

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-475V

Filed: August 23, 2016

UNPUBLISHED

ALLEN O. CABANSAG,

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v.

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Petitioner,

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Damages Based on Proffer;
Diphtheria, Tetanus, acellular Pertussis
("DTaP") Vaccine; Shoulder Injury
Related to Vaccine Administration
("SIRVA"); Special Processing Unit
("SPU")

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Respondent.

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*Carol L. Gallagher, Carol L. Gallagher, Esquire, LLC, Linwood, NJ, for petitioner.
Robert P. Coleman, III, U.S. Department of Justice, Washington, DC, for respondent.*

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On April 14, 2016, Allen O. Cabansag ("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 he suffered a right shoulder injury following the administration of the diphtheria, tetanus, and acellular pertussis ("DTaP") vaccine on February 28, 2014. Petition at 1. Petitioner further alleges that he has not brought a civil action or received a settlement for his injuries alleged as vaccine caused. *Id.* at ¶¶ 35-36. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims'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

On August 23, 2016, the undersigned issued a ruling on entitlement, finding petitioner entitled to compensation. In her August 8, 2016 Rule 4(c) Report, respondent included a proffer on award of compensation, stating that petitioner should be awarded \$135,000.00. Respondent's Rule 4(c) Report and Proffer at 5. Respondent represented that 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 Respondent's Rule 4(c) Report and Proffer.

Pursuant to the terms stated in the Respondent's Rule 4(c) Report and Proffer,³ **the undersigned awards petitioner a lump sum payment of \$135,000.00 in the form of a check payable to petitioner, Allen O. Cabansag.** 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.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ Because Respondent's Rule 4(c) Report and Proffer contains detailed medical information, it will not be attached to this decision.

⁴ 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.