

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-949V

EMMA FOX,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 15, 2025

Ronald Craig Homer, Conway, Homer, P.C., Boston, MA, for Petitioner.

James Connor Daughton, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On February 19, 2021, Emma Fox 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 she suffered a shoulder injury related to vaccine administration (“SIRVA”) after receiving an influenza (“flu”) vaccine on September 7, 2018. Petition at ¶¶ 1-10. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 3, 2025, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On May 14, 2025, Respondent filed a proffer on award of compensation (“Proffer”) indicating that Petitioner should be awarded a lump sum of \$49,317.18, consisting of \$48,500.00 for pain and suffering and \$817.18 for past unreimbursable expenses. Proffer at 2. In the Proffer, Respondent represented that

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims’ website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (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.

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 (2018).

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 stated in the attached Proffer, **I award Petitioner a lump sum payment of \$49,317.18, to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of 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**

EMMA FOX,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 21-949 (ECF)

Chief Special Master Brian H. Corcoran

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On February 19, 2021, Emma Fox (“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 defined in the Vaccine Injury Table, following administration of an influenza (“flu”) vaccine on September 7, 2018. Petition at 1. On April 3, 2025, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to vaccine compensation for her SIRVA.¹ ECF No. 36.

¹ Respondent has no objection to the amount of the proffered award of damages set forth herein. Assuming the Chief Special Master issues a damages decision in conformity with this proffer, respondent waives his right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Chief Special Master’s April 3, 2025 entitlement decision.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$48,500.00 in pain and suffering.

See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

B. Past Unreimbursable Expenses

Evidence supplied by petitioner documents that she incurred past unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$817.18. *See* 42 U.S.C. § 300aa-15(a)(1)(B). 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 petitioner 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 following²: a lump sum payment of \$49,317.18 to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner.

III. Summary of Recommended Payment Following Judgment

Lump sum to petitioner, Emma Fox: **\$49,317.18**

Respectfully submitted,

YAAKOV M. ROTH
Acting Assistant Attorney General

² 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.

C. SALVATORE D’ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

GABRIELLE M. FIELDING
Assistant Director
Torts Branch, Civil Division

/s/ J. Connor Daughton

J. Connor Daughton
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel.: (202) 305-3907
Email: james.c.daughton@usdoj.gov

Dated: May 14, 2025