

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 16-0731V

Filed: April 2, 2019

PUBLISHED

COURTNEY P. BINETTE,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Decision; Pain and Suffering;
Influenza (Flu) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for petitioner.

Robert Paul Coleman, III, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES – SPECIAL PROCESSING UNIT¹

Dorsey, Chief Special Master:

On June 22, 2016, Courtney P. Binette (“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”). Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) as a result of an influenza (“flu”) vaccine she received on October 22, 2015. Petition at 1.

On March 13, 2018, the undersigned issued a ruling finding petitioner entitled to compensation. (ECF No. 37). A damages order was issued on March 14, 2018. (ECF

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' website.

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, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this published decision contains a reasoned explanation for the action in this case, undersigned is required 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).

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).

No. 38). The parties were unable to reach a resolution on the appropriate amount of damages, specifically, the amount to be awarded for petitioner's pain and suffering. (ECF Nos. 39-40). A damages hearing was held in Washington, D.C., on October 30, 2018.

On March 20, 2019, the undersigned issued a damages ruling, awarding petitioner \$130,000.00 for her actual pain and suffering, \$57,000.00 for her future pain and suffering, and \$7,101.98 for her past unreimbursable medical expenses. Damages Ruling dated March 20, 2019 (ECF No. 59). That ruling is incorporated herein as if fully set forth. The undersigned ordered the parties to file a joint status report converting the award of future pain and suffering to its net present value and to report on all other outstanding items of damages that remain unresolved, if any. *Id.* On March 29, 2019, the parties filed a joint status report agreeing that the net present value of the award for petitioner's future pain and suffering is \$41,212.94. (ECF No. 60).

Therefore, the undersigned awards a lump sum payment of \$178,314.92 (representing \$130,000.00 for actual pain and suffering, \$41,212.94 for future pain and suffering (calculated to net present value) and \$7,101.98 for past unreimbursable medical expenses) **in the form of a check made payable to petitioner, Courtney P. Binette.**

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.