

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-152V

Filed: November 7, 2017

Not for Publication

DENNIS SCHAEFER,

*

*

Petitioner,

*

*

v.

*

*

Damages decision based on
proffer; Guillain-Barré syndrome
("GBS"); influenza ("flu") vaccine

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

*

*

Respondent.

*

*

Jeffrey S. Pop, Beverly Hills, CA, for petitioner.
Claudia B. Gangi, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On January 31, 2017, petitioner filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. §§ 300aa-10-34 (2012), alleging that he suffered Guillain-Barré syndrome ("GBS") as a result of the influenza ("flu") vaccination he received on September 22, 2015. Respondent stated in his Rule 4(c) Report filed on August 30, 2017 that he does not contest entitlement in this case.

On November 7, 2017, respondent filed Respondent's Proffer on Award of Compensation. The undersigned finds the terms of the proffer to be reasonable. Based on the

¹ Because this decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

record as a whole, the undersigned finds that petitioner is entitled to the award as stated in the proffer. Pursuant to the terms stated in the attached proffer, the court awards a lump sum payment of **\$401,347.45**, representing compensation for lost earnings (\$176,347.45) and pain and suffering (\$225,000.00), representing all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). The award shall be in the form of a check for **\$401,347.45** made payable to petitioner, Dennis Schaefer.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: November 7, 2017

/s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.

DENNIS SCHAEFER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

)
)
)
)
)
)
)
)
)
)
)

No. 17-152V
Special Master Millman
ECF

Respondent proffers that the Court should award Dennis Schaefer a lump sum of \$225,000.00 for his actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. See § 300aa-15(a)(4). Petitioner agrees.

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment as described below and request that the Special Master's decision and the Court's judgment award the following¹: a lump sum payment of \$401,347.45, representing compensation for lost earnings (\$176,347.45), and pain and suffering (\$225,000.00), in the form of a check payable to petitioner, Dennis Schaefer.

III. Summary of Recommended Payment Following Judgment

Lump sum payable to petitioner: **\$401,347.45**

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

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

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

GABRIELLE M. FIELDING
Assistant Director
Torts Branch, Civil Division

¹ Should petitioner predecease entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future pain and suffering and future loss of earnings.

/s/ Claudia B. Gangi
CLAUDIA B. GANGI
Senior Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-4138

Dated: November 7, 2017