

# Children's Health Defense



Kennedy News & Views

## RFK, Jr. Proves HHS is in Violation of the “Mandate for Safer Childhood Vaccines” as Stipulated in the Vaccine Injury Compensation Act

*By the Children's Health Defense Team*

When Congress granted economic immunity to pharmaceutical companies in 1986 for vaccine injury, Congress recognized it eviscerated the economic incentive for pharmaceutical companies to create safe vaccines or make existing ones safer. Congress therefore placed the responsibility and burden for vaccine safety directly and virtually entirely on the shoulders and in the hands of the Secretary of HHS. This requirement is codified at 42 USC 300aa-27 (note that the 1986 Act is very short and codified in 42 USC 300aa-1 through 300aa-34) which is the section underpinning the entire mandate for safe and safer vaccines in this country – this section is literally entitled “Mandate for safer childhood vaccines.” This section first lists the HHS Secretary’s obligation to assure vaccine safety and then requires the HHS Secretary to submit a report to Congress every two years detailing what improvements in vaccine safety were made in the preceding two years. But, amazingly, as seen from the following [so ordered stipulation](#), (on page 2-4) it does not appear that HHS has ever, not even once, submitted a bi-annual reported to Congress as required by 42 USC 300aa-27 listing what improvements it has made to vaccine safety. This speaks volumes to the lack of seriousness by which vaccine safety is treated at HHS and heightens the

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

INFORMED CONSENT ACTION NETWORK,  
-against- Plaintiff,  
UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES Defendant.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiff as for its Complaint against the above-captioned Defendant alleges as follows:

**INTRODUCTION**

concern that HHS doesn't have a clue as to the actual safety profile of the now 29 doses, and growing, of vaccines given by one year of age.

*This article, so ordered stipulation and the court complaint was originally published by Children's Health Defense at: <https://childrenshealthdefense.org/child-health-topics/federal-failures/rfk-jr-proves-hhs-is-in-violation-of-the-mandate-for-safer-childhood-vaccines-as-stipulated-in-the-vaccine-injury-compensation-act/>*

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<b>USDC SDNY</b>
<b>DOCUMENT</b>
<b>ELECTRONICALLY FILED</b>
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<b>DATE FILED: 07/09/2018</b>

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

INFORMED CONSENT ACTION NETWORK,

Plaintiff,

-against-

UNITED STATES DEPARTMENT OF HEALTH  
AND HUMAN SERVICES

Defendant.

**STIPULATION**

18-cv-03215 (JMF)

WHEREAS, 42 U.S.C. § 300aa-27, entitled “Mandate for safer childhood vaccines,” provides as follows:

(a) General rule

In the administration of this part and other pertinent laws under the jurisdiction of the Secretary [of the Department of Health and Human Services], the Secretary shall—

(1) promote the development of childhood vaccines that result in fewer and less serious adverse reactions than those vaccines on the market on December 22, 1987, and promote the refinement of such vaccines, and

(2) make or assure improvements in, and otherwise use the authorities of the Secretary with respect to, the licensing, manufacturing, processing, testing, labeling, warning, use instructions, distribution, storage, administration, field surveillance, adverse reaction reporting, and recall of reactogenic lots or batches, of vaccines, and research on vaccines, in order to reduce the risks of adverse reactions to vaccines.

...

(c) Report

Within 2 years after December 22, 1987, and periodically thereafter, the Secretary shall prepare and transmit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report describing the

actions taken pursuant to subsection (a) of this section during the preceding 2-year period.

WHEREAS, on August 25, 2017, Informed Consent Action Network (“ICAN”) submitted a Freedom of Information Act request (the “FOIA Request”) to the Department of Health and Human Services (“HHS” or the “Department”), which was assigned control number 2017-01119-FOIA-OS, that sought the following records:

**Any and all reports transmitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate by the Secretary of HHS pursuant to 42 U.S.C. §300aa-27(c).**

WHEREAS, on April 12, 2018, ICAN filed a Complaint for Declaratory and Injunctive Relief in the United States District Court, Southern District of New York against HHS seeking records, if any, responsive to the FOIA Request;

WHEREAS, the HHS Immediate Office of the Secretary (“IOS”) maintains the official correspondence file of the Secretary of HHS, including reports to Congress by the Secretary of HHS, and therefore those files were most likely to contain records responsive to the FOIA Request;

WHEREAS, on June 27, 2018, HHS sent ICAN the following response to the FOIA Request:

The [Department]’s searches for records did not locate any records responsive to your request. The Department of Health and Human Services (HHS) Immediate Office of the Secretary (IOS) conducted a thorough search of its document tracking systems. The Department also conducted a comprehensive review of all relevant indexes of HHS Secretarial Correspondence records maintained at Federal Records Centers that remain in the custody of HHS. These searches did not locate records responsive to your request, or indications that records responsive to your request and in the custody of HHS are located at Federal Records Centers.

WHEREAS, ICAN believes the foregoing response from HHS now resolves all claims asserted in this action;

IT IS HEREBY STIPULATED AND AGREED, by and between the parties by and through their respective counsel:

1. That the above-captioned action is voluntarily dismissed, with prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), each side to bear its own costs, attorney fees, and expenses; and

2. That this stipulation may be signed in counterparts, and that electronic (PDF) signatures may be deemed originals for all purposes.

Dated: July 6, 2018  
New York, New York

KENNEDY & MODONNA LLP  
*Attorney for Plaintiff*

By:



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Dated: July 6, 2018  
New York, New York

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United States Attorney  
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By:



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SO ORDERED:

  
HON. JESSE M. FURMAN, U.S.D.J.

Dated: New York, New York  
July 6, 2018

Any pending motions are moot. All conferences are vacated. The Clerk of Court is directed to close the case.