

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

No. 03-2247V

(Filed: January 31, 2011)

Not to be Published

LOUIS and JANE ROSKO,	)	
parents of RYAN PATRICK ROSKO,	)	
a minor,	)	
	)	Dismissal; Failure to Follow Court
Petitioners,	)	Orders; Failure to Submit Supporting
	)	Medical Records or Expert Opinion;
	)	Failure to Prosecute
	)	
v.	)	
	)	
SECRETARY OF THE DEPARTMENT	)	
OF HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

**DECISION<sup>1</sup>**

The above-named petitioners filed a Short-Form Autism Petition for Vaccine Compensation on September 26, 2003. Thereafter, petitioners failed to file medical records and/or a “Statement of Compliance with Phase One Medical Records Production” as ordered by the undersigned on November 14, 2008, July 16, 2010, and September 29, 2010.

The undersigned repeatedly warned petitioners that noncompliance with court Orders would not be tolerated and could lead to dismissal of petitioners’ claim. See Order filed July 16, 2010, and September 29, 2010. Further, the undersigned warned petitioners in the court’s

<sup>1</sup> 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, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to file a motion for 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). In the absence of such motion, “the entire” decision will be available to the public. Id.

September 29, 2010 Order, that “failure to follow court Orders, as well as failure to file medical records, or an expert medical opinion shall result in dismissal of petitioner’s claim.” Order filed September 29, 2010 citing Tsekouras v. Sec’y of HHS, 26 Cl. Ct. 439 (1992), 991 F.2d 810 (Fed. Cir. 1993) aff’d per curiam without opin.

Petitioners have failed to file any medical records or the opinion of an expert to support petitioners’ claims in the instant case.<sup>2</sup> Additionally, petitioners have failed to respond to any of the court’s Orders in any manner in the instant case. Accordingly, pursuant to Vaccine Rule 21(b), the undersigned dismisses petitioners’ claim for failure to prosecute or comply with the Vaccine Rules, or the court’s Orders. The Clerk shall enter judgment accordingly.

**IT IS SO ORDERED.**

  
Patricia E. Campbell-Smith  
Special Master

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<sup>2</sup> The Vaccine Act provides that a special master cannot find that a petitioner has proven her case by a preponderance of the evidence based upon “the claims of a petitioner alone, unsubstantiated by medical records or medical opinion.” 42 U.S.C. § 300aa-13 (a). Petitioners’ failure to file medical records has prevented the undersigned from addressing any aspect of the merits of petitioners’ claim.