

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

Case No. 14-475V
Filed: September 4, 2014

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MARLON SPORER,

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UNPUBLISHED

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Petitioner,

*

Special Master Gowen

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v.

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SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Tetanus Toxoid (TT) Vaccine;

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Right Arm Injury; Sterile Abscess;

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Conceded.

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Respondent.

* * * * *

Gerard Ryan, Kelner & Kelner, New York, NY, for petitioner.

Julia McInerney, United States Department of Justice, Washington, DC, for respondent.

UNPUBLISHED RULING ON ENTITLEMENT¹

On June 4, 2014, Marlon Sporer (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program (“the Program”).² Petitioner alleges that he suffered from the Table Injury of anaphylaxis and related sequelae, or that, in the alternative, he suffered from an injury that was caused-in-fact by a Tetanus Toxoid (“TT”) vaccine he received in his right arm on April 6, 2009. Petition at 1.

On September 3, 2014, respondent filed a report pursuant to Vaccine Rule 4(c) in which she concludes that “compensation is appropriate in this case based upon the medical record

¹ Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002 § 205, 44 U.S.C. § 3501 (2006). In accordance with the Vaccine Rules, 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). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, the undersigned agrees that the identified material fits within the requirements of that provision, such material will be deleted from public access.

² The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 *et seq.* (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

showing that petitioner's right arm injury and sterile abscess were caused-in-fact by the TT vaccination administered on April 6, 2009." Respondent's Report at 4.

In view of respondent's position and of the undersigned's review of the entire record, see § 300aa-13(a)(1), the undersigned finds that petitioner is entitled to compensation for an injury that was caused-in-fact by a covered vaccine. 42 C.F.R. § 100.3(a)(XIV); Althen v. Sec'y of Health & Human Servs., 418 F.3d 1274 (Fed. Cir. 2005). A separate damages order will issue.

IT IS SO ORDERED.

s/ Thomas L. Gowen
Thomas L. Gowen
Special Master