

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

PATRICIA LOPEZ,	*	
	*	No. 20-324V
Petitioner,	*	Special Master Christian J. Moran
	*	
v.	*	
	*	Filed: June 9, 2020
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	Decision dismissing case;
	*	duplicate case.
Respondent.	*	

Christopher Lee Phillippe, Law Offices of Phillippe & Associates, Brownsville, TX, for petitioner;
Emilie Williams, United States Dep’t of Justice, Washington, DC, for respondent.

UNPUBLISHED DECISION DENYING COMPENSATION¹

Patricia Lopez filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §300aa—10 through 34 (2012), on March 23, 2020. The petition alleged that Ms. Lopez suffered a shoulder injury as a result of the influenza vaccination she received on February 27, 2020. However, Ms. Lopez appears to have already made a claim for this same vaccination in another case, 20-223V (filed February 27, 2020), and she also filed the same documents in both cases. An order to show cause issued on March 31, 2020, requiring Ms. Lopez to explain why the case should not be dismissed given that the Vaccine Act permits “[o]nly one petition may be filed with respect to each administration of a vaccine.” 42 U.S.C. § 300aa—11(b)(2); Vaccine Rule 2(a) (implementing the statute).

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this ruling on its website. Anyone will be able to access this ruling via the internet (<https://www.uscfc.uscourts.gov/aggregator/sources/7>). Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa—12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Ms. Lopez eventually responded to the order to show cause on June 4, 2020. In the response, Ms. Lopez admitted that this case was mistakenly filed as a duplicate. Ms. Lopez's counsel stated an intent to file an amended petition with a different petitioner and claim.

It has been clear from the early days of the Vaccine Program that a second petitioner cannot be substituted for the initial petitioner when the two petitioners are entirely unrelated. Stevens v. Sec'y of Dep't of Health & Human Servs., 31 Fed. Cl. 12, 22 (1994). Counsel stated that the new petitioner and claim are different and did not state that the new petitioner is related to the current one.

Thus, this case is dismissed as a duplicate for failing to comply with Vaccine Rule 2(a). The Clerk shall enter judgment accordingly. See Vaccine Rule 21(b).

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master