

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-293 V

Filed: May 8, 2012

Not for Publication

ALLEN DEAN STEELEY, Personal *
Representative of the Estate of DEBORA *
KAY STEELEY, Deceased *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

Lawrence R. Cohan, Philadelphia, PA, for petitioner.
Traci R. Patton, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On May 8, 2012, the parties filed the attached stipulation in which they agreed to settle this case and described the settlement terms. Petitioner alleges that the vaccinee suffered from Guillain-Barré syndrome (“GBS”) following an influenza vaccination and that the vaccinee died as a result of her GBS. Respondent denies that either the vaccinee’s GBS or her death was caused in fact by her influenza vaccination. Nonetheless, the parties agreed to resolve this matter

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

informally.

The court finds the terms to be reasonable, hereby adopts the parties' stipulation, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a lump sum of **\$120,000.00**. The award shall be in the form of a check made payable to petitioner.

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.²

IT IS SO ORDERED.

Dated: May 8, 2012

s/ Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

ALLEN DEAN STEELEY, Personal)
Representative of the Estate of DEBORA)
KAY STEELEY, Deceased,)
)
Petitioner,)
v.)
)
SECRETARY OF HEALTH AND HUMAN)
SERVICES,)
)
Respondent.)

No. 11-293V
Special Master Millman

STIPULATION

The parties hereby stipulate to the following matters:

1. Allen Dean Steeley ("petitioner"), on behalf of his deceased wife, Debora Kay Steeley, 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 Ms. Steeley's death, which petitioner alleges was the result of Ms. Steeley's receipt of an influenza vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).

2. Ms. Steeley received an influenza immunization on September 29, 2009.

3. The vaccine was administered within the United States.

4. Petitioner alleges that on or around November 11, 2009, Ms. Steeley experienced the first symptom or onset of Guillain-Barré Syndrome ("GBS"), which petitioner alleges was caused in fact by the influenza vaccine. Petitioner further alleges that Ms. Steeley died as a result of her GBS on December 1, 2009, and that her death was caused by the influenza vaccine.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Ms. Steeley, as a result of her GBS or her death.

6. Respondent denies that the influenza immunization caused Ms. Steeley's GBS or any other injury, and respondent denies that the influenza immunization caused Ms. Steeley's 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 the following vaccine compensation payment: a lump sum of \$120,000.00 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).

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 he presently is, or within 90 days of the date of judgment will become, duly authorized to serve as personal representative of Debora Kay Steeley's estate under the laws of the State of Utah. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing his appointment as personal representative of Debora Kay Steeley's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as personal representative of the estate of Debora Kay Steeley 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 personal representative of the estate of Debora Kay Steeley 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 his individual capacity, on behalf of Debora Kay Steeley and her 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 Ms. Steeley resulting from, or alleged to have resulted from, the influenza vaccination administered on September 29, 2009, as alleged by petitioner in a petition for vaccine compensation filed on or about May 10, 2011, in the United States Court of Federal Claims as petition No. 11-293V.

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. 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 the influenza vaccine caused Ms. Steeley's GBS or any other injury, or that the influenza vaccine caused Ms. Steeley's death.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.

END OF STIPULATION

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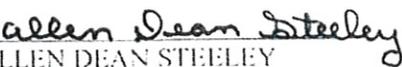
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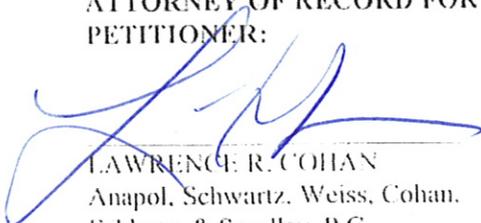
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Respectfully submitted,

PETITIONER:


ALLEN DEAN STEELEY

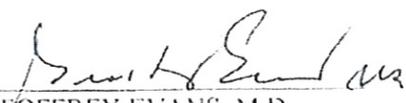
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Dated: 5/8/2012