

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 18-1937V

UNPUBLISHED

KIRSTEN SOMARELLI,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 26, 2020

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

*Jason Robert Ohliger, Weinstein, Zimmerman & Ohliger, Milford, PA, for Petitioner.*

*Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for Respondent.*

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

On December 19, 2018, Kirsten Somarelli 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 sustained a SIRVA after receiving a BexSero-Serogroup B Meningococcal vaccine on June 18, 2018. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On January 3, 2020, a ruling on entitlement was issued, finding Petitioner entitled to compensation for her SIRVA. On February 26, 2020, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$55,000.00. Proffer at 1. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* at 2. Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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 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, 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).

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$55,000.00 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.

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

KIRSTEN SOMARELLI,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 18-1937V
	)	Chief Special Master Corcoran
	)	ECF
SECRETARY OF HEALTH AND HUMAN	)	
SERVICES,	)	
	)	
Respondent.	)	
	)	

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

On December 19, 2018, Kirsten Somarelli (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that she suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of a meningococcal B vaccine she received on June 16, 2018. Petition at 1. On January 15, 2019, petitioner filed an amended petition to correct the exhibits referenced in the original petition. ECF No. 7. On January 2, 2020, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report indicating that this case is appropriate for compensation under the terms of the Act, and on January 3, 2020, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 26; ECF No. 27.

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that Kirsten Somarelli should be awarded \$55,000.00 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.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to Kirsten Somarelli should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following<sup>1</sup>: a lump sum payment of \$55,000.00, representing compensation for pain and suffering, in the form of a check payable to petitioner, Kirsten Somarelli.

**III. Summary of Recommended Payments Following Judgment**

Lump sum payable to petitioner, Kirsten Somarelli:	<b>\$55,000.00</b>
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Respectfully submitted,

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Assistant Attorney General

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Acting Director  
Torts Branch, Civil Division

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Torts Branch, Civil Division

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Assistant Director  
Torts Branch, Civil Division

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<sup>1</sup> 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 lost earnings and future pain and suffering.

s/ Sarah C. Duncan  
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