

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**No. 23-848V**

BARBARA POWERS,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 15, 2024

*Brynna Gang, Kraus Law Group, LLC, Chicago, IL, for Petitioner.*

*Naseem Kourosh, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On June 7, 2023, Barbara Powers 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”) as a result of a tetanus-diphtheria-acellular pertussis (“Tdap”) vaccination administered to her on November 19, 2021. Pet., ECF No. 1. Petitioner further alleges that the vaccine was received in the United States, she suffered sequela of her injury for more than six months, and neither Petitioner nor any other party has ever received compensation in the form of an award or settlement for her vaccine-related injury. *Id.* The case was assigned to the Special Processing Unit of the Office of Special Masters.

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<sup>1</sup> Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

On July 22, 2024, a Ruling on Entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. ECF No. 21. On August 15, 2024, Respondent filed a Proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$70,000.00 in pain and suffering. Proffer at 2, ECF No. 23. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. See *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 \$70,000.00 for pain and suffering, in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this Decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
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**

BARBARA POWERS,

Petitioner,

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

No. 23-848V (ECF)  
Chief Special Master Corcoran

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

On June 7, 2023, Barbara Powers (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (2018) (the “Vaccine Act”). Petitioner alleged that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of a tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine administered on November 19, 2021. ECF No. 1 (Petition) at 1.

On May 8, 2024, the Chief Special Master issued Findings of Fact concluding that petitioner received the vaccine in her right shoulder. ECF No. 15 at 2.

On May 23, 2024, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that, in light of the fact ruling, he would not contest that petitioner suffered a SIRVA Table injury. ECF No. 19.<sup>1</sup>

On July 22, 2024, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to compensation. ECF No. 21.

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<sup>1</sup> The parties have no objection to the amount of the proffered award of damages. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(f), to seek review of the Chief Special Master’s May 8, 2024 fact ruling. This right accrues following the issuance of a Decision on Damages.

**I. Items of Compensation**

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$70,000.00 in damages, consisting of pain and suffering, 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**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following: a lump sum payment of **\$70,000.00**, in the form of a check payable to petitioner.<sup>2</sup>

Respectfully submitted,

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Director  
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Deputy Director  
Torts Branch, Civil Division

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<sup>2</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.

/s/ Naseem Kouros  
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