

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-253V

Filed: December 15, 2016

UNPUBLISHED

STEPHANIE ROSENTHAL,

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Petitioner,

*

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v.

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*

SECRETARY OF HEALTH

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AND HUMAN SERVICES,

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*

Respondent.

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

Michael Milmo, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On February 23, 2016, Stephanie Rosenthal (“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 left shoulder injuries caused in fact by the influenza vaccination she received on October 21, 2014. Petition at 1, ¶¶ 2, 8. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 15, 2016, the undersigned issued a ruling on entitlement, finding petitioner entitled to compensation. (ECF No. 12). On December 14, 2016, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$75,000.00. Proffer at 1. In the Proffer, respondent represented that

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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.

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).

petitioner agrees with the proffered award. *Id.* 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 \$75,000.00 in the form of a check payable to petitioner, Stephanie Rosenthal.** 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 the parties' joint filing of notice renouncing the right to seek review.

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|-------------------------|---|-----------------------------|
| STEPHANIE ROSENTHAL, |) | |
| |) | |
| Petitioner, |) | No. 16-253V |
| |) | Chief Special Master Dorsey |
| v. |) | ECF |
| |) | |
| SECRETARY OF HEALTH AND |) | |
| HUMAN SERVICES, |) | |
| |) | |
| Respondent. |) | |
| |) | |

I. Compensation for Vaccine Injury-Related Items

II. Form of the Award

A. A lump sum payment of \$75,000.00 in the form of a check payable to petitioner, Stephanie Rosenthal. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

¹ 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.

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

Respectfully submitted,

BENJAMIN C. MIZER
Principal Deputy Assistant Attorney General

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

CATHARINE E. REEVES
Acting Deputy Director
Torts Branch, Civil Division

ALTHEA WALKER DAVIS
Senior Trial Counsel
Torts Branch, Civil Division

/s/ Michael P. Milmoe
MICHAEL P. MILMOE
Senior Trial Counsel
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Phone: (202) 616-4125
Fax: (202) 616-4310

Dated: December 14, 2016