

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-0780V

Filed: January 28, 2016

Unpublished

THOMAS DYROFF,

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Petitioner,

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

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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Lawrence R. Cohan, Anapol, Schwartz, et al., Memphis, TN, for petitioner.

Michael P. Milmo, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On July 24, 2015, Thomas Dyroff (“petitioner”) filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,² [the “Vaccine Act”]. Petitioner alleges that as a result of receiving an influenza (“flu”) vaccine on October 3, 2013, he suffered a shoulder injury related to vaccine administration (“SIRVA”). Petition at 1. The case was assigned to the Special Processing Unit (“SPU”) of the Office of Special Masters.

On October 13, 2015, a ruling on entitlement was issued, finding petitioner entitled to compensation for a Shoulder Injury Related to Vaccine Administration (“SIRVA”). On January 28, 2016, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded **\$100,000.00**. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.*

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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.

² 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).

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 \$100,000.00 in the form of a check payable to petitioner, Thomas Dyroff.** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The January 28, 2016 deadline for respondent's status report is deemed moot and is terminated.

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

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
Chief Special Master

³ 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.

§ 300aa-15(a) to which petitioner would be entitled.

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

Respectfully submitted,

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Dated: January 28, 2016