

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: November 12, 2013

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LESLIE SHIVES,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

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No. 12-330V

Special Master Dorsey

Voluntary dismissal; influenza  
vaccine; torticollis; laterocollis;  
cervical dystonia

Jon Charles Abernathy, Goodin Abernathy, LLP, Indianapolis, IN, for petitioner;  
Tara J. Kilfoyle, United States Dep't of Justice, Washington, DC, for respondent.

### DECISION<sup>1</sup>

On May 24, 2012, Leslie Shives (petitioner), filed a petition pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> Petitioner asserted that the influenza vaccine he received on November 5, 2010, caused him to suffer from torticollis<sup>3</sup> with laterocollis<sup>4</sup> and cervical dystonia.<sup>5</sup> Petition at ¶¶ 2, 14.

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<sup>1</sup> Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this ruling on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b).

<sup>2</sup> The National Vaccine Injury Compensation Program (the Program) is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006).

<sup>3</sup> Torticollis is "abnormal contraction of the muscles of the neck, producing twisting of the neck and an unnatural position of the head." Dorland's Illustrated Medical Dictionary (32nd ed. 2012) at 1941.

<sup>4</sup> Laterocollis is a condition where the head tilts to the side. See id. at 1008, 1941.

<sup>5</sup> Cervical dystonia is "a type of focal dystonia localized to the neck muscles, causing abnormal jerky turning of the head." Id. at 582.

On November 8, 2013, the parties filed a joint stipulation of dismissal in which the parties memorialized their stipulation to dismiss the petition. Joint Stipulation of Dismissal, ECF Doc. No. 36 (Stip.) at 1. Accordingly, the petition is **DISMISSED** without prejudice. Vaccine Rule (a)(1)(B).

Any questions may be directed to my law clerk, Philip Johnson, at (202) 357-6521.

**IT IS SO ORDERED.**

s/Nora Beth Dorsey  
Nora Beth Dorsey  
Special Master