

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-0856V

Filed: September 18, 2017

UNPUBLISHED

REYNALDO BELMONTE, JR.,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Vaccine Rule 21(a); Order
Concluding Proceedings

*Douglas Lee Burdette, Burdette Law, PLLC, North Bend, WA, for petitioner.
Glenn Alexander MacLeod, U.S. Department of Justice, Washington, DC, for
respondent.*

ORDER CONCLUDING PROCEEDINGS¹

Dorsey, Chief Special Master:

On **September 15, 2017**, the petitioner filed a Notice of Voluntary Dismissal² in the above-captioned case. Petitioner is alleging as causal the Pneumovax 23 vaccine he received on May 12, 2016. See Exhibit 2 at 4 (ECF No. 7-2). This type of pneumococcal vaccine is not covered by the Vaccine Program.³

¹ The undersigned intends to post this unpublished order on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² Petitioner filed this motion as a "Joint Motion to Voluntarily Dismiss pursuant to Rule 21(a)," titled the underlying document a "Joint Stipulation of Dismissal," and within the document, indicated the parties were seeking dismissal under Vaccine Rule 21(a)(1)(B). (ECF No. 10) (emphasis added). Because respondent's report has not been served or even filed in this case, petitioner may dismiss the petition with a notice of dismissal; the motion need not be joint, and the signature of respondent's counsel is not required. See Vaccine Rule 21(a)(1)(A).

³ "There are two types of pneumococcal vaccines . . . pneumococcal conjugate and polysaccharide vaccine[s]." *Bundy v. Sec'y or Health & Human Services*, No. 12-769V, 2014 WL 348852, at *1 (Fed. Cl. Spec. Mstr. Jan. 8, 2014). Only pneumococcal conjugate vaccines, routinely administered to children, are covered by the Vaccine Program. *Id.*; see *Morrison v. Sec'y of Health & Human Services*, No. 04-

Accordingly, pursuant to Vaccine Rule 21 (a), the above-captioned case is hereby **dismissed without prejudice**. The Clerk of the Court is hereby instructed that a **judgment shall not enter** in the instant case pursuant to Vaccine Rule 21(a).

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey

Chief Special Master

1683V, 2005 WL 2008245, at *1 (Fed. Cl. Spec. Mstr. July 26, 2005) (describing how and when pneumococcal conjugate vaccines were added to the Vaccine Table). The Pneumovax 23 vaccine, manufactured by Merck & Co. LLC, is a polyvalent vaccine not covered by the Vaccine Program. <https://www.fda.gov/BiologicsBloodVaccines/Vaccines/ApprovedProducts/ucm179996.htm> (last visited May 9, 2017). A discussion of the two types of pneumococcal vaccine also can be found at the Centers for Disease Control and Prevention (CDC) website. See <https://www.cdc.gov/vaccines/vpd/pneumo/public/index.html> (last visited May 9, 2017).