

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1424V

UNPUBLISHED

CORRECTED

JENNIFER MITCHELL,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: December 12, 2019

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Edward Zwilling, Schwartz, Zweben & Slingbaum, LLP, Birmingham, AL, for petitioner.*

*Christine Mary Becer, U.S. Department of Justice, Washington, DC, for respondent.*

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On September 18, 2018, Jennifer Mitchell filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered a left Shoulder Injury Related to Vaccine Administration (SIRVA) after receiving the influenza (“flu”) vaccination on November 4, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 12, 2019, a ruling on entitlement was issued, finding Petitioner entitled to compensation for a left SIRVA. On December 5, 2019, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$72,627.13, with \$70,000 for pain and suffering and \$2,627.13 for unreimbursed expenses. Respondent’s Rule 4(c) Report and Proffer on Award of Compensation at 4.

<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims’ website in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). **This means the ruling 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, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> 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).

In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms in Respondent's Rule 4(c) Report and Proffer on Award of Compensation (ECF 35), **I award Petitioner a lump sum payment of \$72,627.13 in the form of a check payable to Petitioner.** 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.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**  
Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> 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.