

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 10-386V

Filed: April 6, 2011

Unpublished

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BOBBY D. WILSON and LEAH F. WILSON,	*	
adoptive parents and guardians for MOLLY	*	
WILSON, a minor,	*	
	*	Ruling on the record; Influenza
Petitioners,	*	vaccine; Dermatomyositis
	*	
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

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*Carol L. Gallagher, Gallagher & Gallagher, Somers Point, N.J., for Petitioner.*  
*Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, D.C., for Respondent.*

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

GOLKIEWICZ, Special Master.

The Petition in this matter was filed on June 21, 2010. Petitioners alleged that their daughter developed injuries, including dermatomyositis, as a result of influenza vaccines she received. Following the filing of medical records, respondent’s Rule 4(c) Report was filed on October 29, 2010. Respondent’s opinion was that compensation was not appropriate in this case. Respondent asserted that petitioners’ allegations and medical records failed to meet petitioners’ burden, nor did petitioners provide a medical opinion. Petitioners attempted to acquire a supportive medical opinion, but were unsuccessful. See P Ex 17, Expert Report, filed April 5, 2011; P Motion for Judgment on Record, filed April 6, 2011. On April 6, 2011, petitioners filed their Motion for Judgment on the Existing Record, stating petitioners were unable to acquire a supportive opinion and requesting a ruling on the record.

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<sup>1</sup> The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **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). Otherwise, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing.** Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.

A review of the record shows petitioners have failed to provide preponderant evidence that their daughter suffered a vaccine-related injury due to the vaccines she received. The Act at 42 U.S.C. § 300aa-13(a) provides that the special master “may not make a finding based on the claims of a petitioner alone, unsubstantiated by medical records or by medical opinion.” Thus, this Petition remains unsupported by either medical records or medical opinion. In accordance with section 13(a) the undersigned has no option but to **deny** petitioners’ claim for want of proof.

The Clerk of the Court is directed to enter judgment accordingly.

**IT IS SO ORDERED.**<sup>2</sup>

s/ Gary J. Golkiewicz  
Gary J. Golkiewicz  
Special Master

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<sup>2</sup> This document constitutes a final “decision” in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.