Report from the Department of Justice

December 1, 2022

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Deputy Director, Torts Branch

Statistics

Reporting Period: 8/16/22 – 11/15/22

Total Petitions Filed in the United States Court of Federal Claims this Reporting Period: 392

- **Involving Minors: 57**
- **Involving Adults: 335**

Statistics

Reporting Period: 8/16/22 – 11/15/22

Total Petitions Adjudicated this Reporting Period: 252

- **Cases Compensated: 208**
  - **Cases conceded by HHS: 89**
    - **Decisions awarding Damages: 10**
    - **Decisions adopting Proffer: 77**
    - **Decisions adopting Settlement: 2**
  - **Cases not conceded by HHS: 119**
    - **Decisions awarding Damages: 14**
    - **Decisions adopting Proffer: 11**
    - **Decisions adopting Settlement: 94**
- **Cases Not Compensated/Dismissed: 44**

Statistics

Reporting Period: 8/16/22 – 11/15/22

Total Petitions Voluntarily Withdrawn this Reporting Period: 39

- No judgments are issued in withdrawn cases

Appeals: U.S. Court of Appeals for the Federal Circuit

Decided Cases

As of November 15, 2022

Appeals by Petitioner:

- *None currently*

Appeals by Respondent:

- *None currently*

All decisions are available on the CAFC's website: http://www.cafc.uscourts.gov

Appeals: U.S. Court of Appeals for the Federal Circuit

Pending Cases

As of November 15, 2022

Appeals by Petitioner:

- ***Cottingham v. HHS*** (Attorneys' Fees/Costs)
- ***Dimasi v. HHS*** (Entitlement)
- ***W.J. v. HHS*** (Entitlement)
- ***Leming v. HHS*** (Entitlement)
- ***Ling v. HHS*** (Entitlement)
- ***Loyd v. HHS*** (Entitlement)
- ***Winkler v. HHS*** (Entitlement)

Appeals by Respondent:

- *None currently*

*Cases in yellow are new this reporting period

Appeals: U.S. Court of Federal Claims

Decided Cases

As of November 15, 2022

Appeals by Petitioner:

- ***Ayyasolla v. HHS*** (Entitlement): Affirmed
- ***Fields v. HHS*** (Attorney's Fees/Costs): Affirmed
- ***Heller v. HHS*** (Entitlement): Vacated in Part, Remanded
- ***Kalajdzic v. HHS*** (Entitlement): Affirmed
- ***Leming v. HHS*** (Entitlement): Affirmed

Appeals by Respondent:

- *None currently*

All decisions are available on the CFC's website: http://www.uscfc.uscourts.gov

Appeals: U.S. Court of Federal Claims

Pending Cases

As of November 15, 2022

Appeals by Petitioner:

- ***Bossenbroek v. HHS*** (Entitlement)
- ***Falzon v. HHS*** (Entitlement)
- ***Henkel v. HHS*** (Entitlement)
- ***Hodge v. HHS*** (Entitlement)
- ***Howard v. HHS*** (Entitlement)
- ***Martinez v. HHS*** (Entitlement)
- ***Rochotte v. HHS*** (Entitlement)
- ***Sheller v. HHS*** (Attorney's Fees/Costs)
- ***Sullivan v. HHS*** (Entitlement)
- ***Weaver v. HHS*** (Entitlement)

*Cases in yellow are new this reporting period

Appeals: U.S. Court of Federal Claims

Pending Cases

As of November 15, 2022

Appeals by Respondent:

- ***Doles v. HHS*** (Entitlement)
- ***Echols v. HHS*** (Entitlement)

*Cases in yellow are new this reporting period

Scheduled Oral Arguments

U.S. Court of Appeals for the Federal Circuit:

- *None currently*

U.S. Court of Federal Claims:

