

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 23-2100V

CORY JUBINVILLE and OLGA
JUBINVILLE, on behalf of W.J., a
minor child,

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: September 5, 2024

*Elizabeth Kyla Abramson, Maglio Christopher & Toale, PA, Washington, DC, for
Petitioners.*

Camille Michelle Collett, U.S. Department of Justice, Washington, DC, for Respondent.

RULING ON ENTITLEMENT¹

On December 11, 2023, Cory Jubinville and Olga Jubinville, on behalf of W.J., a minor child, filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the “Vaccine Act”). Petitioners allege that W.J. suffered from intussusception resulting from a rotavirus vaccine received on June 2, 2023. Petition at 1-5. Petitioners further allege that the vaccine was received in the United States, W.J.’s vaccine-related injury required inpatient hospitalization and surgical intervention, and neither Petitioners, nor any other party, have ever brought an

¹ Because this Ruling 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 Ruling will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioners have 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).

action or received compensation in the form of an award or settlement for W.J.'s vaccine-related injury. Petition at ¶¶ 8, 17, 20, 21. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 4, 2024, Respondent filed his Rule 4(c) report in which he concedes that Petitioners are entitled to compensation in this case. Respondent's Rule 4(c) Report at 1. Specifically, Respondent agrees that "[t]he record preponderantly supports a Table claim, specifically intussusception following the rotavirus vaccine. The record does not, by preponderant evidence, establish a likely alternative cause of WJ's intussusception." *Id.* at 4. Respondent further agrees that the statutory severity requirement is satisfied in that W.J. was hospitalized and underwent surgical intervention for his intussusception. *Id.*

In view of Respondent's position and the evidence of record, I find that Petitioners are entitled to compensation.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master