

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 12-470V

Filed: May 22, 2013

Not for Publication

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KATHLEEN ANN MENNENGA, \*

\*

Petitioner, \*

\*

\*

Damages Decision Based on Proffer

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v. \*

\*

\*

SECRETARY OF HEALTH  
AND HUMAN SERVICES, \*

\*

\*

Respondent. \*

\*

\*

\*\*\*\*\*

Sean F. Greenwood, Houston, TX, for petitioner.

Heather L. Pearlman, Washington, DC, for respondent.

**MILLMAN, Special Master**

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

On May 22, 2013, respondent filed a Proffer on Award of Compensation. Based on the record as a whole, the special master 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 petitioner a lump sum of **\$418,793.12**, representing the discounted present value of petitioner's future medical expenses (\$22,815.00), lost earnings (\$305,353.93), pain and suffering (\$89,112.99), and past unreimbursable expenses (\$1,511.20). The award shall be in the form of a check payable to

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<sup>1</sup> 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 delete 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 delete such material from public access.

petitioner in the amount of **\$418,793.12.**

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.<sup>2</sup>

**IT IS SO ORDERED.**

Dated: May 22, 2013

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

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<sup>2</sup> 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.

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

KATHLEEN ANN MENNENGA,	)	
	)	
Petitioner,	)	
v.	)	No. 12-470V
	)	Special Master Millman
SECRETARY OF HEALTH	)	ECF
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

**I. ITEMS OF COMPENSATION**

A. Future Medical Expenses

Respondent proffers that petitioner, Kathleen Ann Mennenga, should be awarded \$22,815.00 for her future vaccine-injury related needs. Petitioner agrees.

B. Lost Earnings

The parties agree that based upon the evidence in the record, petitioner is entitled to lost earnings. Therefore, respondent proffers that petitioner should be awarded lost earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(A). Respondent proffers that the appropriate award for petitioner’s lost earnings is \$305,353.93. Petitioner agrees.

C. Pain and Suffering

Respondent proffers that petitioner should be awarded \$89,112.99 in 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 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

D. Past Un-reimbursable Expenses

Evidence supplied by petitioner documents petitioner's expenditure of past un-reimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past un-reimbursable expenses in the amount of \$1,511.20. Petitioner agrees.

E. Medicaid Lien

Petitioner represents that there are no Medicaid liens outstanding against her.

**II. FORM OF THE AWARD**

The parties recommend that the compensation provided to petitioner should be made through a lump sum payment of **\$418,793.12**, representing the discounted present value of petitioner's future medical expenses (\$22,815.00), lost earnings (\$305,353.93), pain and suffering (\$89,112.99) and past un-reimbursable expenses (\$1,511.20) in the form of a check payable to Kathleen Ann Mennenga. This amount represents all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

Respectfully submitted,

STUART F. DELERY  
ACTING ASSISTANT ATTORNEY GENERAL

RUPA BHATTACHARYYA  
DIRECTOR  
Torts Branch, Civil Division

VINCENT J. MATANOSKI  
Deputy Director  
Torts Branch, Civil Division

LYNN E. RICCIARDELLA  
Senior Trial Attorney  
Torts Branch, Civil Division

s/ Heather L. Pearlman  
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DATED: May 22, 2013