

OFFICE OF SPECIAL MASTERS

MIKAELA KESSLER, a minor, by *
her mother and natural guardian, *
CAROL KESSLER, *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 02-51V
Special Master Christian J. Moran

Filed: August 21, 2007

David Terzian, Esq., Rawls & McNelis, P.C., Richmond, Virginia for Petitioner;
Traci R. Patton, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

DECISION¹

MORAN: Special Master.

On August 15, 2007, the parties filed a joint stipulation concerning the injuries received by Mikaela Kessler. On January 17, 2002, Carol Kessler, Mikaela's mother, filed a petition for compensation on behalf of Mikaela under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10, et. seq. The petition sought compensation for Mikaela allegedly developing seizures after receiving the hepatitis B and measles-mumps-rubella vaccines on January 6, 1999.

Respondent denies that Mikaela's injuries were caused by the vaccines. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

¹ Petitioner is reminded that, pursuant to 42 U.S.C. § 300aa-12(d)(4) and Rule 18(b)(2) of the Vaccine Rules of this Court, within fourteen days of this decision, she may object to the public disclosure of any material including "medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy."

Damages awarded in that stipulation include:

- (a) **A lump sum of \$17,500.00 in the form of a check payable to petitioner as guardian/conservator of Mikaela's estate.** This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a); and
- (b) **A lump sum of \$25.00 in the form of a check payable to petitioner,** pursuant to 42 U.S.C. § 300aa-15(e) for costs incurred by petitioner in proceeding on the petition;
- (c) **A lump sum of \$8,000.00 in the form of a check payable to petitioner and petitioner's attorney, David L. Terzian,** pursuant to 42 U.S.C. § 300aa-15(e), for attorney's fees and costs incurred by Rawls & McNelis, P.C.; and
- (d) **A lump sum of \$4,000.00 in the form of a check payable to petitioner and petitioner's former attorney, Clifford Shoemaker,** pursuant to 42 U.S.C. § 300aa-15(e), for attorney's fees and costs incurred by Shoemaker & Associates.

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 02-51V in accordance with this decision and the attached stipulation.

Any questions may be directed to Shana Z. Siesser, at (202) 357-6358.

IT IS SO ORDERED.

Christian J. Moran
Special Master