

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-329V

Filed: November 14, 2008

NOT TO BE PUBLISHED

RHONDA SANGO *
(nka Rhonda Tubbs) *

Petitioner, *

Stipulation; Transverse Myelitis
Influenza vaccine; Attorney’s Fees
and Costs

v. *

SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *

Respondent. *

DECISION¹

On November 13, 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 alleges that she sustained a vaccine related injury of transverse myelitis, nerve damage, bowel damage and kidney injuries as a result of her influenza vaccine administered on or about November 20, 2000. Respondent denies that petitioner’s injury was caused-in-fact by her influenza vaccination. Nonetheless, the parties 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 **\$100,000.00** in the form of a check payable to petitioner. See Stipulation, para. 8, filed November 13, 2008. Additionally, petitioner is awarded a lump sum of

¹The undersigned intends to post this decision 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). 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 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.

\$13,000.00 for attorney's fees and costs in the form of a check payable to petitioner and petitioner's attorney David Hardin. Id. The Clerk of the Court is directed to enter judgment accordingly.²

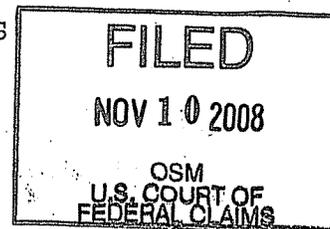
IT IS SO ORDERED.

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

²Pursuant 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.

ORIGINAL

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



RHONDA SANGO,
(NKA RHONDA TUBBS),

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

No. 07-329V
Chief Special Master Golkiewicz

STIPULATION

The parties hereby stipulate to the following matters:

1. Rhonda Sango (NKA Rhonda Tubbs), 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 the trivalent influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a)(XIV).¹
2. Petitioner received her flu immunization on or about November 20, 2000.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she sustained the first symptom or

¹ As of July 1, 2005, trivalent influenza vaccines have been added to the Table under this category. 70 Fed. Reg. 19,092 (April 12, 2005) (to be codified at 42 C.F.R. pt. 100.3).

manifestation of the onset of an injury on December 3, 2000. Petitioner further alleges that she developed transverse myelitis, nerve damage, bowel damage and kidney injuries, as a result of her receipt of the flu vaccine.

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

6. Respondent denies that petitioner suffered from transverse myelitis, nerve damage, bowel damage and kidney injuries as a result of her receipt of the flu vaccine.

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 \$100,000.00 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); and

b. A lump sum of \$13,000.00 in the form of a check payable to petitioner and petitioner's attorney, David Hardin, for attorneys' fees and costs. Pursuant to General Order #9,

petitioner has not incurred any expenses personally in proceeding on her petition.

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

10. 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).

11. In return for the payments described in paragraph 8, petitioner, in her individual capacity, and on behalf of 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 flu vaccination administered on or about November 20, 2000, as alleged by petitioner in a petition for vaccine compensation filed on or about May 29, 2007, in the United States Court of Federal Claims as

petition No. 07-329V.

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

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. 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 her successors and assigns.

END OF STIPULATION

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