

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. [redacted]V

Filed: January 5, 2009

Reissued redacted on January 23, 2009

Not for publication

JOHN DOE/31,

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Petitioner,

*

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v.

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Damages decision based on proffer

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SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,

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Respondent.

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Clifford J. Shoemaker, Vienna, VA, for petitioner.

Alexis B. Babcock, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On December 17, 2009, respondent filed a Proffer on Award of Compensation. On the same day, petitioner filed a Notice of Acceptance of the Proffer. Pursuant to the Proffer, attached hereto, the court awards:

- A. A lump sum payment of **\$311,920.25**, representing the discounted present value of life care expenses expected to be incurred over petitioner’s life (\$154,868.17),

¹ Because this decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to delete such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access. On January 19, 2009, petitioner moved to redacted the undersigned’s decision and proffer and the undersigned hereby grants petitioner’s motion.

and pain and suffering (\$157,052.08), in the form of a check payable to petitioner, [redacted].

- B. A lump sum payment of **\$5,312.80**, representing compensation for past unreimbursable expenses, in the form of a check payable jointly to petitioner and his mother, [redacted].

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: January 5, 2009

/s/ Laura D. Millman

Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

B. Lost Earnings

The parties agree that based upon the evidence of record, [REDACTED] is more likely than not to be gainfully employed. Therefore, respondent proffers that [REDACTED] should not be awarded lost earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(A). Petitioner agrees.

C. Pain and Suffering

Respondent proffers that [REDACTED] should be awarded \$157,052.08 in actual and projected pain and suffering. This amount reflects that the award for projected pain and suffering has been reduced to net present value. See 42 U.S.C. § 300aa-15(a)(4). Petitioner agrees.

D. Past Unreimbursable Expenses

Evidence supplied by petitioner documents the expenditure by [REDACTED], petitioner's mother, of past unreimbursable expenses related to [REDACTED]'s vaccine-related injury. Respondent proffers that petitioner should be awarded past unreimbursable expenses in the amount of \$5,312.80. Petitioner agrees.

E. Medicaid Lien

Petitioner represents that there are no Medicaid liens outstanding against him, [REDACTED]

II. Form of the Award

The parties recommend that the compensation provided to [REDACTED] should be made through a set of lump sum payments as described below, and request that the special master's decision and the Court's judgment award the following:

- A. A lump sum payment of \$311,920.25, representing the discounted present value of life care expenses expected to be incurred over [REDACTED] s life (\$154,868.17), and pain and suffering (\$157,052.08), in the form of a check payable to petitioner, [REDACTED].
- B. A lump sum payment of \$5,312.80, representing compensation for past unreimbursable expenses, in the form of a check payable jointly to [REDACTED] and his mother, [REDACTED].

III. Summary of Recommended Payments Following Judgment

- A. Lump sum paid to petitioner, [REDACTED] for future vaccine-related expenses and pain and suffering: **\$ 311,920.25**
- B. Lump sum paid jointly to petitioner and his mother, [REDACTED] [REDACTED] for past unreimbursable expenses: **\$ 5,312.80**

Respectfully submitted,

GREGORY G. KATSAS
ASSISTANT ATTORNEY GENERAL

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/s/ Alexis B. Babcock

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Dated: December 17, 2008

CERTIFICATE OF SERVICE

I certify that on this _____ day of December, 2008, a copy of RESPONDENT'S PROFFER ON AWARD OF COMPENSATION was served, by first-class mail, postage pre-paid, upon:

Clifford J. Shoemaker, Esq.
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