- *None currently*

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
1.	Flu	SIRVA	10 Months 24 Days
2.	Flu	SIRVA	1 Year 4 Months 29 Days
3.	Flu	SIRVA	1 Year 7 Months 10 Days
4.	Flu	SIRVA	1 Year 7 Months 19 Days
5.	Flu	SIRVA	1 Year 7 Months 24 Days
6.	Tdap	SIRVA	1 Year 7 Months 25 Days
7.	Flu	SIRVA	1 Year 8 Months 2 Days
8.	Flu	Transverse Myelitis	1 Year 8 Months 15 Days
9.	Flu	SIRVA	1 Year 8 Months 19 Days
10.	Flu	SIRVA	1 Year 8 Months 20 Days
11.	Flu	SIRVA	1 Year 8 Months 21 Days
12.	Flu	SIRVA	1 Year 8 Months 22 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
13.	Flu	SIRVA	1 Year 8 Months 28 Days
14.	Flu	SIRVA	1 Year 9 Months 3 Days
15.	Flu	SIRVA	1 Year 9 Months 4 Days
16.	Flu	SIRVA	1 Year 9 Months 5 Days
17.	Flu	SIRVA	1 Year 9 Months 9 Days
18.	Flu	SIRVA	1 Year 9 Months 14 Days
19.	Flu	SIRVA	1 Year 9 Months 19 Days
20.	Pneumococcal Conjugate	SIRVA	1 Year 9 Months 19 Days
21.	Flu	SIRVA	1 Year 9 Months 20 Days
22.	Hep A	SIRVA	1 Year 9 Months 22 Days
23.	Flu	SIRVA	1 Year 9 Months 24 Days
24.	Flu	GBS	1 Year 10 Months 2 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
25.	Flu	SIRVA	1 Year 10 Months 2 Days
26.	Flu	SIRVA	1 Year 10 Months 4 Days
27.	Flu	SIRVA	1 Year 10 Months 4 Days
28.	Flu	SIRVA	1 Year 10 Months 15 Days
29.	Flu	SIRVA	1 Year 10 Months 17 Days
30.	Flu	SIRVA	1 Year 10 Months 19 Days
31.	Flu	SIRVA	1 Year 10 Months 19 Days
32.	Flu	SIRVA, Brachial Neuritis	1 Year 10 Months 23 Days
33.	Flu	SIRVA	1 Year 10 Months 29 Days
34.	Flu	SIRVA	1 Year 10 Months 29 Days
35.	Flu	SIRVA	1 Year 10 Months 30 Days
36.	Flu	SIRVA	1 Year 11 Months 8 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
37.	Flu	SIRVA	1 Year 11 Months 8 Days
38.	Flu	SIRVA	1 Year 11 Months 14 Days
39.	Flu	SIRVA	1 Year 11 Months 15 Days
40.	Flu	SIRVA	2 Years 1 Day
41.	Flu	Transverse Myelitis	2 Years 5 Days
42.	Flu	GBS, CIDP	2 Years 12 Days
43.	Flu	SIRVA	2 Years 18 Days
44.	Flu	SIRVA	2 Years 28 Days
45.	Flu	SIRVA	2 Years 30 Days
46.	Flu	SIRVA	2 Years 1 Month 3 Days
47.	Flu	SIRVA	2 Years 1 Month 18 Days
48.	Flu	SIRVA	2 Years 1 Month 20 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
49.	Flu	SIRVA	2 Years 1 Month 23 Days
50.	Tdap	SIRVA	2 Years 1 Month 25 Days
51.	Tdap	SIRVA	2 Years 2 Months 1 Day
52.	Flu	Transverse Myelitis	2 Years 2 Months 7 Days
53.	Tdap	SIRVA	2 Years 2 Months 15 Days
54.	HIB	Abscess	2 Years 2 Months 18 Days
55.	Flu	SIRVA	2 Years 2 Months 29 Days
56.	Flu	SIRVA	2 Years 3 Months 12 Days
57.	Tdap	SIRVA	2 Years 3 Months 17 Days
58.	Flu	Encephalopathy	2 Years 4 Months 27 Days
59.	Flu	Small Fiber Neuropathy, Serum Sickness	2 Years 5 Months 8 Days
60.	MMR, Meningococcal	ITP	2 Years 6 Months 5 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
61.	Flu	SIRVA	2 Years 6 Months 12 Days
62.	Flu	GBS, CIDP	2 Years 6 Months 25 Days
63.	Flu	CIDP, GBS	2 Years 7 Months 22 Days
64.	Flu	SIRVA	2 Years 7 Months 25 Days
65.	Flu	SIRVA	2 Years 7 Months 27 Days
66.	Flu	CIDP	2 Years 8 Months 5 Days
67.	Flu	Brachial Neuritis	2 Years 8 Months 11 Days
68.	Flu	SIRVA	2 Years 8 Months 24 Days
69.	Flu	Dermatitis	2 Years 9 Months 1 Day
70.	Flu	Lipoma	2 Years 9 Months 11 Days
71.	Flu	Transverse Myelitis	2 Years 11 Months 26 Days
72.	Flu	Axonal Neuropathy	3 Years 1 Month 15 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
73.	Flu	GBS, CIDP	3 Years 3 Months 17 Days
74.	Flu	GBS	3 Years 3 Months 18 Days
75.	Flu	SIRVA	3 Years 4 Months 7 Days
76.	Flu	SIRVA	3 Years 4 Months 25 Days
77.	Pneumococcal Conjugate	Congestive Heart Failure, Tachycardia, Acute Pericarditis, Chronic Fatigue	3 Years 5 Months 24 Days
78.	Flu	GBS	3 Years 6 Months 11 Days
79.	Flu	GBS	3 Years 6 Months 20 Days
80.	Tdap	Alopecia Areata	3 Years 10 Months 22 Days
81.	Hep B	SIRVA	3 Years 11 Months 10 Days
82.	Flu	Linear IgA Disease	3 Years 11 Months 18 Days
83.	MMR	Pericarditis	4 Years 2 Months 10 Days
84.	Pneumococcal Conjugate	SIRVA	4 Years 2 Months 13 Days

