

Compensation on February 21, 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 April 15, 2008, February 26, 2009, and September 25, 2009.

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 February 26, 2009; Order filed September 25, 2009. Further, the undersigned warned petitioners in the court’s September 25, 2009 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 petitioners’ claim.” Order filed September 25, 2009 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.; Sapharas v. Sec’y of HHS, 35 Fed. Cl. 503 (1996).

Petitioners have failed to file any medical records or the opinion of an expert to support petitioners’ claim in the instant case.² 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.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master

² The Vaccine Act provides that a special master cannot find that a petitioners has proven her case by a preponderance of the evidence based upon “the claims of a petitioners 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.