

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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CATHERINE A. FERDETTA, \*

Petitioner, \*

v. \*

SECRETARY OF HEALTH AND HUMAN SERVICES, \*

Respondent. \*

\* \* \* \* \*

No. 15-835V  
Special Master Christian J. Moran

Filed: January 5, 2016

Damages; decision based on proffer;  
Tdap vaccination; shoulder injury;  
SIRVA.

Daniel R. Gage, Gage Fiore, LLC, Lawrenceville, NJ, for Petitioner;  
Glenn A. MacLeod, U.S. Department of Justice, Washington, DC, for Respondent.

### UNPUBLISHED DECISION AWARDING DAMAGES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

On August 5, 2015, Catherine Ferdetta filed a petition seeking compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-1 et seq., alleging that the tetanus-diphtheria-acellular pertussis (“Tdap”) vaccination caused her to suffer a shoulder injury related to vaccine administration (“SIRVA”).

On December 30, 2015, respondent filed a Proffer on Award of Compensation, to which petitioner agrees. Based upon the record as a whole, the special master finds the proffer reasonable and that petitioner is entitled to an award as stated in the Proffer. Pursuant to the attached Proffer the court awards petitioner:

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

**A lump sum payment of \$110,000.00, in the form of a check payable to petitioner, Catherine Ferdetta. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).**

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 15-835V according to this decision and the attached proffer.<sup>2</sup>

Any questions may be directed to my law clerk, Dan Hoffman, at (202) 357-6360.

**IT IS SO ORDERED.**

s/Christian J. Moran  
Christian J. Moran  
Special Master

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<sup>2</sup> 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.

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Petitioner, \*  
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SECRETARY OF HEALTH \*  
AND HUMAN SERVICES, \*  
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Respondent. \*  
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No. 15-835V (ECF)  
SPECIAL MASTER  
CHRISTIAN J. MORAN

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

On October 9, 2015, the Special Master found that a preponderance of the medical evidence indicates that petitioner suffered a shoulder injury related to vaccine administration (“SIRVA”), which was causally related to the tetanus-diphtheria-acellular pertussis (“Tdap”) vaccination she received on August 16, 2012. The parties have now addressed the amount of compensation to be awarded in this case.

**I. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded a total lump sum of \$110,000.00, which amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).<sup>1</sup> Petitioner agrees.

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

**II. Form of the Award**

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$110,000.00 in the form of a check payable to petitioner.

Petitioner agrees.

Respectfully submitted,

BENJAMIN C. MIZER  
Principal Deputy Assistant Attorney General

RUPA BHATTACHARYYA  
Director  
Torts Branch, Civil Division

VINCENT J. MATANOSKI  
Deputy Director  
Torts Branch, Civil Division

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Torts Branch, Civil Division

/s/ GLENN A. MACLEOD  
GLENN A. MACLEOD  
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DATE: December 30, 2015