*Terms of compensated settlements memorialized by Stipulation

Adjudicated Settlements*

Reporting Period: 8/16/22 – 11/15/22

No.	Vaccine(s)	Alleged Injury(ies)	Total Time to Resolution
85.	Tdap	GBS	4 Years 3 Months 5 Days
86.	MMR	Febrile Seizures	4 Years 3 Months 23 Days
87.	Tdap	SIRVA	4 Years 5 Months 1 Day
88.	Flu	SIRVA	4 Years 5 Months 12 Days
89.	Flu	CNS Vasculitis	4 Years 5 Months 24 Days
90.	Flu	SIRVA, Death, GBS	4 Years 6 Months 31 Days
91.	Flu	SIRVA, Brachial Neuritis	4 Years 8 Months 20 Days
92.	Flu	GBS	4 Years 8 Months 21 Days
93.	Flu	Optic Neuritis	5 Years 19 Days
94.	Tdap	Brachial Neuritis	5 Years 8 Months 1 Day
95.	Flu	Transverse Myelitis	6 Years 4 Months 13 Days
96.	Hep B	Transverse Myelitis	6 Years 9 Months 5 Days

*Terms of compensated settlements memorialized by Stipulation

Appendix

Glossary of Terms

- **Petitions Adjudicated:** Final judgment has entered on the petition in the United States Court of Federal Claims.
- **Final Judgment:** Clerk of Court, United States Court of Federal Claims, enters judgment awarding or denying compensation.
- **Compensable:** Petitioner received an award of compensation, which can be achieved through a concession by HHS, settlement, or decision on the merits by the special master, United States Court of Federal Claims.
- **Conceded by HHS:** HHS concluded that a petition should be compensated based on review and analysis of the medical records.

