

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-0166V

Filed: April 29, 2016

UNPUBLISHED

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JOHN D. BUSER,	*	
	*	
Petitioner,	*	Ruling on Entitlement; Concession;
	*	Influenza (“Flu”) Vaccine; Shoulder
v.	*	Injury Related to Vaccine Administration
SECRETARY OF HEALTH	*	(“SIRVA”); Special Processing Unit
AND HUMAN SERVICES,	*	(“SPU”)
	*	
Respondent.	*	
	*	

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*William E. Cochran, Jr., Black McLaren, et al., PC, Memphis, TN, for petitioner.*  
*Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On February 3, 2016, John D. Buser (“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”). Petitioner alleges that, as a result of receiving the influenza (“flu”) vaccine on October 12, 2014, he suffered a shoulder injury that was caused-in-fact by his vaccination. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 28, 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 states that “petitioner’s alleged injury is consistent with shoulder injury related to vaccine administration (SIRVA), and that it was caused in fact by the flu vaccine he received on October 12, 2015.” *Id.* at 3-4. Respondent further

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

<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).

agrees that petitioner has met the statutory requirements for entitlement to compensation. *Id.* at 4.

**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