IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

* *		
ISABELLE CANNELL,	*	
	*	
Petitioner,	*	No. 02-28V
	*	Special Master Christian J. Moran
v.	*	
	*	
SECRETARY OF HEALTH	*	Filed: January 5, 2007
AND HUMAN SERVICES,	*	
	*	Dismissal; failure to prosecute;
Respondent.	*	hepatitis B; ulcerated colitis
** *		

UNPUBLISHED DECISION DISMISSING PETITION[1]

Pursuant to Vaccine Rule 21(b) and (c), Isabelle Cannell's petition, filed January 9, 2002, is hereby dismissed for failure to prosecute.

Alexandria Cannell, Isabelle's mother, filed a petition on January 9, 2002, pursuant to the National Childhood Vaccine Injury Act, 42 U.S.C. §300aa-10 et seq., alleging that Isabelle received the hepatitis B vaccine on March 31, 1998, May 18, 1998, and January 14, 1999, and subsequently suffered from severe gastrointestinal problems and ulcerated colitis. No medical records were filed with the petition.

By an order issued on February 24, 2003, the case was stayed at the request of the Ms. Cannell. The case was reassigned to the present Special Master on April 5, 2006, and a status conference was held on April 25, 2006. No medical records had been filed by that time.

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[1] Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, petitioner has 14 days to identify and to move to delete such information before the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

At the April 25, 2006 status conference, the court determined that the case should proceed and ordered Ms. Cannell to file all available medical records, along with an affidavit or narrative explaining the underlying facts and circumstances of her claim. The court did not set a specific deadline, but did schedule another status conference for 60 days later on June 27, 2006.

On May 22, 2006, Ms. Cannell submitted exhibits 1-14. These exhibits contain the bulk of Ms. Cannell's medical records.

On June 7, 2006, Ms. Cannell filed a motion to amend the caption of the case, indicating that Isabelle has reached the age of majority and her parents no longer were acting as her representatives. The court granted this order on June 16, 2006.

On June 27, 2006, the court held a status conference in which it ordered Ms. Cannell to submit an expert report as soon as possible and scheduled another telephonic status conference on August 29, 2006. On August 3, 2006, Ms. Cannell filed Exhibits 15 and 16, which consisted of additional medical records.

On August 29, 2006, the court held another telephonic status conference. During that call, Ms. Cannell's attorney stated that although Ms. Cannell wanted to obtain an expert report from a particular expert, his schedule was full and he would be unable to prepare an expert report for several months. Ms. Cannell was ordered to file a status report within 30 days, clarifying exactly when the expert would be able to complete his report. Ms. Cannell was also ordered to file an affidavit with the court describing her current health condition.

Another status conference was held on October 3, 2006. During that call, Ms. Cannell's counsel stated that he was unable to file the status report or the affidavit as per the court's order because he was having difficulties contacting his client.

On October 26, 2006, this court issued an order to show cause why this petition should not be dismissed for failure to prosecute. The October 26, 2006 order directed Ms. Cannell to respond by November 27, 2006. To date, the court has received no response. Accordingly, this petition is DISMISSED pursuant to Vaccine Rule 21 for failure to prosecute. See Tsekouras v. Sec'y of Health & Human Servs., 26 Cl. Ct. 439 (1992), aff'd, 991 F.2d 810 (Fed. Cir. 1993) (table) (affirming special master's dismissal of petition for failure to prosecute). Therefore, in the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master