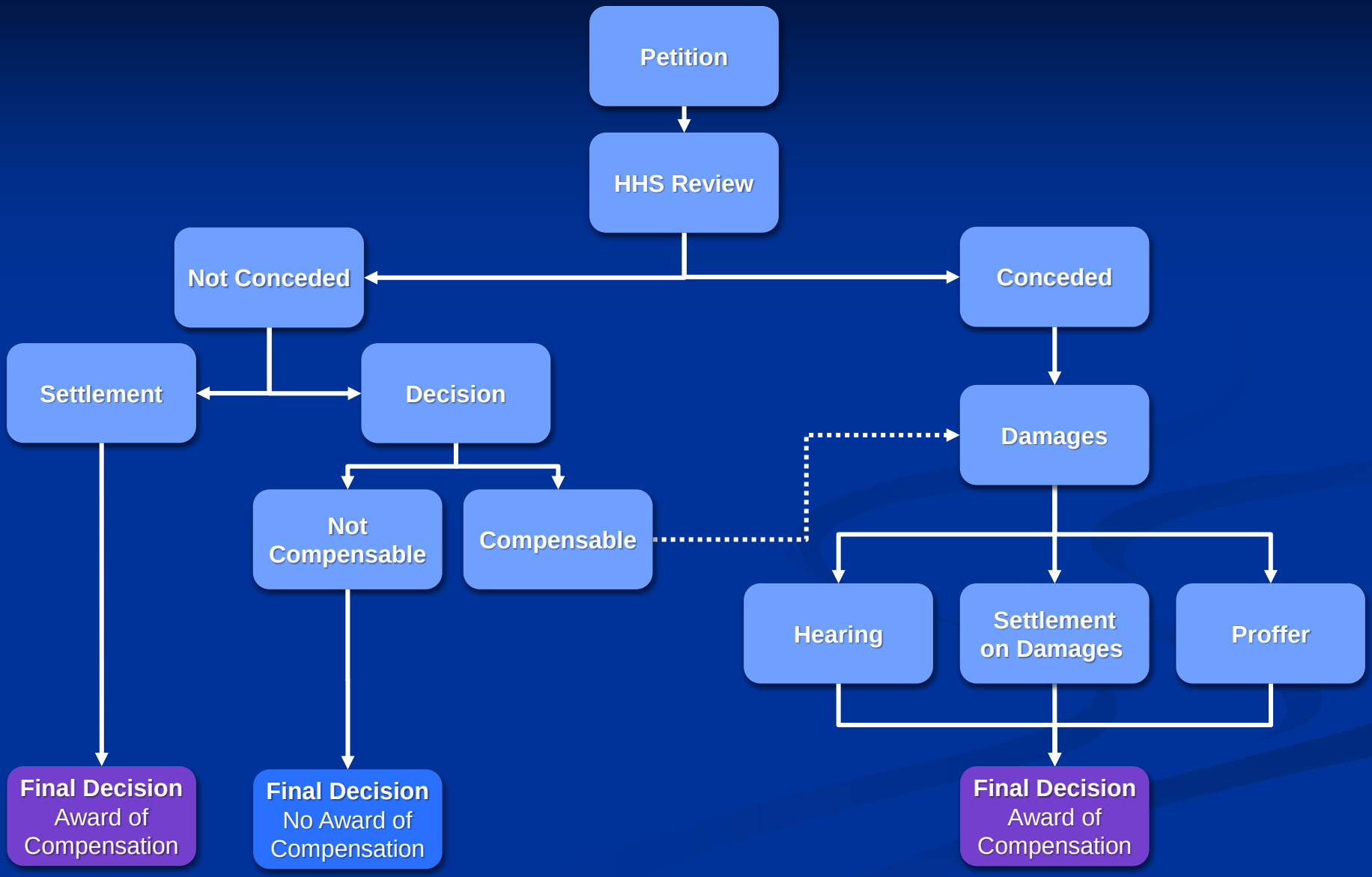
Glossary of Terms

- **Settlement:** Petition is resolved via a negotiated settlement between the parties, and results in the filing of a stipulation that memorializes the terms of the settlement.
- **Decision:** Special Master issues decision on the merits of the petition.
- **Non-compensable/Dismissed:** Petition dismissed.
- **Proffer:** After discussions between the parties regarding a reasonable amount of damages, respondent will file a suggested award of compensation, known within the Program as a "Proffer," which is also agreed to by petitioners and their counsel. The Proffer is reviewed by the presiding special master to determine that it represents a reasonable measure of the amount of the award and describes compensation pursuant to 42 U.S.C. § 300aa-15(a). The special master issues a final decision consistent with the terms of the Proffer.

