

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1367V
UNPUBLISHED

PAUL SHUPING,
*as father and natural guardian of minor
child, T.S.,*

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 13, 2021

Special Processing Unit (SPU);
Damages Decision on Proffer; Table
Injury; Rotavirus Vaccine;
Intussusception.

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for
Petitioner.*

Meghan Murphy, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON DAMAGES¹

On October 13, 2020, 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 T.S., his minor child, suffered intussusception as a result of a rotavirus vaccine administered on October 18, 2017. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished opinion contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On March 29, 2021, I issued a ruling that Petitioner, on behalf of T.S., was entitled to compensation for T.S.'s Table intussusception. ECF No. 15. On September 10, 2021, Respondent filed a proffer on an award of compensation, to which Petitioner agrees. Proffer (ECF No. 25) (attached hereto as Exhibit A). *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 stated in the attached Proffer, **I award:**

- **A lump sum payment of \$50,000.00 (for T.S.'s pain and suffering) in the form of a check payable to Petitioner as guardian/conservator of T.S.'s estate; and**
- **A lump sum payment of \$5,490.68 (for Petitioner's past unreimbursable expenses related to T.S.'s vaccine-related injury) in the form of a check payable to Petitioner.**

These amounts represent compensation for all damages that would be available under Section 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

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

³ 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**

PAUL SHUPING, as father and natural guardian of minor child, T.S.,)	
)	
Petitioner,)	No. 20-1367V
)	Chief Special Master Corcoran
v.)	ECF
)	
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On October 13, 2020, Paul Shuping (“petitioner”) filed a petition for compensation on behalf of his minor child, T.S., under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), alleging that T.S. suffered intussusception as a result of receiving a rotavirus vaccination on October 18, 2017. See Petition at Preamble. On March 29, 2021, respondent conceded that entitlement to compensation was appropriate under the terms of the Vaccine Act. ECF No. 13. Thereafter, on March 29, 2021, Chief Special Master Corcoran issued a Ruling on Entitlement, finding that petitioner was entitled to vaccine compensation for T.S.’s intussusception and resulting sequelae. ECF No. 15.

I. Compensation for Vaccine Injury-Related Items

Based on the evidence of record, respondent proffers that petitioner should be awarded the following:

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$50,000.00 for T.S.’s pain and suffering. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that he incurred past unreimbursable expenses related to T.S.'s vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$5,490.68. *See* 42 U.S.C. § 300aa-15(a)(1)(B). Petitioner agrees.

II. Form of the Award

Respondent recommends that the compensation provided to petitioner be made through two lump sum payments as described below:

- (1) A lump sum payment of **\$50,000.00** in the form of a check payable to petitioner as guardian/conservator of T.S.'s estate.¹ No payments shall be made until petitioner provides respondent with documentation establishing that he has been appointed as the guardian/conservator of T.S.'s estate; and
- (2) A lump sum payment of **\$5,490.68** in the form of a check payable to petitioner.

Respectfully submitted,

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C. SALVATORE D'ALESSIO
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Torts Branch, Civil Division

TRACI R. PATTON
Assistant Director
Torts Branch, Civil Division

¹ Should petitioner die prior to the entry of judgment, respondent reserves 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.

/s/ Meghan R. Murphy
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