

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 23-1404V

LARRY CUNNINGHAM,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 22, 2025

Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioner.

Joseph D. Leavitt, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On August 23, 2023, Larry Cunningham 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”) after receiving a tetanus, diphtheria, and acellular pertussis (“Tdap”) vaccination on April 27, 2022. Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On December 30, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his SIRVA. On July 22, 2025, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$50,000.00. Proffer at 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 \$50,000.00, 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**

LARRY CUNNINGHAM,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 23-1404V (ECF)
Chief Special Master Corcoran

PROFFER ON AWARD OF COMPENSATION

On August 23, 2023, Larry Cunningham (“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”), as amended, alleging that he suffered a Shoulder Injury Related to Vaccine Administration (“SIRVA”) resulting from a tetanus, diphtheria, and acellular pertussis (“Tdap”) vaccination he received on April 27, 2022. Petition at 1 (ECF No. 1). On December 27, 2024, the Secretary of Health and Human Services (“respondent”) filed his Rule 4(c) Report conceding that petitioner’s claim meets the Table criteria for SIRVA. ECF No. 18.

Accordingly, on December 30, 2024, the Chief Special Master issued a Ruling on Entitlement, finding that petitioner is entitled to vaccine compensation for SIRVA following the Tdap vaccine he received on April 27, 2022. ECF No. 19.

I. Compensation

Respondent proffers that petitioner should be awarded \$50,000.00 in pain and suffering. *See* 42 U.S.C. § 300aa-15(a). Petitioner agrees. This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). 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 one lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following:¹

A lump sum payment of **\$50,000.00** to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner.

Respectfully submitted,

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s/Joseph Leavitt
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Dated: July 22, 2025

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 medical expenses, future lost earnings, and future pain and suffering.