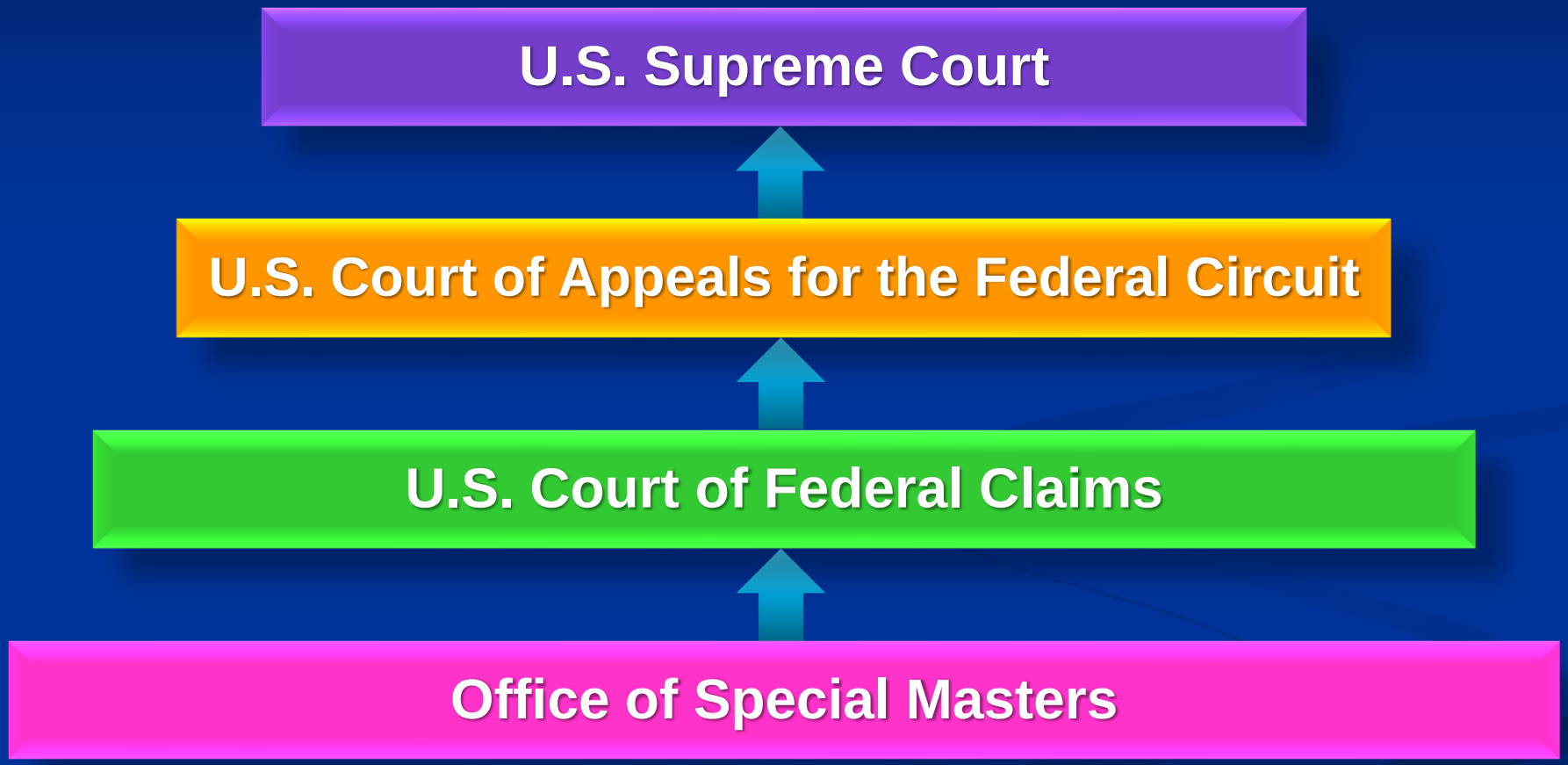
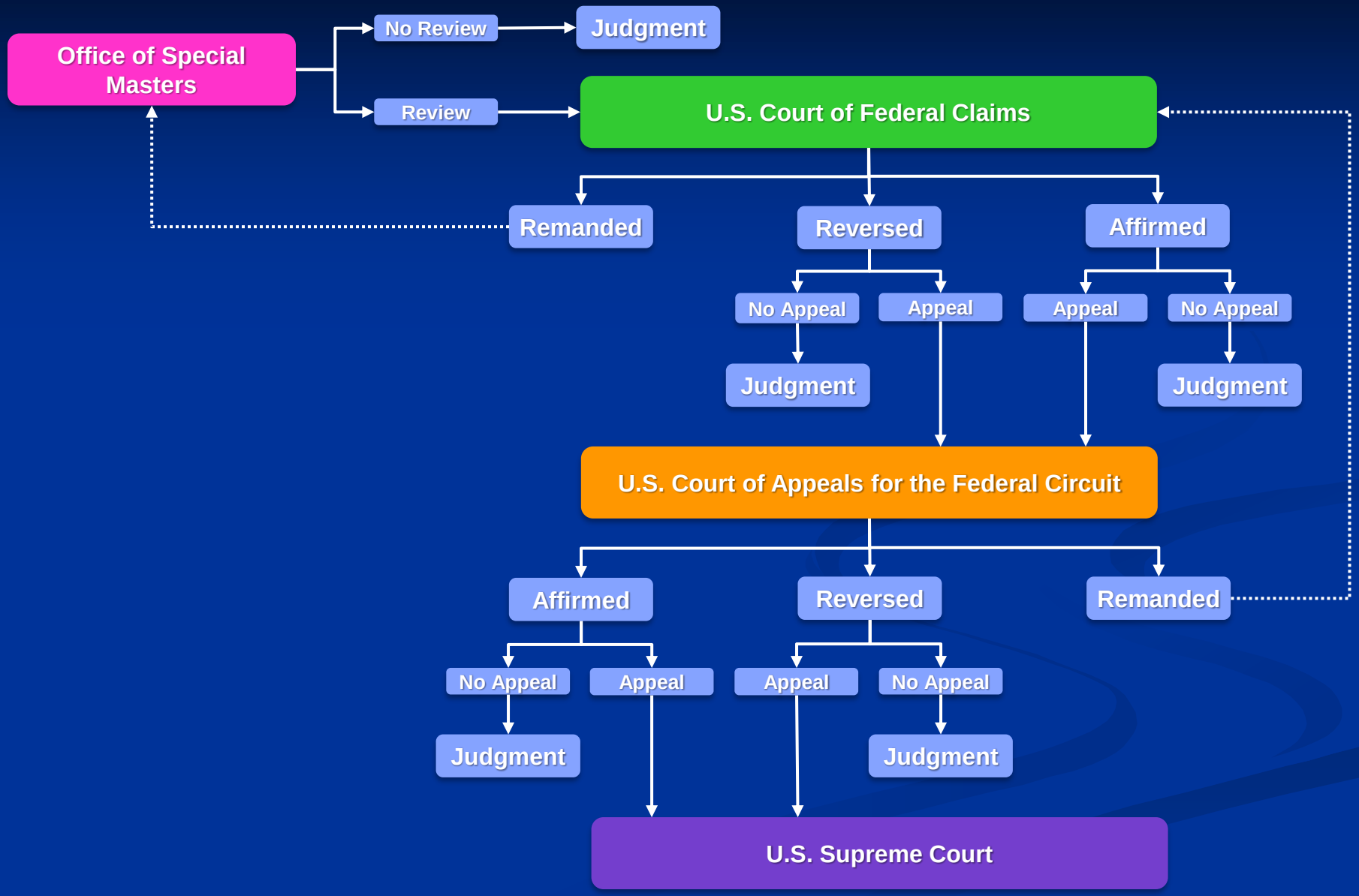
Glossary of Terms

- **Affirmed:** Case has been reviewed on appeal, and the court on appeal agreed with the decision of the lower court.
- **Reversed:** Case has been reviewed on appeal, and the court on appeal disagreed with the decision of the lower court. The court on appeal typically provides reasons for reversing, and that decision becomes the law of the case, absent further appeal.
- **Remanded:** Case has been reviewed on appeal, and the reviewing court has a problem with the decision and sends it back to the lower court. Typically, a case is remanded with a specific question or issue for the lower court to address.
- **Vacated:** Case has been reviewed on appeal, and the reviewing court has voided the lower court's decision.

Petition Processing in the Office of Special Masters



Levels of Appeal in Vaccine Act Cases



Appeals Process for Vaccine Act Cases