

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-0004V

Filed: July 19, 2017

UNPUBLISHED

JAMES CANTWELL, Parent of
M.C., Deceased,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);
Damages Decision Based on Proffer;
Rotavirus Vaccine; Intussusception;
Death

*Koby J. Kirkland, Whitehurst Harkness Brees, et al., PLLC, Austin, TX, for petitioner.
Ann D. Martin, U.S. Department of Justice, Washington, DC, for respondent.*

DECISION AWARDING DAMAGES¹

Dorsey, Chief Special Master:

On January 3, 2017, James Cantwell (“petitioner”) 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 sought compensation for the death of his son, M.C., on March 3, 2015, allegedly due to intussusception following a rotavirus vaccination, which was administered on February 15, 2015. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On May 18, 2017, the undersigned issued a ruling on entitlement, finding petitioner entitled to compensation. On July 19, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner, as legal representative of the estate of M.C., should be awarded \$360,415.00. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. *Id.* Based on

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). 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, the undersigned agrees that the identified material fits within this definition, the undersigned 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 “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$360,415.00 in the form of a check payable to petitioner as the legal representative of the estate of M.C.** This amount represents compensation for all damages that would be available under § 15(a) for M.C.'s vaccine-related injury and death.

The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey
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.

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JAMES CANTWELL, Parent of M.C.,)	
deceased,)	
)	
Petitioner,)	
)	No. 17-4V
v.)	Chief Special Master Dorsey
)	ECF
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

I. Items of Compensation

II. Form of the Award

No payment shall be made until petitioner provides respondent with documentation that he has been appointed the legal representative of M.C.'s estate.

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

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

CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division

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s/ Ann D. Martin
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DATED: July 19, 2017