

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 10-356V

(E-Filed: November 13, 2013)

\* \* \* \* \*  
SANDRA STEINBERG, as the \*  
administrator of the Estate of, ISAIAH \*  
STEINBERG, \* UNPUBLISHED \*  
\*  
Petitioner, \* Special Master \*  
\* Hamilton-Fieldman \*  
v. \*  
\* Pediarix, Haemophilus influenza type  
SECRETARY OF HEALTH AND \* B (Hib) vaccine, Pneumococcal  
HUMAN SERVICES, \* Conjugate Vaccine (PVC); Death;  
\* Decision; Stipulation.  
Respondent. \*  
\* \* \* \* \*

John F. McHugh, New York, NY, for Petitioner.  
Linda Renzi, Washington, DC, for Respondent.

### DECISION AWARDING DAMAGES<sup>1</sup>

On June 9, 2010, Petitioner, Sandra Steinberg, filed a petition seeking compensation under the National Vaccine Injury Compensation Program (“the Vaccine Program”) on behalf of her son, Isaiah. Petitioner alleged that her son suffered a decrease in brain function and subsequent death, as a result of receiving the Pediarix vaccine, the Haemophilus influenza type B (Hib) vaccine, and the Pneumococcal Conjugate Vaccine

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision on the United States Court of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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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.*

(PVC).<sup>2</sup>

Respondent denies that Isaiah's vaccinations caused his injury and resulting death. Nonetheless, both parties, while maintaining their above stated positions, agreed in a Stipulation, filed November 13, 2013, ("Stipulation") that the issues before them can be settled and that a decision should be entered awarding Petitioner compensation.

The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

The stipulation awards:

A lump sum of \$40,000.00 in the form of a check payable to Petitioner, as legal representative of Isaiah Steinberg's estate. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a) to which Petitioner would be entitled.

Stipulation ¶ 8.

The undersigned approves the requested amounts for Petitioner's compensation. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.<sup>3</sup>

**IT IS SO ORDERED.**

s/Lisa Hamilton-Fieldman  
Lisa Hamilton-Fieldman  
Special Master

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<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

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

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SANDRA STEINBERG, as the  
Administrator of the Estate of ISAIAH  
STEINBERG,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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) No. 10-356V  
) Special Master  
) Hamilton-Fieldman  
) ECF  
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**STIPULATION**

The parties hereby stipulate to the following matters:

1. A petition for vaccine compensation on behalf of the estate of Isaiah Steinberg ("Isaiah") was filed under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the "Vaccine Program"). The petition seeks compensation for Isaiah's injury and death, which petitioner alleges were caused by his receipt Pediarix (which contains a combination of diphtheria, hepatitis B, acellular pertussis, polio and tetanus vaccines), Haemophilus influenza type B (Hib) vaccine, and Pneumococcal Conjugate Vaccine (PVC) which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Isaiah received these immunizations on July 7, 2008.
3. The vaccines were administered within the United States.
4. Petitioner alleges that Isaiah suffered a decrease in brain function as a result of his vaccinations, and that he subsequently died as a result of his alleged vaccine-related injury.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Isaiah Steinberg as a result of his alleged injury or his death.

6. Respondent denies that any of the vaccinations administered to Isaiah caused a decrease in brain function, an encephalopathy, or any other injury, and denies that his July 7, 2008 immunizations caused his death.

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 a lump sum payment of \$40,000.00 in the form of a check payable to petitioner, as legal representative of Isaiah Steinberg's estate. 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 she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as conservator/legal representative of Isaiah Steinberg's estate under the laws of the State of New York. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as conservator/legal representative of Isaiah's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as conservator/legal representative of the estate of Isaiah Steinberg at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as conservator/legal representative of the estate of Isaiah Steinberg upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and as legal representative of the estate of Isaiah Steinberg, on behalf of herself, the estate, and on behalf of Isaiah Steinberg's 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 Isaiah Steinberg resulting from, or alleged to have resulted from, vaccinations administered on

July 7, 2008 as alleged in a petition for vaccine compensation filed on or about June 9, 2010, in the United States Court of Federal Claims as petition No. 10-356V.

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 voidable at the sole discretion of either party.

14. 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, 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. 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.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that any of the vaccinations administered to Isaiah Steinberg on July 7, 2008 caused a decrease in brain function, an encephalopathy or any other injury or his death.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representative of the estate of Isalah Steinberg.

END OF STIPULATION

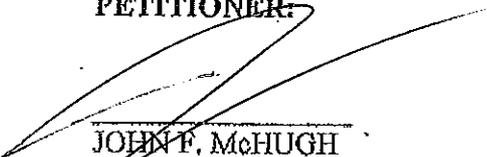
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Respectfully submitted,

**PETITIONER:**

  
SANDRA STEINBERG

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Dated: November 13, 2013