

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-1134V

Filed: February 13, 2019

UNPUBLISHED

<p>██████████,</p> <p>Petitioner,</p> <p>v.</p> <p>SECRETARY OF HEALTH AND HUMAN SERVICES,</p> <p>Respondent.</p>

Special Processing Unit (SPU); Joint
Stipulation on Damages; Influenza
(Flu) Vaccine; Shoulder Injury
Related to Vaccine Administration
(SIRVA)

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

Darryl R. Wishard, U.S. Department of Justice, Washington, DC, for respondent.

DECISION ON JOINT STIPULATION¹

Dorsey, Chief Special Master:

On August 22, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² (the "Vaccine Act"). Petitioner alleges that she suffered injuries, including shoulder injury related to vaccine administration ("SIRVA") caused in fact by the influenza vaccination she received on September 8, 2016. Petition at 1, ¶¶ 1, 7; Stipulation, filed Feb. 13, 2019, at ¶¶ 1-2, 4. Petitioner further alleges that she received the vaccination in the United States, suffered the effects of her injury for more than six months, and has not received compensation for her injury, alleged as vaccine caused. Petition at ¶¶ 1, 7-8; Stipulation at ¶¶ 3-5. "Respondent denies that the vaccine either caused or significantly

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website. **This means the decision 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, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website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).

² 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).

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

██████████)	
)	
Petitioner,)	No. 17-1134V ECF
)	
v.)	Chief Special Master Dorsey
)	
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner, ██████████, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to 34 (the “Vaccine Program”). The petition seeks compensation for injuries allegedly related to petitioner’s receipt of the influenza (“flu”) vaccine, which is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).
2. On September 8, 2016, petitioner received a flu vaccine in the left arm.
3. The vaccine was administered within the United States.
4. Petitioner alleges that, as a result of receiving the vaccine, she suffered from a left shoulder injury, and that she experienced symptoms of the injury for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of her alleged injuries.
6. Respondent denies that the vaccine either caused or significantly aggravated

11. Payment made pursuant to paragraph 8 of this Stipulation, and any amounts awarded pursuant to paragraph 9 of this Stipulation, will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, and past unreimbursed expenses, the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner, as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. §§ 300aa-15(g) and (h).

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and on behalf of her heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions, causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the vaccines administered on September 8, 2016, as alleged by petitioner in a petition for vaccine compensation filed on or about August 22, 2017, in the United States Court of Federal Claims as petition No. 17-1134V.

14. If petitioner should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

Respectfully submitted,



**ATTORNEY OF RECORD FOR
PETITIONER:**

Handwritten signature of Leah V. Durant in blue ink.

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Dated: 2/13/19