

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 18-674V

Filed: September 3, 2019

UNPUBLISHED

PAULA ROSSELET,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Tetanus Diphtheria acellular
Pertussis (Tdap) Vaccine; Influenza
(Flu) Vaccine; Measles Mumps
Rubella (MMR) Vaccine; Shoulder
Injury Related to Vaccine
Administration (SIRVA)

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

Daniel Anthony Principato, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On April 29, 2019, 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”) following the receipt of influenza (“flu”); Tetanus, diphtheria, acellular pertussis (“Tdap”); and measles, mumps, and rubella (“MMR”) vaccinations. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

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 Because this unpublished decision contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims' website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

On April 30, 2019, a ruling on entitlement was issued, finding petitioner entitled to compensation for a SIRVA. On August 27, 2019, respondent filed a proffer on award of compensation (“Proffer”)³ indicating petitioner should be awarded \$64,936.59 consisting of \$62,500.00 for pain and suffering and \$2,436.59 for unreimbursable expenses. Proffer at 2. In the Proffer, 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 Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$\$64,936.59 (consisting of \$62,500.00 for pain and suffering and \$2,436.59 for unreimbursable expenses) in the form of a check payable to petitioner, Paula Rosselet.** This amount represents compensation for all damages that would be available under § 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 Respondent’s Proffer was filed using the “Status Report” event. See ECF No. 30.

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.

PAULA ROSSELET,)	No. 18-674V
)	Chief Special Master Dorsey
Petitioner,)	ECF
)	
v.)	
)	
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

I. Compensation for Vaccine Injury-Related Items

Respondent now proffers that, based on the evidence of record, petitioner should be awarded \$64,936.59. This amount represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment described below, and request that the Chief Special Master's decision and the Court's judgment award the following: ¹

¹ Should petitioner die prior to entry of judgment, the parties reserve 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. Petitioner's Damages

A lump sum payment of \$64,936.59 (comprised of \$62,500.00 for pain and suffering and \$2,436.59 in unreimbursable expenses) in the form of a check payable to petitioner, Paula Rosselet.

B. Guardianship

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

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

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

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

ALEXIS B. BABCOCK
Assistant Director
Torts Branch, Civil Division

/s/ Daniel A. Principato
DANIEL A. PRINCIPATO
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Phone: (202) 616-3662
Fax: (202) 353-2988

Dated: August 27, 2019