

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 09-551V

Filed: July 15, 2011

|   |   |                                |
|---|---|--------------------------------|
| CHRISTA L. VALDEZ, as the Parent and<br>Proposed Administrator of the Estate of her<br>deceased daughter, SANTANA VALDEZ, | ) |                                |
|   | ) |                                |
|   | ) | UNPUBLISHED                    |
|   | ) |                                |
| Petitioner,   | ) | Motion for Dismissal Decision; |
|   | ) | HPV; death                     |
| v.  | ) |                                |
|   | ) |                                |
| SECRETARY OF<br>HEALTH AND HUMAN SERVICES,  | ) |                                |
|   | ) |                                |
|   | ) |                                |
| Respondent.   | ) |                                |

Mark T. Sadaka, Englewood, NJ, for Petitioner.

Debra A. Filteau Begley, U.S. Dep't of Justice, Washington, D.C., for Respondent.

### DECISION<sup>1</sup>

LORD, Special Master.

On August 20, 2009, Petitioner Christa Valdez filed a petition on behalf of her deceased daughter Santana pursuant to the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 et seq. (2006) ("Vaccine Act"). Petitioner alleged that the human papillomavirus (HPV) vaccinations (Gardasil) which Santana received on November 1, 2006, January 3, 2007, and May 2, 2007, caused Santana to suffer a delayed severe anaphylactic reaction and/or a blood clotting disorder and/or a significant aggravation of an underlying heart condition. Petition ¶¶ 1, 18, 19, 23. Petitioner also alleged that these injuries lead to Santana's death. Id. at ¶1.

On July 11, 2011, Petitioner filed a motion for a decision dismissing her petition. Petitioner stated in her motion that she was not asserting a Table claim and she would not file an expert report to support her causation in fact claim. Pet'r Mot. at 1. Accordingly, Petitioner requested that I dismiss her petition. Id. at 2.

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<sup>1</sup> As provided by Vaccine Rule 18(b), each party has 14 days within which to request the redaction "of any information furnished by that party (1) that is 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." Rules of the United States Court of Federal Claims (RCFC), Appendix B, Vaccine Rule 18(b). In the absence of a timely objection, the entire document will be made publicly available.

To receive compensation under the Vaccine Act, Petitioner must prove either 1) that Santana suffered a "Table Injury" -- i.e., an injury falling within the Vaccine Injury Table -- corresponding to one of his vaccinations, or 2) that Santana suffered an injury that was actually caused by a vaccine. See §§ 300aa-13(a)(1)(A) and 300aa-11(c)(1). An examination of the record did not uncover any evidence that Santana suffered a "Table Injury." Furthermore, the record does not contain a medical expert's opinion or any other persuasive evidence indicating that Santana's injury was caused by a vaccination.

Under the Vaccine Act, a petitioner may not be awarded compensation based solely on the petitioner's claims alone. Rather, the petition must be supported by either medical records or by the opinion of a competent physician. § 300aa-13(a)(1). In this case, because the medical records are insufficient to establish entitlement to compensation, a medical opinion must be offered in support of Petitioner's claims. Petitioner, however, has declined to offer such an opinion.

Therefore, Petitioner's motion for a decision is **GRANTED**, and this petition is **DENIED**. Thus, this case is dismissed for insufficient proof. In the absence of a timely filed motion for review, the Clerk is directed to enter judgment accordingly.

**IT IS SO ORDERED.**

s/ Dee Lord  
Dee Lord  
Special Master