

CORRECTED

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-0133V

UNPUBLISHED

JOANNA OAKLEY,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 18, 2020

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

Anne Carrion Toale, Maglio Christopher & Toale, PA, Sarasota, FL, for petitioner.

Mollie Danielle Gorney, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On January 30, 2017, 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 she suffered a shoulder injury related to vaccine administration (“SIRVA”) caused by her October 1, 2015 influenza vaccination. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 3, 2017, a ruling on entitlement was issued, finding Petitioner entitled to compensation for he SIRVA. On February 13, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$267,936.57, representing compensation in the amount of “\$175,000.00 for pain and suffering, \$90,389.69 for past lost earnings, \$2,275.00 for vocational training, and \$271.88 for mileage.” Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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). **This means the decision will be available to anyone with access to the internet.** 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, I agree that the identified material fits within this definition, I 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).

with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$267,936.57, representing compensation in the amount of \$175,000.00 for pain and suffering, \$90,389.69 for past lost earnings, \$2,275.00 for vocational training, and \$271.88 for mileage, in the form of a check payable to Petitioner.** 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.³

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
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.

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

JOANNA OAKLEY,)	
)	
Petitioner,)	
)	
v.)	No. 17-133V
)	Chief Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

On October 2, 2017, respondent conceded that entitlement to compensation was appropriate under the terms of the Vaccine Act. Thereafter, on October 3, 2017, the Court finding that petitioner was entitled to vaccine compensation for her Shoulder Injury Related to Vaccine Administration (“SIRVA”). Based upon the evidence of record, respondent proffers that petitioner should be awarded \$267,936.57. The award is comprised of the following: \$175,000.00 for pain and suffering, \$90,389.69 for past lost earnings, \$2,275.00 for vocational training, and \$271.88 for mileage. This amount 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

The parties recommend that compensation provided to petitioner should be made through a lump sum payment of **\$267,936.57**, in the form of a check payable to petitioner. Petitioner agrees.

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

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

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

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

/s/ Mollie D. Gorney
Mollie D. Gorney
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington D.C. 20044-0146
(202) 616- 4029
mollie.d.gorney@usdoj.gov

Dated: February 13, 2020