

¶ 4. Further, petitioner understands that he may apply for attorney may apply for attorneys' fees and costs once the case is dismissed and judgment is entered against him and respondent reserves the right to oppose, it appropriate, the application for attorneys' fees and costs. *Id.* at ¶ 5. Petitioner also intends to protect his rights to file a civil action in the future and pursuant to 42 U.S.C. § 300aa-21(a)(2), he intends to elect to reject the Vaccine Program judgment against him. *Id.* at ¶ 6.

To receive compensation in the Vaccine Program, petitioners have the burden of proving either: (1) that the vaccinee suffered a "Table Injury," i.e., an injury beginning within a specified period of time following receipt of a corresponding vaccine listed on the Vaccine Injury Table (a "Table injury") or (2) that the vaccinee suffered an injury that was caused-in-fact by a covered vaccine. §§ 13(a)(1)(A); 11(c)(1). In this case, petitioner is not alleging a Table Injury and therefore, must demonstrate the vaccine was the cause-in-fact of his alleged injuries. To satisfy her burden of proving causation in fact, petitioner must show by preponderant evidence: "(1) a medical theory causally connecting the vaccination and the injury; (2) a logical sequence of cause and effect showing that the vaccination was the reason for the injury; and (3) a showing of a proximate temporal relationship between vaccination and injury." *Althen v. Sec'y of Health & Human Servs.*, 418 F. 3d 1274, 1278 (Fed. Cir. 2005).

Under the Vaccine Act, the Vaccine Program may not award compensation based on the petitioner's claims alone. §13(a)(1). Petitioner has not submitted an expert opinion or medical records to support his claim.

Vaccine Rule 21(b) allows the special master or the Court to dismiss a petition at the petitioner's request on terms that the special master or the court considers a proper issuance of a decision pursuant to §300aa-12(d)(3). A dismissal under Vaccine Rule 21(b) will be with prejudice and result in judgment pursuant to Vaccine Rule 11 for purposes of § 300aa-21(a). Vaccine Rule 21(b).

Accordingly, petitioner's motion is **GRANTED. This matter is DISMISSED for insufficient proof. The Clerk of the Court shall enter judgment accordingly.**³

IT IS SO ORDERED.

s/Thomas L. Gowen
Thomas L. Gowen
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' jointly filing of a notice renouncing the right to seek review.