

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 16-1496V

Filed: July 10, 2017

UNPUBLISHED

RACHEL KOENIG,

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)

*Shealene Priscilla Wasserman, Muller Brazil, LLP, Dresher, PA, for petitioner.*  
*Ryan Daniel Pyles, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On November 14, 2016, 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 suffered a shoulder injury related to vaccine administration (“SIRVA”) following her October 6, 2015 influenza (“flu”) vaccination. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 13, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for SIRVA. On July 10, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$60,000.00. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered

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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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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).

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 \$60,000.00 in the form of a check payable to petitioner, Rachel Koenig.** 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.

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

RACHEL KOENIG,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 16-1496V

Chief Special Master Nora Beth Dorsey  
ECF

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

On April 11, 2017, respondent filed his Rule 4(c) Report, in which he recommended that the Court find petitioner entitled to compensation, and on April 13, 2017, the Court entered its Ruling on Entitlement, finding petitioner entitled to compensation. Respondent now proffers that petitioner receive an award of a lump sum of **\$60,000.00** 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>

Petitioner agrees with the proffered award of \$60,000.00.<sup>2</sup>

Respectfully submitted,

CHAD A. READLER  
Acting Assistant Attorney General

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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, future pain and suffering, and future lost wages.

<sup>2</sup> This proffer does not include any award for attorneys' fees and costs that may be awarded pursuant to 42 U.S.C. § 300aa-15(e).

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

CATHARINE E. REEVES  
Deputy Director  
Torts Branch, Civil Division

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s/ RYAN D. PYLES  
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Dated: July 10, 2017