

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1011V

HIEN THAI, personal representative of
the Estate of Ho Cam Thai,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 16, 2024

Nancy Routh Meyers, Turning Point Litigation, Greensboro, NC, for Petitioner.

Ryan Pohlman Miller, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On August 18, 2022, Hien Thai, as personal representative for the Estate of Ho Cam Thai, 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 Ho Cam Thai suffered from Guillain-Barre Syndrome (“GBS”) following an influenza vaccination he received on August 19, 2020. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On November 16, 2023, a ruling on entitlement was issued, finding Petitioner entitled to compensation. On February 16, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$500,000.00, comprised of \$250,000.00 for the statutory benefit for a vaccine-related death and \$250,000.00 in past pain and suffering. Proffer at 2. In the Proffer, Respondent

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).

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 \$500,000.00, comprised of \$250,000.00 for the statutory benefit for a vaccine-related death and \$250,000.00 in past pain and suffering, in the form of a check payable to Petitioner, Hien Thai, as personal representative of the Estate of Ho Cam Thai.** 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**

HIEN THAI, personal representative of the
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Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 22-1011V
Chief Special Master Corcoran
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RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On August 18, 2022, Hien Thai, as personal representative of the Estate of Ho Cam Thai,¹ filed a petition stating that Ho Cam Thai developed Guillain-Barré syndrome (“GBS”), a Vaccine Table Injury, within the Table time frame following administration of a flu vaccine on August 19, 2020. Petitioner also alleged that Ho Cam Thai’s death was a sequela of his GBS.

On November 15, 2023, respondent filed a Rule 4(c) Report, conceding that petitioner’s claim meets the Table criteria for GBS, and that his death was vaccine related. ECF 24. On November 16, 2023, the Court issued a Ruling on Entitlement finding petitioner entitled to compensation under the Vaccine Act. ECF 26.

¹ Petitioner filed documentation on February 15, 2024, establishing that on February 22, 2022, she was appointed personal representative of Ho Cam Thai’s Estate under the laws of the State of Arizona. *See* Exhibit 15. All references to petitioner herein refer solely to Hien Thai in her representative capacity as the personal representative of the Estate of Ho Cam Thai.

I. Items of Compensation

Based upon the evidence of record, respondent proffers that petitioner should be awarded the following, and requests that the Chief Special Master's decision and the Court's judgment award:

- a. a lump sum payment of **\$250,000.00**, which represents compensation for the statutory benefit for a vaccine-related death, and
- b. a lump sum payment of **\$250,000.00**, which represents compensation for past pain and suffering.

These amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a)(2) and (a)(4).² Petitioner agrees.

II. Form of the Award

Respondent recommends that petitioner be awarded a lump sum payment of **\$500,000.00**, in the form of a check payable to petitioner, Hien Thai, as personal representative of the Estate of Ho Cam Thai.³ Petitioner agrees.

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

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

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

² This Proffer does not include attorneys' fees and costs, which the parties intend to address after a Damages Decision is issued.

³ If for some reason petitioner is not authorized by a court of competent jurisdiction to serve as the personal representative of the Estate of Ho Cam Thai at the time a payment pursuant to this Proffer is to be made, then any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as personal representative of the Estate of Ho Cam Thai upon submission of written documentation of such appointment to the Secretary.

COLLEEN C. HARTLEY
Assistant Director
Torts Branch, Civil Division

/s/ RYAN P. MILLER
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Dated: February 16, 2024