

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

No. 13-167V

Filed: December 17, 2013

(Not for publication)

LORIN FORCINE and BLAISE FORCINE,	*	
legal representatives of minor child	*	
William Forcine,	*	
	*	Proffer; Damages; Table Injury
Petitioners,	*	MMR
v.	*	
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

Paul R. Brazil, Esq., Muller Brazil, LLP, Philadelphia, PA for petitioners.
Lisa Ann Watts, Esq., U.S. Dept. of Justice, Washington, D.C. for respondent.

DECISION AWARDING DAMAGES¹

Vowell, Chief Special Master:

On March 5, 2013, Lorin Forcine and Blaise Forcine, legal representatives of minor child, William Forcine, filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, *et seq.*² [the “Vaccine Act” or “Program”] alleging that William Forcine received the measles mumps rubella [MMR] vaccine on March 5, 2010 and thereafter suffered the “Table Injury” known as anaphylaxis within four hours, which was caused in fact by the above stated vaccination. Petition at 1.

Respondent filed her Rule 4(c) Report on November 18, 2013, concluding that William’s injury met the Table requirements for the presumptive injury of anaphylaxis and that compensation should be awarded for that injury and its sequela. Respondent’s Report at 4. On November 18, 2013, I issued a decision finding petitioners entitled to

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). In accordance with Vaccine Rule 18(b), petitioners have 14 days to identify and move to delete 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 delete 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 (2006).

compensation, concluding that in view of respondent's concession and the evidence before me petitioners were entitled to compensation based on a Vaccine Table injury.

On December 16, 2013, respondent filed her Proffer on Award of Compensation. Pursuant to the terms stated in the attached Proffer, **I award petitioners:**

- 1. A lump sum payment of \$146,815.56, representing the discounted present value of William's projected vaccine-related injury expenses (\$12,275.76), and pain and suffering (\$134,539.80), in the form of a check payable to petitioners, Lorin and Blaise Forcine, as guardian(s)/conservator(s) of the estate of William Forcine, for the benefit of William Forcine. No payments shall be made until petitioners provide respondent with documentation establishing that they have been appointed as guardian(s)/conservator(s) of William Forcine's estate.**
- 2. A lump sum payment of \$3,387.87, representing compensation for past unreimbursable expenses, payable to Lorin and Blaise Forcine, petitioners.**

These amounts represent compensation for all damages that would be available under § 300aa-15(a).

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

IT IS SO ORDERED.

s/Denise K. Vowell
Denise K. Vowell
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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

LORIN and BLAISE FORCINE,)	
Legal representatives of minor child,)	<u>ECF</u>
WILLIAM FORCINE,)	
)	
Petitioners,)	
)	
v.)	No. 13-167V
)	Chief Special Master
SECRETARY OF)	Denise K. Vowell
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

I. Items of Compensation

A. Life Care Items

Respondent proffers that, based on the evidence of record, petitioners should be awarded \$12,275.76 for projected unreimbursable medical expenses on William’s behalf. This amount reflects that the award for projected unreimbursable expenses has been reduced to net present value. See 42 U.S.C. § 300aa-15(a)(1). Petitioners agree.

B. Lost Earnings

The parties agree that based upon the evidence of record, William is more likely than not to be gainfully employed. Therefore, respondent proffers that lost earnings as provided under the Vaccine Act, 42 U.S.C. § 300aa-15(a)(3)(B), are not appropriate in this case. Petitioners agree.

C. Pain and Suffering

Respondent proffers that William should be awarded \$134,539.80 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). Petitioners agree.

D. Past Unreimbursable Expenses

Evidence supplied by petitioners documents their expenditure of past unreimbursable expenses related to William's vaccine-related injury. Respondent proffers that petitioners should be awarded past unreimbursable expenses in the amount of \$3,387.87. Petitioners agree.

E. Medicaid Lien

Petitioners represent that there are no Medicaid liens outstanding against William Forcine.

II. Form of the Award

The parties recommend that the compensation provided to petitioners, on William's behalf, should be made through a lump sum payment as described below, and request that the Chief Special Master's decision and the Court's judgment award the following:

A. A lump sum payment of \$146,815.56, representing the discounted present value of William's projected vaccine-related injury expenses (\$12,275.76), and pain and suffering (\$134,539.80), in the form of a check payable to petitioners, Lorin and Blaise Forcine, as guardian(s)/conservator(s) of the estate of William Forcine, for the benefit of William Forcine. No payments shall be made until petitioners provide respondent with documentation establishing that they have been appointed as the guardian(s)/conservator(s) of William Forcine's estate;

B. A lump sum payment of \$3,387.87, representing compensation for past unreimbursable expenses, payable to Lorin and Blaise Forcine, petitioners;

1. Guardianship

No payments under section II. A. shall be made until petitioners provide the Secretary with documentation establishing their appointment as the guardian(s)/conservator(s) of William Forcine's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of William Forcine at the time a payment is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian(s)/conservator(s) of the estate of William Forcine upon submission of written documentation of such appointment to the Secretary.

III. Summary of Recommended Payments Following Judgment

A.	Lump sum paid to petitioners, as guardian(s)/conservator(s) of the estate of William Forcine, for the benefit of William Forcine, for future vaccine related life care expenses and pain and suffering:	\$146,815.56
B.	Lump sum paid to petitioners:	\$ 3,387.87

Respectfully submitted,

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s/Lisa A. Watts
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Dated: December 16, 2013.