

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 10-643V

Filed: August 13, 2012

ROBERT LAWRENCE,)	
)	NOT TO BE PUBLISHED
Petitioner,)	
)	Proffer; Damages; Tetanus,
v.)	Diphtheria, acellular Pertussis
)	vaccine ("Tdap"); Brachial
SECRETARY OF)	neuritis.
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

Michael J. Williams, Cellino and Barnes, P.C., Buffalo, NY, for Petitioner.

Justine E. Daigneault, U.S. Dep't of Justice, Washington, D.C., for Respondent.

DECISION¹

LORD, Special Master.

On September 24, 2010, Petitioner filed a Petition for compensation under the National Vaccine Compensation Program. See 42 U.S.C. §§ 300aa-10-34. The Petition alleged that Petitioner, Robert Lawrence, suffered from brachial neuritis as a result of receiving the Adacel Tdap vaccine on September 27, 2007. On April 1, 2011, Respondent filed the Rule 4(c) Report noting that "[t]he facts of this case support a finding that petitioner suffered from a Table injury" and recommending compensation be awarded to Petitioner. Resp't's Rep. at 8, ECF No. 13.

On April 6, 2011, the undersigned found Petitioner entitled to compensation. Ruling on Entitlement, ECF No. 14. On August 13, 2012, Respondent filed a Joint Proffer on Award of Compensation ("Proffer"). Proffer, ECF No. 22 (attached hereto as Appendix A). Petitioner's acceptance is set forth within the Proffer. Id.

After a review of the record as a whole, I find the Proffer reasonable and that Petitioner is entitled to an award as detailed in the Proffer. The Court is convinced,

¹ In accordance with Vaccine Rule 18(b), a petitioner has 14 days to file a proper motion seeking redaction of medical or other information that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Rules of the United States Court of Federal Claims ("RCFC"), Appendix B, Vaccine Rule 18(b). Redactions ordered by the special master, if any, appear in the document as posted on the United States Court of Federal Claims' website.

based on its experience and the information in the record, that this award shall provide reasonable compensation to cover Petitioner's vaccine-related expenses.

I. FORM OF THE AWARD

As stated in the Proffer, "The parties recommend that the compensation provided to petitioner should be made through a lump sum payment." Proffer at 1.

A. Lump sum

The Court awards a lump sum payment of \$100,000.00, which represents all elements of compensation to which Petitioner would be entitled under 42 U.S.C. § 300aa-15(a).

II. CONCLUSION

The undersigned recognizes the good efforts of all involved in this matter. Based on the foregoing, the Court hereby **ADOPTS** Respondent's Joint Proffer in its entirety, attached hereto as Appendix A, and awards compensation in the amount and upon the terms set forth therein. **Specifically, Petitioner is awarded:**

a lump sum payment of \$100,000.00 in the form of a check payable to Petitioner Robert Lawrence.

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

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

ROBERT LAWRENCE,)	
)	
Petitioner,)	
)	
v.)	No. 10-643V
)	Special Master Lord
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

JOINT PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

Based upon the evidence of record, the parties jointly proffer that petitioner should be awarded \$100,000.00, which represents all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).

II. Form of the Award

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of \$100,000.00 in the form of a check payable to petitioner.

Respectfully submitted,

**ATTORNEY OF RECORD FOR
PETITIONER:**

s/ Michael J. Williams, Esq.
MICHAEL J. WILLIAMS, ESQ.
Cellino & Barnes, P.C.
350 Main Street, 25th Floor
2500 Main Place Tower
Buffalo, New York 14202-3725
(716) 854-2020

**ATTORNEY OF RECORD FOR
RESPONDENT:**

STUART F. DELERY
Assistant Attorney General

RUPA BHATTACHARYYA
Director
Torts Branch, Civil Division

VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch, Civil Division

MICHAEL P. MILMOE
Senior Trial Counsel
Torts Branch, Civil Division

s/ Justine E. Daigneault
JUSTINE E. DAIGNEAULT
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Telephone: (202) 307-6393

Dated: August 13, 2012