

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: January 19, 2018

\* \* \* \* \*  
CHASE BOATMON & MAURINA \*  
CUPID, *parents of J.B., deceased*, \* UNPUBLISHED  
\*  
Petitioners, \* No. 13-611V  
\*  
v. \* Decision on Damages; Diphtheria-  
\* Tetanus-acellular Pertussis (DTaP)  
SECRETARY OF HEALTH \* Vaccine; Inactivated Polio Vaccine  
AND HUMAN SERVICES, \* (IPV); Haemophilus Influenzae (HiB)  
\* Vaccine; Pneumococcal Conjugate  
Respondent. \* (PCV) Vaccine; Rotavirus Vaccine;  
\* Sudden Infant Death Syndrome (SIDS).  
\* \* \* \* \*

Ronald C. Homer, Conway, Homer P.C., Boston, MA, for petitioners.  
Lara A. Englund, United States Department of Justice, Washington, DC, for respondent.

### **DECISION ON DAMAGES<sup>1</sup>**

On August 27, 2013, Chase Boatmon and Maurina Cupid (“petitioners”), as the representatives of the estate of their deceased minor child, J.B., filed a petition under the National Vaccine Injury Compensation Program (“Vaccine Act” or the “Program”),<sup>2</sup> 42 U.S.C. § 300aa-10 *et. seq.* (2012). Petitioners alleged that as a result of receiving vaccinations for Diphtheria-Tetanus-acellular Pertussis (“DTaP”), inactivated polio (“IPV”), haemophilus influenzae (“HiB”), Pneumococcal Conjugate (“PCV”), and Rotavirus vaccinations on September 2, 2011, J.B. passed away from Sudden Infant Death Syndrome (“SIDS”) on September 3, 2011. *See* Petition (ECF No. 1); Amended Petition (ECF No. 15).

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<sup>1</sup> Pursuant to the E-Government Act of 2002, *see* 44 U.S.C. § 3501 note (2012), **because this decision contains a reasoned explanation for the action in this case, I intend to post it on the website of the United States Court of Federal Claims.** The court’s website is at <http://www.uscfc.uscourts.gov>. Before the decision is posted on the court’s website, each party has 14 days to file a motion requesting redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). “An objecting party must provide the court with a proposed redacted version of the decision.” *Id.* **If neither party files a motion for redaction within 14 days of the date this decision is filed, the decision will be posted on the court’s website without any changes.**

<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3705, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2012). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

On September 9, 2014, respondent filed a Rule 4(c) report recommending against compensation. The parties submitted expert reports, as well as expert testimony during a hearing. On July 10, 2017, I ruled that petitioners had established entitlement to compensation based on a theory of causation in fact. Ruling on Entitlement (ECF No. 71).

On January 19, 2018, respondent filed a Proffer on an award of compensation. (ECF No. 87). The Proffer is attached hereto as Appendix A. Consistent with the terms of the Proffer, I hereby award the following compensation:

- 1) A lump sum payment of \$300,000 in the form of a check payable jointly to petitioners.**

This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The Clerk of the Court shall **ENTER JUDGMENT** in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/ Thomas L. Gowen**  
Thomas L. Gowen  
Special Master

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<sup>3</sup> The entry of judgment is expedited by the parties jointly or separately filing notice renouncing their right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

CHASE BOATMON and MAURINA CUPID,	)	
parents of J.B., deceased,	)	
	)	
Petitioners,	)	
	)	
v.	)	No. 13-611V
	)	Special Master Thomas Gowen
SECRETARY OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

On July 10, 2017, the Special Master issued a Ruling on Entitlement, concluding that petitioners are entitled to compensation under the National Childhood Vaccine Injury Act of 1986 (“Vaccine Act”), as amended, 42 U.S.C. §§300aa-10 to -34.

**I. Amount of Compensation**

Respondent proffers that, based on the Special Master’s entitlement decision and the evidence of record, petitioners should be awarded \$300,000.00.<sup>1</sup> This amount represents all elements of compensation to which petitioners would be entitled under 42 U.S.C. § 300aa-15(a). Petitioners agree.

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<sup>1</sup> The parties have no objection to the amount of the proffered award of damages. Assuming the special master issues a damages decision in conformity with this proffer, the parties waive their right to seek review of such damages decision. However, respondent reserves his right, pursuant to 42 U.S.C. § 300aa-12(e), to seek review of the Special Master’s July 10, 2017, entitlement decision.

**II. Form of the Award**

The parties recommend that the compensation provided to petitioners should be made as a lump sum payment of \$300,000.00, in the form of a check payable to petitioners. This amount accounts for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioners would be entitled.

Respectfully submitted,

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s/ LARA A. ENGLUND  
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Dated: January 19, 2018