

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

LAURIE J. MABEE,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

*
*
*
*
*
*
*
*
*
*
*

No. 99-230V
Special Master Christian J. Moran

Filed: July 31, 2008

Stipulation; Hepatitis B, chronic
arthropathy, fibromyalgia.

UNPUBLISHED DECISION*

Sheila A. Bjorklund, Esq., Lommen Abdo Law Firm, Minneapolis, MN, for Petitioner;
Glenn A. MacLeod, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On July 29, 2008, the parties filed a joint stipulation concerning the claim made in the petition filed by Laurie J. Mabee on April 19, 1999. In her petition, Ms. Mabee alleged that she sustained chronic arthropathy and fibromyalgia syndrome as a consequence of her third Hepatitis B vaccination. Ms. Mabee sought compensation for those injuries.

Respondent denies that Ms. Mabee’s injuries were caused by the hepatitis B vaccination. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

* Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

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 clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, a party has 14 days to identify and to move to delete such information before 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. 42 U.S.C. § 300aa-12(d)(4) ; Vaccine Rule 18(b).

Damages awarded in that stipulation include:

- A. A lump sum of \$225,000.00 in the form of a check payable to Petitioner.
- B. A lump sum of \$12,183.56 in the form of a check payable jointly to petitioner and

**Ms. Susan Yenglin
Department of Community Health
Casualty Recovery Specialist
Court Originated Liability Section
Third Party Liability Division
Capitol Commons Center
400 South Pine
P.O. Box 30479
Lansing, MI 30479
State ID: 77724133**

- C. A lump sum of \$1,947.44 in the form of a check payable jointly to petitioner and

**Ms. Nancy Wright
Recovery Attorney
First Recovery Group
17117 W. Nine Mile Rd., Suite 900
Southfield, MI 48075**

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

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case No. 99-230V according to this decision and the attached stipulation.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

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

LAURIE J. MABEE,)	
)	
Petitioner,)	
)	
v.)	No. 99-0230V
)	Special Master
SECRETARY OF HEALTH)	Christian Moran
AND HUMAN SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of a Hepatitis B ("Hep B") vaccination, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (VIII).

2. Petitioner received Hep B immunizations on November 28, 1994, August 11, 1995 and on April 10, 1996.

3. The vaccines were administered within the United States.

4. Petitioner alleges that she sustained chronic arthropathy and fibromyalgia syndrome as a consequence of her third Hep B vaccination.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of herself

as a result of her condition.

6. Respondent denies that petitioner suffered an injury actually caused by any of her Hep B vaccinations, and denies that her current disabilities are sequelae of her alleged vaccine-related injury.

7. Maintaining their above-stated positions, the parties nevertheless now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation described in paragraph 8 of this Stipulation.

8. As soon as practicable after an entry of judgment reflecting a decision consistent with the terms of this Stipulation, and after petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services will issue the following vaccine compensation payments:

- a. a lump sum of \$225,000.00 in the form of a check payable to petitioner. This amount, plus the amount in sub-paragraph B below, represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a);
- b. a lump sum of \$12,183.56 in the form of a check payable jointly to petitioner and

Ms. Susan Yenclin
Department of Community Health
Casualty Recovery Specialist
Court Originated Liability Section
Third Party Liability Division
Capitol Commons Center
400 South Pine
P.O. Box 30479
Lansing, MI 48909-7979
State ID: 77724133,

representing compensation for satisfaction of the State of Michigan's Medicaid lien resulting from payments made to or on behalf of petitioner; and

- c. a lump sum of \$1,947.44 in the form of a check payable jointly to petitioner and

Ms. Nancy Wright
Recovery Attorney
First Recovery Group
17117 W. Nine Mile Rd., Suite 900
Southfield, MI 48075,

representing further compensation for satisfaction of the State of Michigan's Medicaid lien resulting from payments made to or on behalf of petitioner.

9. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award reasonable attorney's fees and costs incurred in proceeding upon this petition.

10. Payments made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 9 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

11. The parties and their attorneys further agree and stipulate that, except for any award for attorney's fees, litigation costs, and satisfaction of the state's Medicaid lien, the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner as contemplated by a strict

construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

12. In return for the payments described in paragraphs 8 and 9 petitioner, on behalf of herself, and her heirs, executors, administrators, successors or assigns, does forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the Hep B vaccinations administered on November 28, 1994, August 11, 1995 and on April 10, 1996, as alleged by petitioner in a petition for vaccine compensation filed on April 19, 1999, in the United States Court of Federal Claims as petition No. 99-230V.

13. If petitioner should die prior to receiving the payments described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of

this Stipulation, then the parties' settlement and this Stipulation shall be null and void at the sole discretion of either party.

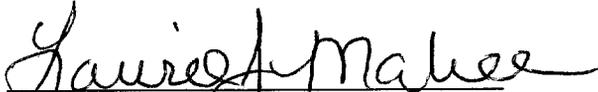
15. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's successors and assigns.

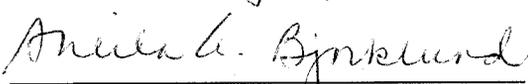
END OF STIPULATION

Respectfully submitted,

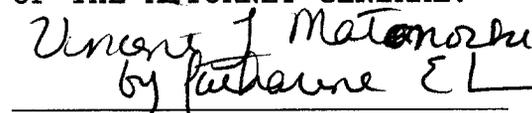
PETITIONER:


LAURA J. MABEE

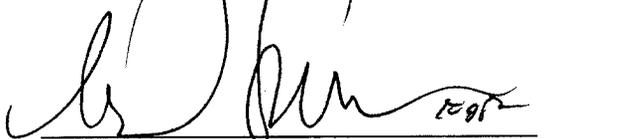
ATTORNEY OF RECORD FOR
PETITIONER:

July 9, 2008

Sheila A. Bjorklund, Esq.
2000 IDS Center
80 South 8th Street
Minneapolis MN 55402
Tel: (612) 339-8131

AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:


VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:


GEOFFREY EVANS, M.D.
Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Stop 11C-26
Rockville, MD 20857

Dated: 7/29/08

ATTORNEY OF RECORD FOR
RESPONDENT:


GLENN A. MACLEOD
Senior Trial Counsel
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
Tel: (202) 616-4122