

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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ANA ORTEGA, \* No. 12-703V  
\* Special Master Christian J. Moran  
Petitioner, \*  
\*  
v. \* Filed: October 4, 2013  
\*  
SECRETARY OF HEALTH \* Entitlement; influenza (flu) vaccine;  
AND HUMAN SERVICES, \* shoulder injury related to vaccine  
\* administration (SIRVA)  
Respondent. \*  
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Ronald C. Homer, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner  
Tara J. Kilfoyle, United States Department of Justice, Washington, DC, for respondent.

### UNPUBLISHED RULING ON ENTITLEMENT\*

On October 17, 2012, Ana Ortega filed a petition for compensation, alleging that she suffered a shoulder injury caused by an influenza (flu) vaccine, which she received on November 17, 2011. Petitioner seeks compensation pursuant to the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq. (2006).

In her Rule 4(c) report, respondent stated her opinion that this case is appropriate for compensation under the terms of the Act. Resp't Rep., filed Sept. 24, 2013, at 2. Respondent stated further that "petitioner's claim satisfies the Althen requirements and that her SIRVA was caused-in-fact by the influenza vaccination she received on November 17, 2011." *Id.* at 5 (referencing Althen v. Sec'y of Health & Human Servs., 418 F.3d 1274, 1278 (Fed. Cir. 2005)).

Special masters may determine whether a petitioner is entitled to compensation based upon the record. A hearing is not required. 42 U.S.C. § 300aa-13; Vaccine Rule 8(d). Based upon a review of the record as a whole, the undersigned finds that petitioner has established that she is entitled to compensation. The parties are directed to begin the process of determining the amount of compensation to which the petitioner is entitled.

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\* The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this ruling on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Any questions may be directed to my law clerk, Tucker McCarthy, at (202) 357-6392.

**IT IS SO ORDERED.**

s/Christian J. Moran  
Christian J. Moran  
Special Master