

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-854V

Filed: February 19, 2016

UNPUBLISHED

JANELLE CURRENT,

*

*

Petitioner,

*

*

Damages Decision Based on Proffer;

Influenza ("Flu") Vaccine;

Shoulder Injury Related to Vaccine

SECRETARY OF HEALTH

*

Administration ("SIRVA");

AND HUMAN SERVICES,

*

Special Processing Unit ("SPU")

*

Respondent.

*

*

Paul Brazil, Muller Brazil LLP, Dresher, PA, for petitioner.

Debra Begley, U.S. Department of Justice, Washington, DC for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On August 10, 2015, Janelle Current ("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" or "Program"]. Petitioner alleges that she suffered a shoulder injury caused in fact by the influenza vaccination she received on October 6, 2014. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 18, 2015, the undersigned issued a ruling on entitlement, finding that petitioner was entitled to compensation. On February 19, 2016, respondent filed a proffer on award of compensation ["Proffer"] stating that petitioner should be awarded \$60,000.00 for pain and suffering and \$11,000.00 for payment of past lost wages for a total award of \$71,000.00. Proffer at 1. According to respondent's Proffer, the parties

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). 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).

“agree that there are no past or future unreimbursed expenses or future wage loss that is related to petitioner’s vaccine-related injury”, and petitioner agrees to the proposed award of compensation. *Id.*

Pursuant to the terms stated in the attached Proffer, the undersigned awards petitioner a **lump sum payment of \$71,000.00 in the form of a check payable to petitioner, Janelle Current, representing \$60,000.00 for pain and suffering and \$11,000.00 for payment of past lost wages.** 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.³

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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

JANELLE CURRENT, *

Petitioner, *

v. *

SECRETARY OF HEALTH AND *

HUMAN SERVICES, *

Respondent. *

No. 15-854V
CHIEF SPECIAL MASTER
NORA BETH DORSEY

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

For purposes of this proffer, the term “vaccine-related” is as described in Respondent’s Rule 4(c) Report, filed on December 17, 2015, conceding entitlement in this case. Based upon the evidence of record, respondent proffers that petitioner should be awarded \$71,000.00, consisting of \$60,000.00 in pain and suffering and \$11,000.00 for payment of a past lost wages. These payments represent all elements of competition to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a) for her vaccine-related injury.¹ The parties agree that there are no past or future unreimbursed expenses or future wage loss that is related to petitioner’s vaccine-related injury. Petitioner agrees.

¹ 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 lost earnings, and future pain and suffering.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through lump sum payments described below, and request that the Chief Special Master's decision and the Court's judgment award the following:

A lump sum of \$71,000.00 in the form of a check payable to petitioner, Janelle Current. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

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

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

HEATHER L. PEARLMAN
Senior Trial Attorney
Torts Branch, Civil Division

/s/ DEBRA A. FILTEAU BEGLEY
DEBRA A. FILTEAU BEGLEY
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Phone: (202) 616-4181

Dated: February 19, 2016