

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 14-911V

Filed: March 11, 2015

Unpublished

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JANETTE COLE,

Petitioner,

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Tetanus Diphtheria acellular Pertussis  
(Tdap) Vaccine; Shoulder Injury Related  
to Vaccine Administration; SIRVA;  
Special Processing Unit

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*Paul R. Brazil, Esq., Muller Brazil, LLP, Philadelphia, PA for petitioner.*  
*Alexis Babcock, Esq., U.S. Department of Justice, Washington, DC for respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Vowell**, Chief Special Master:

On September 26, 2014, Janette Cole 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”]. Petitioner alleges that she “suffered shoulder injuries which were caused in fact” by the Tetanus diphtheria acellular pertussis [“Tdap”] vaccination she received on December 27, 2013. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 11, 2015, respondent filed her Rule 4(c) report in which she concedes “compensation is appropriate” in this case. Respondent’s Rule 4(c) Report at 3. Specifically, respondent “concludes that Ms. Cole suffered a Shoulder Injury Related to Vaccine Administration, a non-Table injury, and that the preponderance of the medical evidence indicates that the injury was causally related to the vaccination.” *Id.*

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance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), 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, I agree that the identified material fits within this definition, I will redact such material from public access.

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

**In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.**

**s/Denise K. Vowell**

Denise K. Vowell

Chief Special Master