

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 21-0966V

THOMAS K. O'CONNOR,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: August 25, 2025

Robert Joel Krakow, Law Office of Robert J. Krakow, P.C. New York, NY, for Petitioner.

Felicia Langel, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On February 19, 2021, Thomas K. O'Connor 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 he suffered a shoulder injury related to vaccine administration ("SIRVA") following an influenza vaccination he received on December 21, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On October 23, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his SIRVA. On August 22, 2025, Respondent filed a proffer on award of compensation ("Proffer") indicating Petitioner should be awarded \$106,494.15, comprised of \$100,000.00 for pain and suffering and \$6,494.15 for past unreimbursed expenses. Proffer at 1-2. In the Proffer, Respondent represented that 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.

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).

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$106,494.15, comprised of \$100,000.00 for pain and suffering and \$6,494.15 for past reimbursed expenses, 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.

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No. 21-966V
Chief Special Master Corcoran
ECF

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On February 19, 2021, Thomas K. O’Connor (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act. *See* 42 U.S.C. §§ 300aa-1 to -34, as amended (“Vaccine Act”). Petitioner alleges that he suffered from a shoulder injury related to vaccine administration (“SIRVA”), as defined in the Vaccine Injury Table (“Table”), following the administration of the influenza (“flu”) vaccine on December 21, 2020. 42 C.F.R. § 100.3(a)(XIV)(B); Petition at 1. On October 16, 2023, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report conceding entitlement to compensation under the terms of the Act for a SIRVA Table injury, and, on October 23, 2023, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 92-93.

I. Items of Compensation

A. Pain and Suffering

Based upon the evidence of record, respondent proffers that petitioner should be awarded \$100,000.00 for 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 his vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$6,494.15. *See* 42 U.S.C. § 300aa-15(a)(1)(B).

Petitioner agrees.

These amounts represent all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Respondent recommends that compensation provided to petitioner should be made through one lump sum payment and requests that the Chief Special Master's decision and the Court's judgment award the following:¹ a lump sum payment of **\$106,494.15** to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner.

Petitioner is a competent adult. Evidence of guardianship is not required in this case.

Respectfully submitted,

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C. SALVATORE D'ALESSIO
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¹ 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/ Felicia D. Langel
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DATED: August 22, 2025