

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: February 23, 2012)

_____ NANCY URICK,)	
)	No. 11-286V
Petitioner,)	
)	Stipulated Decision on
v.)	Damages; Attorneys' Fees
)	and Costs; Reasonable
SECRETARY OF THE DEPARTMENT)	Amount Requested to
OF HEALTH AND HUMAN SERVICES,)	Which Respondent Did
)	Not Object
Respondent.)	
_____)	

Thomas Slagle, Parkdale, OR, for petitioner.

Vincent Matanoski, Washington, DC, for respondent.

DECISION¹

On May 5, 2011, Nancy Urick (“petitioner”) filed a petition for compensation alleging that she suffered certain injuries as a result of receiving a vaccination. Petitioner alleges that she suffered from an injury to her heart that was caused-in-fact by her varicella vaccinations. She sought an award under the National Vaccine Injury Compensation Program² (“Vaccine Program”). 42 U.S.C. §§ 300aa-1 to -34 (2006).

On February 23, 2012, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation and that the parties had also reached an agreement regarding attorneys’ fees and costs. The parties stipulated that petitioner

¹ Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

should receive the following compensation:

A lump sum of \$25,250.00 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).

Stipulation ¶ 8(a).

The parties further stipulated that they had reached the following agreement with respect to attorneys' fees:

A lump sum of \$13,940.00 in the form of a check payable to petitioner and petitioner's attorney, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e), and in compliance with General Order No. 9, no out-of-pocket expenses were incurred by petitioner in proceeding on the petition.

Stipulation ¶ 8(b).

The undersigned approves the requested amount for petitioner's compensation. Accordingly, an award should be made in the form of a check payable to petitioner in the amount of \$25,250.00. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.³

The undersigned also approves the requested amount for attorneys' fees and costs as reasonable. Accordingly, an award should be made in the form of a check payable jointly to petitioner and Mr. Thomas Slagle in the amount of \$13,940.00. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.⁴

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia Campbell-Smith
Chief Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

for damages as a result of her alleged injury.

6. Respondent denies that petitioner's heart injury or any other injury was caused-in-fact by her varicella vaccinations, and denies that the vaccines caused her current condition.

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 \$25,250.00 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 \$13,940.00 in the form of a check payable to petitioner and petitioner's attorney, for attorney's fees and costs available under 42 U.S.C. §300aa-15(e), and in compliance with General Order #9, no out-of-pocket expenses were incurred by petitioner in proceeding on the petition.

9. Petitioner and her attorney represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including 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 entities that provide health services on a pre-paid basis.

10. 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.

11. The parties and their attorneys further agree and stipulate that, except for any award for attorney's fees and litigation costs, and past unreimbursable expenses, 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).

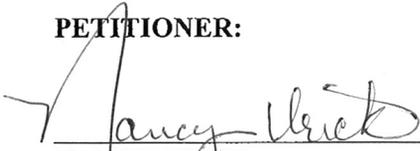
12. In return for the payments described in paragraph 8, petitioner, in her individual capacity, and on behalf of her heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human 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 petitioner resulting from, or alleged to have resulted from, the varicella vaccinations administered on August 14, 2009, and November 24, 2009, as alleged by petitioner in a petition for vaccine compensation filed on or about May 5, 2011, in the United States Court of Federal Claims as petition No. 11-286V.

13. If petitioner should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

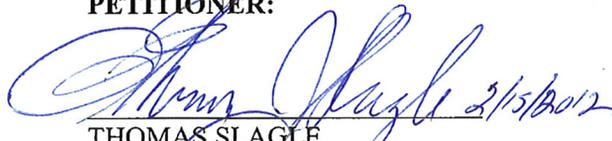
14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties'

Respectfully submitted,

PETITIONER:


NANCY URICK

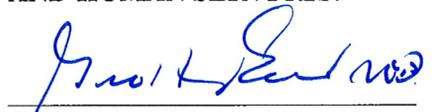
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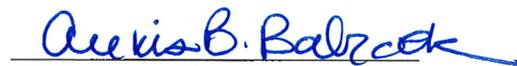
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Dated: 2/23/12