

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

**No. 12-0772V**

**Filed: June 17, 2013**

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LESTER FOX and LISA FOX, for  
Ethan Fox,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES

Respondent.

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Autism; Failure to Prosecute;  
Failure to Follow Court Orders;  
Dismissal

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

**VOWELL**, Special Master:

On November 13, 2012, petitioners filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>2</sup> [the “Vaccine Act” or “Program”], on behalf of their child, Ethan Fox [“Ethan”].

On February 27, 2013, I held a digitally-recorded telephonic status conference in this case.<sup>3</sup> Following the status conference, I issued an order that reviewed the topics discussed during the call and ordered petitioners to file (1) an amended petition that describes the injuries petitioners allege were caused by vaccines and indicates the specific vaccines petitioners think are responsible for the injuries and (2) a list of all of the medical and educational providers who have treated Ethan since birth. Petitioners were ordered to file these two items by no later than April 1, 2013. Additionally, petitioners were ordered to file complete applications to proceed *in forma pauperis* for both Lisa and Lester Fox. Order, issued March 1, 2013.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to delete medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will delete such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755 (1986). Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2006).

<sup>3</sup> Petitioner Lisa Fox appeared pro se, and Darryl Wishard appeared on behalf of respondent.

On April 8, 2013, I noted that petitioners had not yet complied with my March 1, 2013 order, and ordered them to file their amended petition and list of medical and educational providers by no later than April 22, 2013.

Petitioners received an Order to Show Cause on May 8, 2013,<sup>4</sup> which again instructed them to comply with my prior orders and file their amended petition and list of medical and educational providers. Petitioners' response was due by no later than May 31, 2013. To date, no response has been received from petitioners.

It is petitioners' duty to respond to court orders. As I cautioned petitioners in my May 1, 2013 show cause order, failure to follow court orders, as well as failure to file medical records or an expert medical opinion, shall result in dismissal of petitioners' 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).

**This case is dismissed for failure to prosecute. The clerk shall enter judgment accordingly.**

**IT IS SO ORDERED.**

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**Denise K. Vowell**  
Special Master

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<sup>4</sup> My May 1, 2013 Order to Show Cause was sent to petitioners via regular and certified U.S. mail. The certified copy was delivered on May 8, 2013. Presumably petitioners received the copy sent by regular mail by May 7, 2013, the date a notice regarding the certified copy was left at their residence by the postal service.