

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1133V

Filed: January 12, 2018

UNPUBLISHED

JUDY BARTON and JONES BARTON,  
as parents and natural guardians of  
E.B., a minor,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Rotavirus Vaccine;  
Intussusception

*Clifford John Shoemaker, Shoemaker, Gentry & Knickelbein, Vienna, VA, for petitioner.  
Justine Elizabeth Walters, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On August 22, 2017, petitioners 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”). Petitioners allege that E.B. suffered “injuries, including intussusception, resulting from the adverse effects of a rotavirus vaccination received on June 2, 2017.” Petition at 1. Petitioners maintain that the onset or manifestation of E.B.’s intussusception occurred within the time period set forth listed on the Vaccine Injury Table and no cause for her intussusception was identified. *Id.* at ¶ 10; see 42 C.F.R. § 100.3(a)(XI) (2017). Petitioners further allege that E.B. received her vaccination in the United States, that her intussusception resulted in inpatient hospitalization and surgical

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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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

intervention, and that neither petitioners nor any other party has filed a civil action or received compensation for E.B.'s injuries. Petition at ¶¶ 1, 3, 11-13. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 12, 2018, respondent filed his Rule 4(c) report in which he concedes that petitioners are entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "has reviewed the facts of this case and concluded that petitioners' claim meets the Table criteria for intussusception occurring within one to twenty-one days after a rotavirus vaccination." *Id.* at 3. Respondent further agrees that all statutory and jurisdiction issues required before compensation can be awarded have been satisfied. *Id.*

**In view of respondent's position 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