

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-1311V

Filed: May 15, 2018

UNPUBLISHED

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Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Ann Mayhew Golski, Maglio Christopher & Toale, PA, Washington, DC, for petitioner.  
Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

**Dorsey**, Chief Special Master:

On September 22, 2017, 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”). Petitioner alleges that she sustained a shoulder injury related to vaccine administration (“SIRVA”) caused by the influenza (“flu”) vaccine she received on September 29, 2016. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On March 5, 2018, a ruling on entitlement was issued, finding petitioner entitled to compensation for her shoulder injury. On May 14, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$71,653.58. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). 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).

proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$71,653.58 in the form of a check payable to petitioner, [REDACTED]** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

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

[REDACTED]  
Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 17-1311V  
Chief Special Master Dorsey  
ECF

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

On February 28, 2018, respondent filed a Rule 4(c) Report conceding petitioner's entitlement to compensation for her SIRVA injury. On March 5, 2018, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to damages in this case. Respondent now proffers that petitioner receive an award of a lump sum of **\$71,653.58** in the form of a check payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.<sup>1</sup> This proffer does not address final attorneys' fees and litigation costs. Petitioner is additionally entitled to reasonable attorneys' fees and litigation costs, to be determined at a later date upon petitioner submitting substantiating documentation.

Petitioner agrees with the proffered award of **\$71,653.58** as representing all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner is entitled.

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

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<sup>1</sup> Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

C. SALVATORE D`ALESSIO  
Acting Director  
Torts Branch, Civil Division

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Torts Branch, Civil Division

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s/Camille M. Collett  
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DATE: May 14, 2018