

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 20-2075V

UNPUBLISHED

MAY TOM,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: November 10, 2022

Special Processing Unit (SPU);  
Ruling on Entitlement; Concession;  
Table Injury; Influenza (Flu) Vaccine;  
Shoulder Injury Related to Vaccine  
Administration (SIRVA)

*Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.*

*Parisa Tabassian, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On December 30, 2020,<sup>2</sup> May Tom filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*<sup>3</sup> (the “Vaccine Act”). In her April 27, 2021 amended petition, Petitioner alleges that she suffered a left shoulder injury related to vaccine administration (“SIRVA”) resulting from an influenza vaccine received on October 27, 2019. Amended Petition at 1. Petitioner further alleges that she received the vaccine in the United States, the adverse effects of her vaccine-related injuries have lasted for longer than six months, and Petitioner has not received compensation in the form of an award or civil settlement, or filed a civil action,

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<sup>1</sup> Because this unpublished Ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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). **This means the Ruling will be available to anyone with access to the internet.** 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, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> Petitioner filed an amended petition on April 27, 2021.

<sup>3</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

for her vaccine-related injuries. Amended Petition at ¶¶ 6, 23-25. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 10, 2022, 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 agrees that "Petitioner has provided preponderant or reliable evidence that she suffered a SIRVA Table injury, and therefore is entitled to a presumption of vaccine causation for SIRVA." *Id.* at 4. Respondent further agrees that "the records show that the case was timely filed, that the vaccine was received in the United States, and that petitioner satisfies the statutory severity requirement by suffering the residual effects or complications of her injury for more than six months after vaccine administration." *Id.* at 5. Respondent also notes that Petitioner has averred that she has not filed any other action or received any compensation in the form of an award or settlement for her vaccine-related injury. *Id.*

**In view of Respondent's position and the evidence of record, I find that Petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master