

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1190V

Filed: January 28, 2016

Unpublished

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ALICIA LUSK,

Petitioner,

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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Ruling on Entitlement; Concession;  
Influenza (“Flu”) Vaccination;  
Complex Regional Pain Syndrome  
 (“CRPS”); Special Processing Unit  
 (“SPU”)

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*Anne Carrion Toale, Maglio Christopher and Toale, Sarasota, FL, for petitioner.  
Adriana Ruth Teitel, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 13, 2015, petitioner 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 left arm pain that was caused by her November 1, 2013 influenza [“flu”] vaccination. Petition, ¶2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 21, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 1. Specifically, respondent indicates that “petitioner is entitled to

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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, the undersigned agrees that the identified material fits within this definition, the undersigned 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 (2012).

compensation for her complex regional pain syndrome,<sup>3</sup> which she sustained following receipt of the flu vaccination on November 1, 2013.” *Id.* Respondent agrees that “[t]he facts of this case support a finding that petitioner’s CRPS, more likely than not, was caused by the administration of the influenza vaccination on November 1, 2013.” *Id.* at 4. Additionally, respondent indicates that the record demonstrates that the claim was timely filed, “that petitioner received a vaccine set forth in the Vaccine Injury Table, and that the vaccine was received in the United States.” *Id.* Respondent further indicates “that petitioner suffered the effects or sequelae of her injury for more than six months after vaccine administration,” and that the petition indicates petitioner has pursued no prior civil action or proceeding in connection with her injury. *Id.*

**In view of respondent’s concession and the evidence before me, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey

Chief Special Master

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<sup>3</sup>“Petitioner’s injury is identified in the petition as a shoulder injury related to vaccine administration (‘SIRVA’). Petition at ¶ 8. After a review of petitioner’s medical records, respondent determined that petitioner’s clinical course is consistent with complex regional pain syndrome (‘CRPS’).” Respondent’s Rule 4(c) Report at 1, n.1.