

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(E-Filed: January 28, 2009; Reissued Redacted: March 4, 2009)

John Doe 33,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Respondent.

UNPUBLISHED

No. [Redacted]V

Stipulation; Hepatitis B
Vaccine

Clifford Shoemaker, Vienna, Virginia, for petitioner.

Glen A. MacLeod, Washington, DC, for respondent.

DECISION¹

On July 13, 1999, petitioner, John Doe 33, filed a petition seeking compensation under the National Vaccine Injury Compensation Program (the “Vaccine Program” or the “Act”).² In the petition, he alleged that he sustained chronic erythema nodosum, peripheral neuropathy and other symptoms as a direct consequence of his June 30, 1992, and August 6, 1992 hepatitis-B vaccinations. Respondent denied that petitioner suffered chronic erythema nodosum, peripheral neuropathy or any other symptoms as result of his Hepatitis B vaccinations. See Stipulation.

¹ Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless the decisions contain trade secrets or commercial or financial information that is privileged or confidential, or the decisions contain medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. Within 14 days of the filing of a decision or substantive order with the Clerk of the Court, a party may identify and move for the redaction of privileged or confidential information before the document’s public disclosure.

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.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

On January 21, 2009, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation. The parties stipulated that petitioner shall receive the following compensation:

A lump sum of \$ 50,000.00 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).

Stipulation ¶ 8.

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 \$50,000.00. 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

IT IS SO ORDERED.

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

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

* * * * *

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

Special Master
PATRICIA E. CAMPBELL-SMITH

STIPULATION

The parties hereby stipulate to the following matters:

1. 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 a Hepatitis B ("Hep B") vaccination, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).

2. Petitioner received Hep B immunizations on June 30, 1992, and on August 6, 1992.

3. The vaccine was administered within the United States.

4. Petitioner alleges that he sustained chronic erythema nodosum, peripheral neuropathy and other symptoms as a consequence of his Hep B vaccinations.

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 suffered an injury actually caused by his Hep B vaccinations, and denies that his current disabilities are sequelae of his alleged 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 payment:

A lump sum of \$50,000.00 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).

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. Payments 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 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 30,

1992 and August 6, 1992, as alleged by petitioner in a petition for vaccine compensation filed on July 13, 1999, in the United States Court of Federal Claims as petition No. 99-452V.

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, 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.

16. All rights and obligations of petitioner hereunder shall apply equally to his successors and assigns.

END OF STIPULATION