

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-112V

Filed: November 19, 2012

JANICE INCZE, natural mother and	*	NOT TO BE PUBLISHED
Administrator of the estate of	*	
decendent, KRISTINA INCZE,	*	
	*	Special Master Zane
Petitioner,	*	
	*	Stipulation; Human Papillomavirus
v.	*	("HPV") vaccine; Weston Hurst
	*	Disease; Acute Disseminated
SECRETARY OF HEALTH	*	Encephalomyelitis ("ADEM");
AND HUMAN SERVICES,	*	Amyotrophic Lateral Sclerosis ("ALS");
	*	Death
Respondent.	*	

Carol L. Gallagher, Gallagher & Gallagher, Somers Point, NJ, for Petitioner
Debra A. Filteau Begley, United States Dep't of Justice, Washington, DC, for Respondent

UNPUBLISHED DECISION¹

On November 14, 2012, the parties in the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner, as the legal representative of the estate of decendent, Kristina Incze, alleged that decendent suffered from Weston Hurst disease, Acute Disseminated Encephalomyelitis ("ADEM"), juvenile Amyotrophic Lateral Sclerosis ("ALS") and/or a chronic progressive demyelinating encephalitis as a consequence of her receipt of the Human Papillomavirus ("HPV") vaccine, which vaccine is contained in the Vaccine Injury Table, 42 C.F.R § 100.3(a), and which she received on or about April 8, 2008 and June 12, 2008. Petitioner alleges that decendent died as a result of her injuries. Petitioner also represents that there have been no prior awards or settlement of a civil action for these damages. Petitioner seeks compensation related to decendent's injuries pursuant to the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to 34.

¹ The special master intends to post this decision on the website of the United States Court of Federal Claims in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). 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 clearly be an unwarranted invasion of privacy. As provided by Vaccine Rule 18(b), each party has 14 days to file a motion requesting the redaction from this decision of any such alleged material. In the absence of a timely request, which includes a proposed redacted decision, the entire document will be made publicly available.

Respondent denies that the flu vaccine caused decedent's injuries or any other injury and denies that decedent's death was the result of her alleged vaccine-related injury. Nonetheless, the parties have agreed informally to resolve this matter. Stipulation, Appendix A hereto.

The undersigned hereby ADOPTS the parties' said Stipulation, attached hereto as Appendix A, and awards compensation in the amount and on the terms set forth therein. Specifically, Petitioner is awarded:

a lump sum of \$20,000.00, in the form of a check payable to Janice Incze as Administrator of the estate of decedent, Kristina Incze. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The Court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/Daria J. Zane

Daria J. Zane

Special Master

² This document constitutes a final "decision" in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accordance with this decision. 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**

JANICE INCZE, natural mother of
decedent, **KRISTINA INCZE**,

Petitioner,

v.

**SECRETARY OF HEALTH AND
HUMAN SERVICES**,

Respondent.

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No. 11-112V
SPECIAL MASTER
DARIA ZANE

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her daughter, Kristina Incze (“Kristina”), 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 Kristina’s receipt of the Human Papillomavirus vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3 (a).

2. Kristina received Human Papillomavirus (“HPV”) vaccinations on April 8, 2008, and June 12, 2008.

3. These vaccines were administered within the United States.

4. Petitioner alleges that Kristina’s developed Weston Hurst disease (“WH”), and/or acute disseminated encephalomyelitis (“ADEM”), and/or juvenile amyotrophic lateral sclerosis (“ALS”), and/or a chronic, progressive demyelinating encephalitis, that lead to her death.

Petitioner asserts that any or all of these conditions were caused-in-fact by Kristina's HPV vaccinations.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Kristina as a result of her condition.

6. Respondent denies that Kristina's WH, and/or ADEM, and/or juvenile ALS, and/or chronic, progressive demyelinating encephalitis, or death, or any other injury, was caused-in-fact by her HPV 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 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 \$20,000.00 in the form of a check payable to petitioner as guardian/conservator of Kristina'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. 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.

12. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian/conservator of Kristina's estate under the laws of the State of New York. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of Kristina's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of Kristina Incze 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 Kristina Incze 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 Kristina, on behalf of herself, Kristina, and Kristina'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 Kristina resulting from, or alleged to have resulted from, the HPV vaccinations administered on April 8, 2008 and June 12, 2008 as alleged by petitioner in a petition for vaccine compensation filed on or about February 22, 2011, in the United States Court of Federal Claims as petition No. 11-112V.

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 denies that Kristina's WH, and/or ADEM, and/or juvenile ALS, and/or chronic, progressive demyelinating encephalitis, or death, or any other injury, was caused-in-fact by her HPV vaccines.

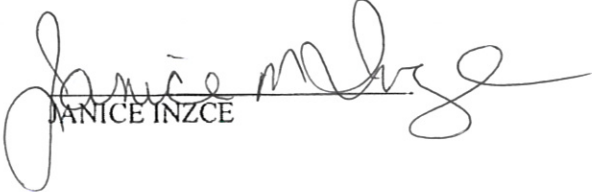
17. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representative of the estate of Kristina Incze.

END OF STIPULATION


[illegible]

Respectfully submitted,

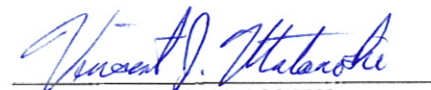
PETITIONER:


JANICE INZCE

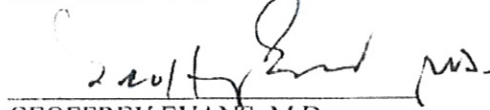
**ATTORNEY OF RECORD FOR
PETITIONER:**


CAROL L. GALLAGHER
Gallagher & Gallagher Law Firm, LLC
822 Shore Road
Somers Point, NJ 08244
(609)926-6450


**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146

**AUTHORIZED REPRESENTATIVE
OF THE SECRETARY OF HEALTH
AND HUMAN SERVICES:**


GEOFFREY EVANS, M.D.
Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Mail Stop 11C-26
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**


DEBRA A. FILTEAU BEGLEY
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
(202) 616-4181

Dated: 11/13/2012