

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-1265V

Filed: June 23, 2016

UNPUBLISHED

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KATHLEEN ROMERO,

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Petitioner,

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v.

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SECRETARY OF HEALTH  
AND HUMAN SERVICES,

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\*

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Respondent.

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*Mark R. Karsner, Karsner & Meehan, P.C., Taunton, MA, for petitioner.*

*Michael Patrick Milmoe, U.S. Department of Justice, Washington, DC, for respondent.*

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

**Dorsey**, Chief Special Master:

On October 27, 2015, Kathleen Romero (“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 developed a rotator cuff tear and other injuries as a result of receiving a seasonal influenza (“flu”) vaccine on November 2, 2014. Petition at 1-2. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 22, 2016, a ruling on entitlement was issued finding petitioner entitled to compensation. On June 23, 2016, respondent filed a proffer on award of compensation (“Proffer”) stating petitioner should be awarded \$135,000.00. Proffer at 1. In the Proffer, respondent represents that petitioner agrees with the proffered award.

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 Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

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 \$135,000.00, in the form of a check payable to petitioner, Kathleen Romero.** 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.

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## I. Compensation for Vaccine Injury-Related Items

## II. Form of the Award

<sup>1</sup> Should petitioner die prior to entry of judgment, respondent reserves 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.

- A. A lump sum payment of \$135,000.00 in the form of a check payable to petitioner, Kathleen Romero. 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,

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*/s/ Michael P. Milmo*  
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