

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

No. 10-302V  
Filed: October 28, 2011  
Unpublished

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KYLIE WAYMAN,	*	
	*	
Petitioner,	*	Stipulation; Human papillomavirus
	*	vaccine, HPV; Fatigue, weight loss,
v.	*	abdominal pain; Attorney fees and
	*	costs
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

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*Andrew D. Downing, Rhodes, Hieronymus, et al., Tulsa, OK, for Petitioner.*  
*Ann Donohue Martin, U.S. Department of Justice, Washington, D.C., for Respondent.*

**DECISION**<sup>1</sup>

GOLKIEWICZ, Special Master.

On October 25, 2011, the parties to the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner alleges that she suffered chronic fatigue, severe weight loss and extreme abdominal pain as a consequence of the human papillomavirus (“HPV”) vaccinations she received on April 5, 2007; May 25, 2007; and October 12, 2007. Petitioner further alleges that she experienced the residual effects of the injury for more than six months and that her current condition is due to the HPV vaccinations. Respondent denies that petitioner’s alleged injuries, or any other injury, were caused-in-fact by her hepatitis B vaccinations. Respondent also denies that petitioner’s current condition is caused-in-fact by the HPV vaccinations and denies petitioner suffered from the residual effects of any vaccine-related injury for more than six months. Nonetheless, the parties agreed informally to resolve this matter. Stipulation, filed October 25, 2011.

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<sup>1</sup> The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **As provided by Vaccine Rule 18(b), each party has 14 days within which to request 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). Otherwise, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing. Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.**

The court hereby **ADOPTS** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. **Specifically, petitioner is awarded a lump sum of \$7,500.00 in the form of a check payable to petitioner; petitioner is also awarded a lump sum of \$21,000.00 in the form of a check payable jointly to petitioner and petitioner's attorney of record for attorneys' fees and costs; and petitioner is also awarded a lump sum of \$368.50 in the form of a check payable to petitioner for petitioner's own costs incurred in this proceeding.** See Stipulation, ¶ 8, filed October 25, 2011.

The Clerk of the Court is directed to enter judgment accordingly.

**IT IS SO ORDERED.<sup>2</sup>**

s/ Gary J. Golkiewicz  
Gary J. Golkiewicz  
Special Master

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<sup>2</sup> This document constitutes a final "decision" in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

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

KYLIE WAYMAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 10-302V
	)	Special Master Golkiewicz
SECRETARY OF HEALTH AND	)	ECF
HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner, Kylie Wayman, 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 the human papillomavirus (“HPV”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).
2. Petitioner received HPV immunizations on April 5, 2007, May 25, 2007, and October 12, 2007.
3. The vaccines were administered within the United States.
4. Petitioner alleges that following the second HPV vaccination, she suffered chronic fatigue, extreme abdominal pain, and severe weight loss, and that these injuries were caused-in-fact by the HPV vaccine. Petitioner alleges further that she experienced the residual effects of her injuries for more than six months and that her current condition is the result of the HPV vaccine.

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

6. Respondent denies that petitioner's chronic fatigue, extreme abdominal pain, and severe weight loss, or any other injuries, were caused in fact by the HPV vaccine. Respondent also denies that petitioner's current condition was caused by the HPV vaccine, and denies that petitioner experienced the residual effects of any vaccine-related injury for more than six months.

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 \$7,500.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a);
- b. A lump sum of \$21,000.00 in the form of a check payable jointly to petitioner and petitioner's attorney, Andrew D. Downing, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e); and
- c. A lump sum of \$368.50 in the form of a check payable to petitioner, in compliance with General Order #9. This amount represents compensation for out-of-pocket litigation expenses incurred by petitioner in proceeding on the petition.

9. Petitioner and her attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under

42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or by entities that provide health services on a pre-paid basis.

10. Payments made pursuant to paragraph 8 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 attorneys' fees and litigation costs, 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 paragraph 8, petitioner, on behalf of herself, and her heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the HPV vaccinations administered on April 5, 2007, May 25, 2007, and October 12, 2007, as alleged by petitioner in a petition for vaccine compensation filed on or about May 19, 2010, in the United States Court of Federal Claims as petition No. 10-302V.

13. If petitioner should die prior to entry of judgment, this agreement shall be 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 voidable at the sole discretion of either party.

15. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended. 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. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

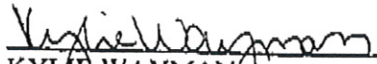
16. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the HPV vaccine caused petitioner to suffer any injury or condition; that the HPV vaccine resulted in petitioner's current disabilities; or that petitioner experienced the residual effects of any vaccine-related injury for more than six months.

17. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.

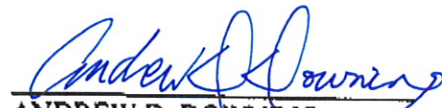
END OF STIPULATION

Respectfully submitted,


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KYLE WAYMAN


ATTORNEY OF RECORD FOR  
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Dated: 10-17-11

10-25-11