

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 11-352V

Filed: July 12, 2012

REGINA WILLIAMS, Administratrix of the*
Estate of VIOLET WILLIAMS, deceased, *

Petitioner, *

v. *

SECRETARY OF HEALTH
AND HUMAN SERVICES, *

Respondent. *

NOT TO BE PUBLISHED

Stipulation; Pentacel (Diphtheria-
Tetanus-acellular Pertussis [DTaP]),
Hemophilus influenza type b (Hib),
Pneumococcal conjugate (PCV),
Rotavirus vaccines, death.

Carl J. Guagliardo, Selingo Guagliardo, Kingston, PA., for Petitioner

Traci R. Patton, United States Dep't of Justice, Washington, D.C., for Respondent

DECISION¹

Zane, Special Master.

On July 10, 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 alleged that Violet’s receipt of Pentacel (Diphtheria-Tetanus-acellular Pertussis [“DTaP”], Hemophilus influenza type b [“Hib”]), Pneumococcal conjugate (“PCV”), and Rotavirus vaccines, which vaccines are contained in the Vaccine Injury Table, 42 C.F.R § 100.3(a), and which Violet received on or about January 19, 2012, caused her death. Petitioner also represents that there has been no prior award or settlement of a civil action for damages on behalf of the Estate of Violet Williams as a result of Violet’s alleged injuries, resulting in death.

¹ The special master intends to post this decision on the website for 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

REGINA WILLIAMS, Administratrix of the Estate of VIOLET WILLIAMS, deceased,)	
)	
Petitioner,)	No. 11-352V
v.)	Special Master Zane
)	ECF
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of the Estate of Violet Williams (“Violet”), deceased, petitioner Regina Williams, as parent of Violet Williams, 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 an injury, resulting in death, allegedly related to Violet’s receipt of Pentacel (Diphtheria-Tetanus-acellular Pertussis [“DTaP”]/Hemophilus influenzae type b [“Hib”]), Pneumococcal conjugate (“PCV”), and Rotavirus vaccines, which vaccines are contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3 (a).
2. Violet received the vaccines on or about January 19, 2010.
3. The vaccines were administered within the United States.
4. Petitioner alleges that Violet died as a result of the vaccinations she received on January 19, 2010.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of the Estate of Violet Williams as a result of Violet’s alleged injuries,

resulting in death.

6. Respondent denies that the vaccines received by Violet caused any injury or her death; and denies that Violet's death occurred as the result of a vaccine-related injury.

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 payments:

a. A lump sum of \$125,000.00 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); and

b. A lump sum of \$25,063.90 in the form of a check payable jointly to petitioner and petitioner's attorney, Carl J. Guagliardo, for attorney's fees and costs available under 42 U.S.C. § 300aa-15(e). In accordance with General Order # 9, petitioner represents that all litigation costs were paid by petitioner's attorney and that petitioner did not personally incur any costs in proceeding on the petition.

9. Payments made pursuant to paragraph 8 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

10. Petitioner provided evidence that she is duly authorized to serve as legal representative of the Estate of Violet Williams under the laws of the Commonwealth of Pennsylvania.

11. In return for the payments described in paragraph 8, petitioner in her individual capacity, on behalf of Violet Williams 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 Violet Williams resulting from, or alleged to have resulted from, the vaccinations administered on or about January 19, 2010, as alleged by petitioner in a petition for vaccine compensation filed on or about June 2, 2011, in the United States Court of Federal Claims as petition No. 11-352V.

12. 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.

13. 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.

14. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the vaccines received by Violet Williams caused her to suffer any injury or death; or that Violet's death occurred as the result of a vaccine-related injury.

Respectfully submitted,

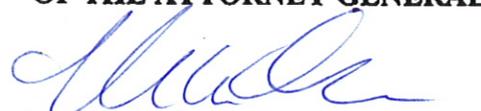
PETITIONER:


REGINA WILLIAMS

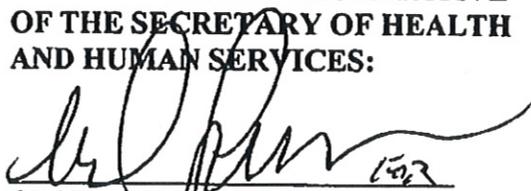
**ATTORNEY OF RECORD FOR
PETITIONER:**


CARL J. GUAGLIARDO
Counsel of Record for Petitioner
345 Market Street
Kingston, PA 18704
(570) 287-2400

**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


MARK W. ROGERS
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:**


TRACI R. PATTON
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
(202) 353-1589

Dated: 7/10/2012

Petitioner seeks compensation related to these injuries pursuant to the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to 34.

Respondent denies that the vaccines received by Violet caused any injury or death; and denies that Violet's death occurred as a result of a vaccine-related injury. Nonetheless, the parties have agreed informally to resolve this matter. *See* Stipulation, Appendix A hereto.

The court 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. **a lump sum of \$125,000.00, 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);
- b. **a lump sum of \$25,063.90, in the form of a check payable jointly to Petitioner and Petitioner's attorney, Carl J. Guagliardo,** for attorney's fees and costs available under 42 U.S.C. §300aa-15(e). In accordance with General Order #9, Petitioner represents that all litigation costs were paid by Petitioner's attorney and that Petitioner did not personally incur any costs in proceeding on the petition.

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.