

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

No. 99-0561V

Filed: 27 June 2008

* * * * *
JOYCE DIANNE KEENAN,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.
* * * * *

UNPUBLISHED

Clifford J. Shoemaker, Esq., Vienna, Virginia for Petitioner.
Heather L. Pearlman, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

DAMAGES DECISION¹

ABELL, Special Master.

On 3 August 1999, Petitioner brought a petition under the National Childhood Vaccine Injury Act of 1986 (“Vaccine Act” or “Act”),² for alleged vaccine-related injuries resulting from a Hepatitis B vaccination (“HBV”) administered on 30 August 1993.³ Specifically, Petitioner alleges that, as

¹ Petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Vaccine Rule 18(b), a petitioner has 14 days from the date of this ruling within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire decision" may be made available to the public per the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

² The statutory provisions governing the Vaccine Act are found in 42 U.S.C. §§300aa-10 *et seq.* (West 1991 & Supp. 1997). Hereinafter, reference will be to the relevant subsection of 42 U.S.C.A. §300aa.

³ Hepatitis B was added to the Vaccine Injury Table in August 1997, and the Act provides for an eight-year "look-back" window for the years before a vaccine's addition to the Table, with the understanding that such petitions must be filed within two years of that addition. §16(b)(2). The filing of this petition on 3 August 1999 prevented the statute of limitations from running, but it was many years before Petitioner completed the evidentiary filing requirements set forth in §11(c).

a result of that vaccination, she suffered a respiratory illness including bronchospasm and asthma and an immunological dysfunction involving sensitivity to various chemicals.

On 8 March 2005, this Court conducted an evidentiary hearing in the above-captioned case for the purpose of determining the facts upon which the Court and the experts could rely in rendering a decision on entitlement. On 6 April 2006, the Court conducted a second hearing in the above-captioned case for the purpose of hearing from the medical experts on the issue of causation. On 5 April 2007, the Court ruled in favor of entitlement to compensation. Since that time, the parties have deliberated on the amount of damages appropriate for the injuries for which the Court found entitlement to compensation. On 20 June 2008, Respondent filed a proffer to compensate Petitioner for all injuries compensable by the Vaccine Program. On 27 June 2008, Petitioner filed an Acceptance of the Proffer, accepting the amounts contemplated in the Proffer.

The Proffer contemplates pain and suffering damages in the amount of \$125,000.00 and future vaccine-related medical expenses in the amount of \$50,000.00, for a combined proffer of \$175,000.00 in total damages. Petitioner accepts those proffered amounts as the total amount attributable to the vaccine-related injury found to be entitled to compensation.

The Court accepts the amounts agreed to by the parties as the just and proper amounts of compensation, and accordingly **awards to Petitioner \$175,000.00 as damages attributable to this Petition for compensation.** The Clerk is instructed to enter judgment to that effect, in the absence of the filing of a motion for review, filed pursuant to Vaccine Rule 23 within 30 days of this date.

IT IS SO ORDERED.

Richard B. Abell
Special Master