

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 04-208V

Filed: May 21, 2010

STEVEN RICHARDSON, and LISA)	
RICHARDSON, on behalf of their daughter)	
MEGAN B. RICHARDSON)	
)	NOT TO BE PUBLISHED
Petitioners,)	
)	Stipulation;
v.)	Diphtheria-Tetanus-acellular Pertussis;
)	Hemophilus influenzae type b;
SECRETARY OF)	Decision on Remand
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

Paul S. Dannenberg, Huntington, VT, for Petitioners.

Chrysovalantis P. Kefalas, U.S. Department of Justice, Washington, D.C., for Respondent.

DECISION¹

LORD, Chief Special Master.

On May 19, 2010, the parties in the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioners Steven and Lisa Richardson alleged that their daughter Megan sustained a seizure disorder and developmental delay that were caused-in-fact by her March 26, 2001 Diphtheria-Tetanus-acellular Pertussis (“DTaP”) and Hemophilus influenzae type b (“Hib”) vaccinations. Respondent denies that the DTaP and Hib vaccines caused Megan’s injuries. Nonetheless, the parties have agreed informally to resolve this matter.

¹ The 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.

The court hereby **ADOPTS** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Specifically, Petitioners are awarded a lump sum of **\$225,000.00** in the form of a check payable to Petitioners as guardians/conservators of Megan's estate. The Clerk of the Court is directed to enter judgment accordingly.²

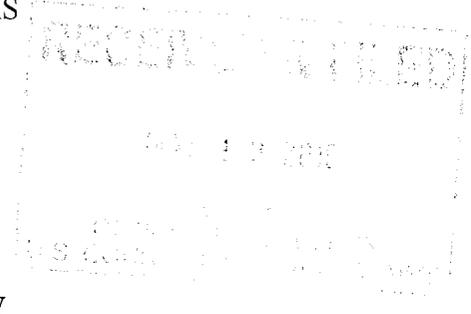
IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
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

STEVEN RICHARDSON and LISA)
RICHARDSON, on behalf of their daughter,)
MEGAN B. RICHARDSON,)
)
Petitioners,)
)
v.)
)
SECRETARY OF HEALTH AND HUMAN)
SERVICES,)
)
Respondent.)
_____)



No. 04-208V
Judge Thomas C. Wheeler
Special Master Sandra Lord

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of their daughter, Megan Richardson (“Megan”), Steven Richardson and Lisa Richardson (“petitioners”) 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 Megan’s receipt of the Diphtheria-Tetanus-acellular Pertussis (“DTaP”) and Hemophilus influenzae type b (“Hib”) vaccines, which vaccines are contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).
2. Megan received her DTaP and Hib immunizations on March 26, 2001.
3. The vaccines were administered within the United States.
4. Petitioners allege that Megan sustained vaccine-related injuries diagnosed as a seizure disorder and developmental delay as a result of receiving the DTaP and Hib vaccines. Petitioners further allege that Megan experienced the residual effects of her injuries for more than six months.

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

6. Respondent denies that Megan's seizure disorder and developmental delay and alleged residual effects were caused-in-fact by the DTaP and Hib vaccines.

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 petitioners have 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 \$225,000.00 in the form of a check payable to petitioners as guardians/conservators of Megan'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 petitioners have 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. 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 Megan 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. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as guardians/conservators of Megan's estate under the laws of the Commonwealth of Massachusetts. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardians/conservators of Megan's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians/conservators of the estate of Megan B. Richardson 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 guardian/conservator of the estate of Megan B. Richardson upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacity and as legal representatives of Megan, on behalf of themselves, Megan, and her heirs, executors, administrators, successors or assigns, do 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 Megan resulting from, or alleged to have resulted from, the DTaP and Hib vaccinations administered on March 26, 2001, as alleged by petitioners in a petition for vaccine compensation filed on or about

February 17, 2004, in the United States Court of Federal Claims as petition No. 04-208V.

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

15. 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.

16. 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.

17. All rights and obligations of petitioners hereunder shall apply equally to petitioners' successors and assigns as legal representatives of Megan B. Richardson.

END OF STIPULATION

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