



alleging that Petitioner suffered from small fiber neuropathy, Complex Regional Pain Syndrome, gastroparesis, constipation, tachycardia, orthostatic hypotension, and postural orthostatic tachycardia syndrome caused-in-fact or significantly aggravated by the human papillomavirus (“HPV”) vaccine Petitioner received on August 27, 2014. Pet. at 1-2, ECF No. 1. Extensive medical records were filed in this case. See Exs. 1-22, 24-27.

On October 11, 2017, Respondent filed a Rule 4(c) Report stating that compensation was not appropriate in this case. Resp’t’s Rep. at 2, ECF No. 20. Petitioner filed an expert report from Dr. Yehuda Schoenfeld on February 1, 2018. Ex. 28. Respondent filed two expert reports on July 18, 2018, one from Dr. Carlos Rose and one from Dr. J. Lindsay Whitton. Exs. B, C. On August 22, 2019, I issued an Order to Change the Case Caption to reflect Petitioner’s coming of age. ECF No. 56.

On November 4, 2019, Petitioner’s mother filed an affidavit. Ex. 90, ECF No. 59. Petitioner filed a status report on the same day requesting an onset determination. See Status Rep. on 11/4/2019, ECF No. 60. On November 25, 2019, I held a status conference with the parties. See Scheduling Order on 11/25/2019, ECF No. 61. I informed counsel for Petitioner that I believed that Petitioner’s pain was aggravated by an injury in gym class and not by the vaccination she received. *Id.* I also stated that I valued the contemporaneously-created medical records in this case over the affidavits drafted in anticipation of litigation. *Id.* I directed Petitioner to look for other records from 2014 that would help in making an onset determination. *Id.*

After motioning for a subpoena and two extensions of time, Petitioner filed the present Motion to Dismiss Her Petition. See Pet’r’s Mot. on 3/26/2020, ECF No. 66; see also Mots. on 1/24/2020 and 2/24/2020, ECF Nos. 62, 63, 64. Although the present motion was voluntarily filed, Petitioner did not indicate under which Vaccine Rule 21 subsection she wished for her petition to be dismissed. See generally Pet’r’s Mot., ECF No. 66. Petitioner has indicated that she would like for judgment to enter in order to preserve her right to pursue a civil action. See *id.*; see also Informal Communication from Chambers on 3/26/2020.

## II. Conclusion

Vaccine Rule 21(b)(1) provides that a “special master or the court may dismiss a petition or any claim therein for failure of the petitioner to prosecute or comply with these rules or any order of the special master or the court.” Although Petitioner did not specify under which Vaccine Rule she requests dismissal of the petition, I will construe her request as a motion filed pursuant to 42 U.S.C. § 300aa-21(b) (regarding involuntary dismissal), given Petitioner’s clear intent that a judgment enter in the case, protecting her right to file a civil action in the future.

As such, **IT IS ORDERED THAT,**

The Motion for Decision Dismissing the Petition is **GRANTED** and the petition is hereby **DISMISSED. The Clerk shall enter judgment accordingly.**

Any questions regarding this Order may be directed to my law clerk, Sydney Lee, by telephone at 202-357-6347, or by email at Sydney\_Lee@cfc.uscourts.gov.

**IT IS SO ORDERED.**

**s/ Katherine E. Oler**

Katherine E. Oler  
Special Master