



address of record and the newly identified address on October 20, 2010. The order sent to the address of record was again returned to the court as undeliverable. No response was received from the order sent to the newly identified address.

On February 16, 2011, petitioner was again ordered to inform the court whether petitioner intended to proceed with this case or otherwise show cause within thirty days, why this case should not be dismissed for failure to prosecute. The order was sent to petitioner's address of record and the newly address identified address. No response was received.

On June 21, 2011, a second order to show cause was filed and sent to petitioner's address of record and to the newly identified address, by certified mail. The order sent to petitioner's address of record was again returned to the court as undeliverable. The order sent to the newly identified address was also returned to the court as undeliverable, however a new forwarding address was provided on the returned envelope from the postal service.<sup>3</sup>

Accordingly, on January 25, 2012 a final order to show cause was filed and sent to petitioner's address of record and to the forwarding address provided by the postal service, by certified mail. The order sent to the address of record was again returned to the court as undeliverable. No response was received to the order sent to the forwarding address provided by the postal service.

#### I. The Omnibus Autism Proceeding

This case is one of more than 5,400 cases filed under the Program in which petitioners alleged that conditions known as "autism" or "autism spectrum disorders" ["ASD"] were caused by one or more vaccinations. A detailed history of the controversy regarding vaccines and autism, along with a history of the development of the OAP, was set forth in the six entitlement decisions issued by three special masters as "test cases" for two theories of causation litigated in the OAP and will not be repeated here.<sup>4</sup>

Ultimately, the Petitioners' Steering Committee ["PSC"], an organization formed

---

<sup>3</sup> The forwarding address provided on the returned mail was 4345 GA Highway 97, Camilla, GA, 31730-3229. **The clerk is instructed to send the instant decision to petitioner's address of record as well as to this second address.**

<sup>4</sup> The Theory 1 cases are *Cedillo v. Sec'y, HHS*, No. 98-916V, 2009 WL 331968 (Fed. Cl. Spec. Mstr. Feb. 12, 2009); *Hazlehurst v. Sec'y, HHS*, No. 03-654V, 2009 WL 332306 (Fed. Cl. Spec. Mstr. Feb. 12, 2009); *Snyder v. Sec'y, HHS*, No. 01-162V, 2009 WL 332044 (Fed. Cl. Spec. Mstr. Feb. 12, 2009). The Theory 2 cases are *Dwyer v. Sec'y, HHS*, No. 03-1202V, 2010 WL 892250 (Fed. Cl. Spec. Mstr. Mar. 12, 2010); *King v. Sec'y, HHS*, No. 03-584V, 2010 WL 892296 (Fed. Cl. Spec. Mstr. Mar. 12, 2010); *Mead v. Sec'y, HHS*, No. 03-215V, 2010 WL 892248 (Fed. Cl. Spec. Mstr. Mar. 12, 2010).

by attorneys representing petitioners in the OAP, litigated six test cases presenting two different theories on the causation of ASDs. The first theory alleged that the measles portion of the measles, mumps, rubella vaccine could cause ASDs. That theory was presented in three separate Program test cases during several weeks of trial in 2007. The second theory alleged that the mercury contained in thimerosal-containing vaccines could directly affect an infant's brain, thereby substantially contributing to the causation of ASD. That theory was presented in three additional test cases during several weeks of trial in 2008.

Decisions in each of the three test cases pertaining to the PSC's first theory rejected the petitioners' causation theories. *Cedillo*, 2009 WL 331968, *aff'd*, 89 Fed. Cl. 158 (2009), *aff'd*, 617 F.3d 1328 (Fed. Cir. 2010); *Hazlehurst*, 2009 WL 332306, *aff'd*, 88 Fed. Cl. 473 (2009), *aff'd*, 604 F.3d 1343 (Fed. Cir. 2010); *Snyder*, 2009 WL 332044, *aff'd*, 88 Fed. Cl. 706 (2009).<sup>5</sup> Decisions in each of the three "test cases" pertaining to the PSC's second theory also rejected the petitioners' causation theories, and petitioners in each of the three cases chose not to appeal. *Dwyer*, 2010 WL 892250; *King*, 2010 WL 892296; *Mead*, 2010 WL 892248. Thus, the proceedings in these six test cases are concluded. Petitioners remaining in the OAP must now decide whether to pursue their cases, and submit new evidence on causation, or take other action to exit the Program. The petitioner in this case has failed to inform the court how she intends to proceed.

## II. Failure to Prosecute

It is petitioner's duty to ensure the court has a valid address to which it can send filings. Failure to respond to a court order because petitioner has failed to update her address of record is deemed noncompliance with a court order, and noncompliance will not be tolerated. As I reminded petitioner in my January 25, 2012 Order, 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. *Tsekouras v. Sec'y, HHS*, 26 Cl. Ct. 439 (1992), *aff'd per curiam*, 991 F.2d 810 (Fed. Cir. 1993); *Sapharas v. Sec'y, HHS*, 35 Fed. Cl. 503 (1996); Vaccine Rule 21(b).

## III. Causation in Fact

To receive compensation under the Program, petitioner must prove either 1) that Andreas suffered a "Table Injury" – i.e., an injury falling within the Vaccine Injury Table – corresponding to one of his vaccinations, or 2) that Andreas suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). Under the Vaccine Act, a special master cannot find 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 by medical opinion." § 300aa-13(a) (2006). Petitioner has failed to file sufficient medical records and evidence in this case. Thus,

---

<sup>5</sup> Petitioners in *Snyder* did not appeal the decision of the U.S. Court of Federal Claims.

an examination of the record did not uncover any evidence that Andreas suffered a “Table Injury.” Further, the record does not contain a medical opinion or any other persuasive evidence indicating that Andreas’ autism spectrum disorder was vaccine-caused.

Accordingly, it is clear from the record in this case that petitioner has failed to demonstrate either that Andreas suffered a “Table Injury” or that his injuries were “actually caused” by a vaccination. **This case is dismissed for insufficient proof and for failure to prosecute. The clerk shall enter judgment accordingly.**<sup>6</sup>

**IT IS SO ORDERED.**

---

Gary J. Golkiewicz  
Special Master

---

<sup>6</sup> This document constitutes my final “Decision” in this case, pursuant to 42 U.S.C. § 300aa-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. 42 U.S.C. § 300aa-21(a).