

OFFICE OF SPECIAL MASTERS

No. 07-835V

Filed: January 7, 2009

DO NOT PUBLISH

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JOSHUA BECKNER,)	
personal representative of the estate of his brother,)	
JOEL BECKNER,)	
)	
Petitioner,)	Stipulation
)	Hepatitis B Vaccination;
v.)	Anaphylaxis; Death
)	
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
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Curtis Webb, Webb, Webb & Guerry, Twin Falls, Idaho, for petitioner
Althea Walker Davis, U.S. Department of Justice, Washington, D.C., for respondent

DECISION¹

GOLKIEWICZ, Chief Special Master.

On December 17, 2008, the parties to the above captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner, as personal representative for his brother, Joel Beckner (Joel), alleged that Joel’s December 20, 2005 Hepatitis B vaccination caused him to suffer anaphylaxis that led to his death. See Petition at 2. Petitioner also alleged, in the alternative, that Joel’s December 20, 2005 Hepatitis B vaccination, caused him to suffer an episode of hypotension which triggered a cardiovascular collapse thereby causing his death. Id. Respondent denies that Joel suffered an adverse reaction to his Hepatitis B

¹ The undersigned intends 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). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party that (1) that is a 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 will be available to the public. Id.

vaccination, and denies that Joel's death was a sequela of receiving his December 20, 2005 vaccination. Nonetheless, the parties have agreed informally to resolve this matter.

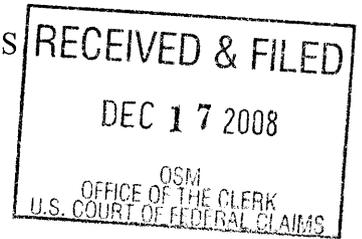
The court hereby **adopts** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Specifically, petitioner is awarded a lump sum of \$195,000.00 in the form of a check payable to petitioner. The Clerk of the Court is directed to enter judgment accordingly.²

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

² 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



JOSHUA BECKNER, as the Personal)
Representative of the Estate of his brother,)
JOEL BECKNER,)
)
)
Petitioner,)
v.)
)
SECRETARY OF HEALTH)
AND HUMAN SERVICES,)
)
)
Respondent.)

No. 07-835V
Chief Special Master Golkiewicz

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of the estate of his brother Joel Beckner, Joshua Beckner, 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 Joel Beckner's death which petitioner alleges was related to Joel's receipt of the Hepatitis B vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a)(VIII).
2. Joel received his Hepatitis B vaccination on December 20, 2005.
3. The vaccine was administered within the United States.
4. Petitioner alleges that Joel's death was caused by receipt of his Hepatitis B vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Joel as a result of his death.
6. Respondent denies that Joel suffered an adverse reaction to his vaccination administered on December 20, 2005, and denies that Joel's death was a sequela of his alleged

vaccine reaction.

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 payment:

A lump sum of \$195,000.00 in the form of a check payable to petitioner as legal representative of the estate of Joel Beckner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

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 attorneys' fees and costs incurred in proceeding upon this petition.

10. Payment 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. Petitioner represents that he presently is duly authorized to serve as personal representative of Joel's estate under the laws of the State of Nebraska.

12. In return for the payments described in paragraphs 8 and 9, petitioner, in his individual capacity and as legal representative of Joel Beckner's estate, and on behalf of Joel's

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, and death of Joel resulting from, or alleged to have resulted from, the Hepatitis B vaccination administered on December 20, 2005, as alleged by petitioner in a petition for vaccine compensation filed on or about November 30, 2007, in the United States Court of Federal Claims as petition No. 07-835V.

13. 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.

14. 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.

15. All rights and obligations of petitioner hereunder shall apply equally to his successors and assigns.

END OF STIPULATION