

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 10-0367V
(Not to be published¹)

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LISEL LALOUX, personal representative *
of the estate of Ashley Laloux, deceased, *
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Petitioner, *
*
v. *
*
SECRETARY OF HEALTH AND *
HUMAN SERVICES *
*
Respondent. *
*

Filed: November 26, 2012

Decision by Stipulation; Human
Papilloma Virus (HPV) Vaccine;
Cardiomyopathy; Death

DECISION

HASTINGS, Special Master.

This is an action seeking an award under the National Vaccine Injury Compensation Program² on account of an injury suffered by Ashley Laloux. On November 21, 2012, counsel for both parties filed a Stipulation, stipulating that a decision should be entered granting compensation. The parties have stipulated that petitioner shall receive the following compensation:

¹ Because this document contains an explanation for my action in this case, I intend to post this document 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). Therefore, 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, this entire document will be available to the public. *Id.*

² The applicable statutory provisions defining the Program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006 ed.). Hereinafter, for ease of citation, all "\$" references will be to 42 U.S.C. (2006 ed.).

- A lump sum of \$40,000.00, in the form of a check payable to petitioner, representing compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

Under the statute governing the Program, as well as the “Vaccine Rules” adopted by this court, the special master must now enter a decision endorsing that stipulation, and the clerk must enter judgment, in order to authorize payment of the award. See § 300aa-12(d)(3)(A) and (e)(3); § 300aa-13(a); Vaccine Rules 10(a), 11(a).³

I have reviewed the file, and based on that review, I conclude that the parties’ stipulation appears to be an appropriate one. Accordingly, my decision is that a Program award shall be made to petitioners in the amount set forth above. In the absence of a timely-filed motion for review of this Decision, the clerk shall enter judgment in accordance herewith.

IT IS SO ORDERED.

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master

³ The “Vaccine Rules of the United States Court of Federal Claims” are found in Appendix B of the Rules of the United States Court of Federal Claims.

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

LISEL LALOUX, as personal
representative of ASHLEY LALOUX,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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No. 10-367V
SPECIAL MASTER
GEORGE HASTINGS

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her daughter, Ashley LaLoux, 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 Ashley'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. Ashley received an HPV immunization on June 13, 2008.
3. The vaccine was administered within the United States.
4. Petitioner alleges that Ashley died from an arrhythmia due to cardiomyopathy that was caused-in-fact by her HPV vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Ashley as a result of her condition or death.

6. Respondent denies that Ashley's arrhythmia, cardiomyopathy, or death, or any other injury, was caused in fact by her HPV vaccination.

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 \$40,000.00 in the form of a check payable to petitioner as conservator of Ashley'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. 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.

11. 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.

12. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as conservator of Ashley's estate under the laws of the State of Indiana. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as conservator of Ashley's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as conservator of the estate of Ashley LaLoux 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 of the estate of Ashley LaLoux upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and as legal representative of Ashley's estate, on behalf of herself, and Ashley'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 Ashley resulting from, or alleged to have resulted from, the HPV vaccination administered on June 13, 2008 as alleged by petitioner in a petition

for vaccine compensation filed on or about June 11, 2010, in the United States Court of Federal Claims as petition No. 10-367V.

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, 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.

16. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that that Ashley's arrhythmia, cardiomyopathy, or death, or any other injury, was caused in fact by her HPV vaccination.

17. 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 Ashley LaLoux.

END OF STIPULATION

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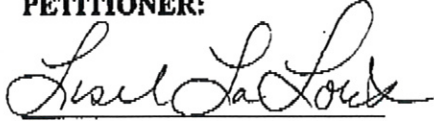
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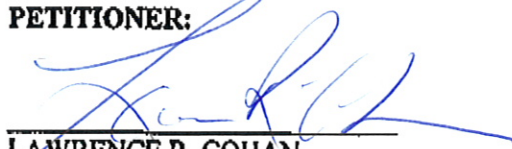
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Respectfully submitted,

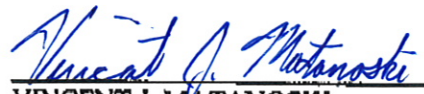
PETITIONER:


LISEL LALOUX

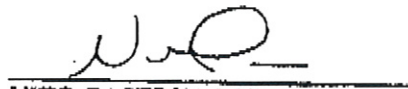
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Dated 11/21/12