

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

MATTHEW NEYENS,	*	
	*	
Petitioner,	*	No. 03-868V
	*	Special Master Christian J. Moran
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	Filed: July 25, 2008
	*	
Respondent.	*	Stipulation; Hepatitis B, Aseptic
	*	Necrosis From Steroid Use.

UNPUBLISHED DECISION*

Clifford J. Shoemaker, Esq., Shoemaker and Associates, Vienna, VA, for Petitioner;
Melonie J. McCall, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On July 24, 2008, the parties filed a joint stipulation concerning the claim made in the petition filed by Matthew Neyens on April 30, 2003. In his petition, Mr. Neyens alleged that the hepatitis B vaccination, which he received on March 16, 2000 and April 17, 2000, caused him to suffer an adverse reaction. Mr. Neyens sought compensation for those injuries.

Respondent denies that Mr. Neyens’s injuries were caused by the hepatitis B vaccination. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The

* Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

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. When such a decision or designated substantive order is filed, a party has 14 days to identify and to move to delete such information before 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 delete such material from public access. 42 U.S.C. § 300aa–12(d)(4) ; Vaccine Rule 18(b).

undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

Damages awarded in that stipulation include:

A lump sum of \$165,000.00 in the form of a check payable to Petitioner.

This amount represents compensation for all damages that would be available pursuant to 42 U.S.C. § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case No. 03-868V according to this decision and the attached stipulation.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

MATTHEW NEYENS,)
)
 Petitioner,)
)
 v.)
)
 SECRETARY OF HEALTH)
 AND HUMAN SERVICES,)
)
 Respondent.)

No. 03-868V
Special Master Christian Moran

STIPULATION

The parties hereby stipulate to the following matters:

1. Matthew Neyens, 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 petitioner's receipt of the hepatitis B vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a) (VIII).

2. Petitioner received hepatitis B vaccinations on March 16, 2000 and April 17, 2000.

3. The vaccines were administered within the United States.

4. Petitioner alleges that he sustained the first symptom or manifestation of the onset of cerebellitis on or about May 2, 2000. He further alleges that he continues to suffer necrosis of the hips as a sequela of the high dose steroids used treat his cerebellitis.

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

6. Respondent denies that petitioner's alleged injury was vaccine-related, and denies that he suffers any current disabilities that are sequelae of his alleged 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 lump sum of \$165,000.00 in the form of a check payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

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. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, the money provided pursuant to this Stipulation will be used solely for the benefit of petitioner as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

12. In return for the payments described in paragraphs 8 and 9, petitioner, in his individual capacity, and on behalf of his heirs, executors, administrators, successors or assigns, does forever expressly and fully release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of petitioner resulting from, or alleged to have resulted from, the hepatitis B vaccinations administered to him on or about March 16, 2000, and April 17, 2000, as alleged by petitioner in a petition for vaccine compensation filed on April 30, 2003, in the United States Court of Federal Claims as petition No. 03-868V.

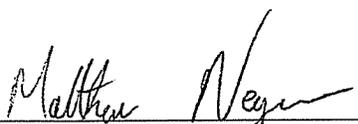
13. If petitioner should die prior to receiving the payment described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

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 null and void at the sole discretion of either party.

15. This Stipulation expresses a full and complete 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.

Respectfully submitted,

PETITIONER:


MATTHEW NEYENS

ATTORNEY OF RECORD FOR
PETITIONER:


CLIFFORD J. SHOEMAKER, ESQ.
Shoemaker & Associates
9711 Meadowlark Road
Vienna, VA 22182
(703) 281-6395

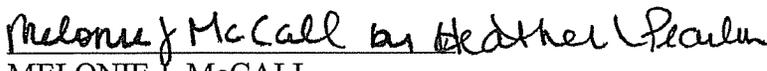
AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:


VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 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, Stop 11C-26
Rockville, MD 20857

ATTORNEY OF RECORD FOR
RESPONDENT:


MELONIE J. McCALL
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 616-4098

Dated: 07/24/08