

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 21-1915V

UNPUBLISHED

MILES LEVINE,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: March 23, 2023

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

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

Julia Marter Collison, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On September 27, 2021, Anna Howle, mother and natural guardian of minor child, M.L.L., filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the "Vaccine Act"). On October 12, 2022, the Court granted Ms. Howle's motion to substitute the name of her son, Miles Levine ("Petitioner"), on the case caption given that Petitioner had reached the age of majority on July 16, 2021. ECF No. 21. Petitioner alleges that he suffered a shoulder injury related to vaccine administration ("SIRVA") as a result of a meningitis vaccine administered on November 11, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

¹ Because this unpublished Decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in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

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 January 17, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation for SIRVA. On March 20, 2023, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$58,314.63 (comprised of \$55,000.00 for pain and suffering and \$3,314.63 in unreimbursed expenses). Proffer at 1. 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.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$58,314.63 (comprised of \$55,000.00 in pain and suffering, and \$3,314.63 in unreimbursed expenses) in the form of a check payable 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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OFFICE OF SPECIAL MASTERS**

MILES LEVINE,

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 21-1915V
Chief Special Master Corcoran
SPU

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On September 27, 2021, Miles Levine (“petitioner”) filed a petition for compensation (“Petition”) under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to 34 (“Vaccine Act” or “Act”), as amended.¹ Petitioner alleges that he suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) as a result of a meningitis vaccine administered to him on November 11, 2020. On January 12, 2023, respondent filed his Vaccine Rule 4(c) report, recommending that compensation be awarded. ECF No. 26. On January 17, 2023, the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation. ECF No. 27.

I. Items of Compensation

Respondent proffers that petitioner should be awarded \$55,000.00 in pain and suffering damages, and \$3,314.63.00 in unreimbursed expenses. *See* 42 U.S.C. § 300aa-15(a). Petitioner agrees.

¹ Petitioner’s mother, Anna Howle, initially brought this claim on petitioner’s behalf, and the case-caption was amended on October 12, 2022.

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 \$58,314.63, representing compensation for all elements of economic and noneconomic damages, in the form of a check payable to petitioner, Miles Levine.

III. Summary of Recommended Payments Following Judgment

| | |
|----------------------------------------------|--------------------|
| Lump sum payable to petitioner, Miles Levine | \$58,314.63 |
|----------------------------------------------|--------------------|

Respectfully submitted,

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C. SALVATORE D'ALESSIO
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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.

/s/ Julia M. Collison
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Dated: March 20, 2023