

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

**No. 13-1007V**

(Filed: June 27, 2014)

\* \* \* \* \*

RAITHE PACE,

\*

UNPUBLISHED

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Petitioner,

\*

Special Master Dorsey

\*

v.

\*

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*

Decision on Proffer; Damages;  
Influenza (“Flu”) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (“SIRVA”).

\*

\*

Respondent.

\*

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\* \* \* \* \*

Maximillian J. Muller, Muller Brazil, LLP, Philadelphia, PA, for petitioner.

Traci Patton, United States Department of Justice, Washington, DC, for respondent.

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

On December 19, 2013, Raithe Pace (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program<sup>2</sup> alleging that she suffered from a left shoulder injury that had been caused-in-fact by an influenza (“flu”) vaccine administered to her on September 24, 2011. Petition at 1. On June 3, 2014, a Ruling on Entitlement was issued based on respondent’s concession.

On June 25, 2014, respondent filed a Proffer on Award of Compensation. Respondent proffers that, based upon her review of the evidence of record, petitioner should be awarded

<sup>1</sup> Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this ruling on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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).

<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter “Vaccine Act” or “the Act”). Hereafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

\$95,000.00. Respondent states that petitioner agrees with the amount set forth in the Proffer.

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 \$95,000.00, in the form of a check payable to petitioner, Raithe Pace. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.**

Proffer ¶ II.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** herewith.<sup>3</sup>

**IT IS SO ORDERED.**

s/ Nora Beth Dorsey  
Nora Beth Dorsey  
Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is 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

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RAITHE PACE,	)	
	)	
Petitioner,	)	
v.	)	No. 13-1007V
	)	Special Master Dorsey
SECRETARY OF HEALTH AND HUMAN	)	ECF
SERVICES,	)	
	)	
Respondent.	)	
	)	
	)	
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**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

**I. Compensation for Vaccine Injury-Related Items**

Respondent proffers that, based on the evidence of record, petitioner should be awarded \$95,000.00. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)(1); 15(a)(3)(A); and 15(a)(4). Petitioner agrees.

**II. Form of the Award**

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment as described below, and request that the special master’s decision and the Court’s judgment award the following:<sup>1</sup>

- A. A lump sum payment of \$95,000.00 in the form of a check payable to petitioner, Raithe Pace. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

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<sup>1</sup> Should petitioner die prior to 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 and future pain and suffering.

Respectfully submitted,

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Director  
Torts Branch, Civil Division

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s/Traci R. Patton  
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DATE: June 25, 2014