

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-476V

Filed: July 5, 2016

Unpublished

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LUCIANA DESA,

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v.

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Petitioner,

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Ruling on Entitlement; Concession;

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Influenza Vaccination;

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Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

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Administration ("SIRVA");

AND HUMAN SERVICES,

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Special Processing Unit ("SPU")

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Respondent.

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*Leah Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.*

*Christine Becer, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On April 14, 2016, Luciana Desa ("petitioner") 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" or "Program"). Petitioner alleges that she suffered injuries, including a shoulder injury related to vaccine administration ("SIRVA") resulting from the influenza vaccine she received on August 29, 2015. Petition at 1. Petitioner further alleges that she has suffered the residual effects of her injury for more than six months and that neither she nor any other person has received compensation for her injuries, alleged as vaccine caused. *Id.* at ¶¶ 8-9. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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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 Because this unpublished ruling contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). 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).

On July 1, 2016, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, respondent "has concluded that a preponderance of evidence establishes that the injury to petitioner's left shoulder was caused-in-fact by the administration of her August 29, 2015, flu vaccine, and that petitioner's injury is not due to factors unrelated to the administration of the flu vaccine." *Id.* at 4 (citation omitted). Respondent further indicates that she "the statutory six month sequela requirement has been satisfied." *Id.* (citation omitted).

**In view of respondent's concession and the evidence before me, I find that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master