

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-0108V

Filed: January 18, 2018

UNPUBLISHED

JEFFREY CAPUTO,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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

*Bruce William Slane, Law Office of Bruce W. Slane, P.C., White Plains, NY, for petitioner.*

*Jennifer Leigh Reynaud, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On January 23, 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 he received a flu vaccine on October 2, 2015, and that he subsequently suffered a right shoulder injury that included an impingement syndrome, bicipital tendonitis, supraspinatus tendinosis, deltoid tendonitis, a rotator cuff arthropathy/tear, acromioclavicular synovitis, and bicipital tenosynovitis. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 30, 2017, a ruling on entitlement was issued, finding petitioner entitled to compensation for his shoulder injury. On January 18, 2018, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$77,403.96. Proffer at 1. In the Proffer, respondent represented that petitioner agrees

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

with the 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 \$77,403.96 in the form of a check payable to petitioner, Jeffrey Caputo.** This amount represents compensation for all damages that would be available under § 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**

JEFFREY CAPUTO,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 17-108V

Chief Special Master Dorsey

ECF

**PROFFER ON AWARD OF DAMAGES**

On January 23, 2017, Jeffrey Caputo (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Respondent conceded petitioner’s entitlement to compensation in his Rule 4(c) Report filed on November 30, 2017. Based on Respondent’s Rule 4(c) Report the Chief Special Master found petitioner entitled to compensation.

**I. Items of Compensation**

Based on the evidence of record, respondent proffers that petitioner should be awarded \$77,403.96, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. §300aa-15(a). Petitioner agrees.

**II. Form of the Award**

Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of **\$77,403.96**, in the form of a check made payable to petitioner.<sup>1</sup> Petitioner agrees.

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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.

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

Respectfully submitted,

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s/Jennifer L. Reynaud  
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Date: January 18, 2018