

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1420V

Filed: March 22, 2017

UNPUBLISHED

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RANDALL FONDOW,

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Petitioner,

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v.

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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Respondent.

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*Amber Diane Wilson, Maglio Christopher and Toale, PA, Washington, DC, for petitioner.  
Linda Sara Renzi, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 27, 2016, Randall Fondow (“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 an influenza (“flu”) vaccine on October 20, 2015, he suffered a left shoulder injury. Petition at 1-3. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 21, 2017, respondent filed his Rule 4(c) report in which he 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 a shoulder injury related to vaccine administration (‘SIRVA’), and that petitioner is entitled to compensation.” *Id.* Respondent further concludes “that a preponderance of

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website,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

evidence establishes that the injury to petitioner's left shoulder was caused by the administration of the October 20, 2015, flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of the flu vaccine" and the records show that petitioner suffered the sequela of his injury for more than six months. *Id.* at 4. Accordingly, "in light of the information contained in petitioner's medical records, respondent has concluded that petitioner's left shoulder injury is compensable as a "caused-in-fact" injury under the Act." *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