

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS  
No. 00-770V  
Filed: August 20, 2009**

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|                               |   |                       |
|-------------------------------|---|-----------------------|
| JOENESHA MILLER,              | * |                       |
|                               | * |                       |
| Petitioner,                   | * | Rheumatoid Arthritis, |
|                               | * | Settlement,           |
| v.                            | * | Hepatitis B           |
|                               | * |                       |
| SECRETARY OF THE DEPARTMENT   | * |                       |
| OF HEALTH AND HUMAN SERVICES, | * |                       |
|                               | * |                       |
| Respondent.                   | * |                       |
|                               | * |                       |

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**DECISION BASED ON JOINT STIPULATION**

**Vowell**, Special Master:

Petitioner filed a timely petition ["Pet."] for compensation under the National Vaccine Injury Compensation Program<sup>1</sup> on December 20, 2000. Petitioner alleges that she sustained a vaccine-related injury diagnosed as rheumatoid arthritis or juvenile rheumatoid arthritis that was caused in fact and/or significantly aggravated as a consequence of hepatitis B vaccinations she received on June 3, 1997; July 3, 1997; and July 22, 1998. See Pet. at ¶¶ 2-5. Respondent denies that petitioner's injury and alleged residual effects were caused in fact or significantly aggravated by any or all of her hepatitis B vaccinations. See Stipulation, filed August 19, 2009, at ¶ 6.

Nevertheless, the parties have agreed to settle the case. On August 19, 2009, the parties filed a [156] joint stipulation agreeing to settle this case and describing the settlement terms. Respondent agreed to pay petitioner:

- a. A lump sum of **\$100,000.00** in the form of a check payable to petitioner;
  
- b. A sum of **\$76,883.00** payable jointly to petitioner and State of Florida Contract Representative in satisfaction of the State of Florida Medicaid lien; and,

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<sup>1</sup> As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire decision" will be available to the public. *Id.*

c. A sum of **\$773,117.00** to purchase an annuity contract, as described in the stipulation at paragraph 10, paid to the life insurance company from which the annuity will be purchased.

These amounts represent compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The special master adopts the parties' stipulation attached hereto, and awards compensation in the amount and on the terms set forth therein. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.<sup>2</sup>

**IT IS SO ORDERED.**

s/ Denise K. Vowell  
**Denise K. Vowell**  
Special Master

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<sup>2</sup> 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

JOENESHA MILLER,  
Petitioner,  
v.  
SECRETARY OF HEALTH AND  
HUMAN SERVICES,  
Respondent.

No. 00-770V  
Special Master  
Denise K. Vowell

STIPULATION

The parties hereby stipulate to the following matters:

1. Joenesha Miller, 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 ("Hep B") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Petitioner received the Hep B vaccine on June 3, 1997, July 3, 1997 and July 23, 1998.
3. The vaccines were administered within the United States.
4. Petitioner alleges that she sustained a vaccine-related injury diagnosed as rheumatoid arthritis ("RA") or juvenile rheumatoid arthritis ("JRA") that was caused in-fact and/or significantly aggravated as a consequence of the Hep B vaccinations. She further alleges that she experienced residual effects of her injury for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of her injury.
6. Respondent denies that petitioner's injury and alleged residual effects were caused in-fact or significantly aggravated by any or all of her Hep B vaccinations.

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 \$100,000.00 in the form of a check payable to petitioner;
- b. A sum of \$76,883.00 payable jointly to petitioner and State of Florida Contract Representative in satisfaction of the State of Florida Medicaid lien; and,
- c. A sum of \$773,117.00 to purchase the annuity contract described in paragraph 10 below, paid to the life insurance company from which the annuity will be purchased (the "Life Insurance Company").

The above amounts represent compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

9. The Life Insurance Company must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Company must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;
- c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;
- d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

10. The Secretary of Health and Human Services agrees to purchase an annuity contract from the Life Insurance Company at a cost of \$773,117.00 for the benefit of Joesha Miller, pursuant to which the Life Insurance Company will agree to make payments periodically to petitioner for future medical expenses related to petitioner's RA or JRA, lost future earnings,

and pain and suffering as follows:

- a. Beginning 60 days from the date of the purchase of the annuity, \$2,232.63 payable monthly for life, guaranteed for 30 years (360 payments guaranteed). The monthly benefit shall compound at 2.5% annually from the date of first payment.
- b. Guaranteed payments of \$20,000.00 payable every three (3) years for 34 years, beginning five (5) years from the date of the purchase of the annuity.

The purchase price of the annuity shall not exceed \$773,117.00. The above amounts represent an estimate of the annuity stream that could be purchased for \$773,117.00. In the event that the cost of the annuity payments set forth above varies from \$773,117.00 due to market rate fluctuations on the date the annuity is purchased, the payments described in paragraph 10 (a) above shall be adjusted downward or upward accordingly to ensure that the total cost of the annuity will not be greater than or less than \$773,117.00. The monthly payments in paragraph 10(a) are guaranteed for the first 30 years and the payments in paragraph 10(b) are guaranteed for 34 years. Joenesha Miller will receive the annuity payments from the Life Insurance Company for the guaranteed periods indicated above. Should petitioner predecease the exhaustion of payments during the guarantee periods described above, any remaining payments shall be made payable to the Estate of Joenesha Miller. Thereafter, payments will continue to petitioner only so long as she is alive at the time a particular payment is due. The personal representative of the Estate of Joenesha Miller shall provide written notice to the Secretary of Health and Human Services and the Life Insurance Company within twenty (20) days of Joenesha Miller's death.

11. The annuity contract will be owned solely and exclusively by the Secretary of Health and Human Services and will be purchased as soon as practicable following the entry of a judgment in conformity with this Stipulation. The parties stipulate and agree that the Secretary of Health and Human Services and the United States of America are not responsible for the payment of any sums other than the amounts set forth in paragraph 8 herein and the amounts

future annuity payments. Upon the purchase of the annuity contract, the Secretary of Health and Human Services and the United States of America are released from any and all obligations with respect to future annuity payments.

12. 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.

13. Any payment made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 12 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

14. In return for the payments described in paragraphs 8 and 12, petitioner, in her individual capacity, and on behalf of her heirs, executors, administrators, successors or assigns, does forever and fully expressly 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 Hep B vaccinations administered on June 3, 1997, July 3, 1997 and July 23, 1998, as alleged by petitioner in a petition for vaccine compensation filed on or about December 20, 2000, in the United States Court of Federal Claims as petition No. 00-770V.

15. If petitioner should die prior to receiving the payments 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.

16. 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.

17. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 12 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.

18. All rights and obligations of petitioner hereunder shall apply equally to petitioner's successors and assigns.

END OF STIPULATION

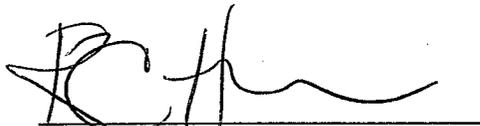
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Respectfully submitted,

**PETITIONER:**

  
LOENESHA MILLER

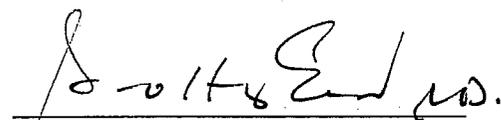
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Dated: August 19, 2009