-01698-MBH, Senior Judge Marian Blank
Horn.

Before STOLL, CUNNINGHAM, and STARK, *Circuit Judges*.

PER CURIAM.

O R D E R

Responding to this court's April 12, 2024 order to show cause, the Secretary of Health and Human Services urges dismissal of this appeal as premature. Mary Capri also responds, submitting a "Motion of Appeal," ECF No. 22-1 at 1, and a "Notice of Final Order," ECF No. 26-1 at 1.

Ms. Capri filed a petition for compensation under the National Vaccine Injury Compensation Program.

42 U.S.C. §§ 300aa-1 to 34. On February 9, 2024, the special master dismissed Ms. Capri’s petition. A week later, Ms. Capri filed a “Notice of Appeal” seeking this court’s review of the special master’s decision with a “Motion of Appeal” that the special master collectively construed as a motion for the United States Court of Federal Claims’s review of that same decision. Dkt. Nos. 46–47; ECF No. 25 at 2. That motion remains pending. It appears that the Court of Federal Claims forwarded the same documents to this court, which docketed this appeal.

The statutory scheme governing Vaccine Act cases generally provides that a “petitioner aggrieved by the findings or conclusions of law of the [Court of Federal Claims] may obtain review of th[at court’s] judgment” in this court with a timely appeal. 42 U.S.C. § 300aa-12(f). Here, the Court of Federal Claims has not entered judgment, so any appeal to this court is premature. Once the Court of Federal Claims enters judgment, Ms. Capri may, if necessary, seek our review by filing a timely notice of appeal.

Accordingly,

IT IS ORDERED THAT:

- (1) The appeal is dismissed.
- (2) Each side shall bear its own costs.
- (3) Any pending motions are denied.

FOR THE COURT



Jarrett B. Perlow
Clerk of Court

July 5, 2024
Date