

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1196V

Filed: January 6, 2016

Unpublished

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JUSTIN DIAZ, on behalf of \*  
D.J. D., a minor child, \*

Petitioner, \*

SECRETARY OF HEALTH \*  
AND HUMAN SERVICES, \*

Respondent. \*

Ruling on Entitlement; Concession;  
Diphtheria-tetanus-acellular pertussis  
(DTaP) Vaccine; Rotavirus Vaccine;  
Pneumococcal Vaccine;  
Intussusception; Surgical Intervention;  
Special Processing Unit (“SPU”)

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*Diana Sedar, Maglio Christopher and Toale, PA, Sarasota, FL, for petitioner;*  
*Ryan Pyles, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 14, 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”), on behalf of his minor child, D.J.D. Petitioner alleges that the diphtheria-tetanus-acellular pertussis (DTaP), rotavirus, and/or pneumococcal vaccination administered on December 30, 2014, caused D.J.D. to develop intussusception requiring surgical intervention. *See generally* Petition. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On January 6, 2016, respondent filed her Rule 4(c) report in which she concedes entitlement to compensation in this case. Respt’s Rule 4(c) Rep. at 1, 4. Specifically, respondent stated that the facts of this case support a finding that D.J.D.’s intussusception more likely than not was caused in fact by the administration of the

<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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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).

rotavirus vaccine. *Id.* at 3. Additionally the record reflects that D.J.D. was hospitalized for surgical intervention for the treatment of his intussusception. *Id.* Thus, petitioner has met the legal requirements under the Vaccine Act for compensation.

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

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master