

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

(Filed: July 23, 2008)

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LINDA P. VENEMAN,	)	
	)	
	)	UNPUBLISHED
Petitioner,	)	
	)	No. 06-203V
v.	)	Stipulation; Trivalent Influenza
	)	Vaccination; Alleged Serum
	)	Sickness
	)	
SECRETARY OF THE DEPARTMENT	)	
OF HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

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Jay Bansal, Tempe, AZ, for petitioner.

Richard Topping, Washington, DC, for respondent.

**DECISION**<sup>1</sup>

On March 13, 2006, Linda Veneman (“petitioner”), filed a petition for compensation alleging that she suffered certain injuries as a result of receiving a vaccination. Among the injuries petitioner alleged that she had suffered as a result of receiving a trivalent influenza vaccination was serum sickness. She sought an award under the National Vaccine Injury Compensation Program, National Vaccine Injury

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<sup>1</sup> 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.

Compensation Program<sup>2</sup> (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2000 & Supp. II 2003).

On July 17, 2008, 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 shall receive the following compensation:

A lump sum of \$ 85,000.00 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) to which petitioner would be entitled . . . .

Stipulation ¶ 8(a).

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

A lump sum of \$30,250.00 in the form of a check payable to petitioner and petitioner's attorney, Jay A. Bansal, for attorneys' fees and costs. In accordance with General Order No. 9, petitioner represents that she incurred \$250.00 in out-of-pocket expenses in proceeding on the petition, which is included in this sum.

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 \$85,000.00. 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.<sup>3</sup>

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

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<sup>2</sup> 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 (2000 & Supp. II 2003) (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.

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

jointly to petitioner and Mr. Jay Bansal in the amount of \$30,250.00. 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.<sup>4</sup>

**IT IS SO ORDERED.**

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Patricia Campbell-Smith  
Special Master

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



action for damages on her behalf as a result of her condition.

6. Respondent denies that petitioner's alleged injury was vaccine-related, and denies that she suffers any current disabilities that are sequelae of her 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. A lump sum of \$85,000.00 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; and
- b. A lump sum of \$30,250.00 in the form of a check payable to petitioner and petitioner's attorney, Jay A. Bansal, for attorneys' fees and costs. In compliance with General Order No. 9, petitioner represents that she incurred \$250.00 in out-of-pocket expenses in proceeding on the petition, which is included in this sum.

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. 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).

11. In return for the payments described in paragraph 8(a), petitioner, in her individual

capacity, and on behalf of her 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 influenza vaccination administered to her on or about October 10, 2005, as alleged by petitioner in a petition for vaccine compensation filed on March 13, 2006, in the United States Court of Federal Claims as petition No. 06-203V.

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

13. 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.

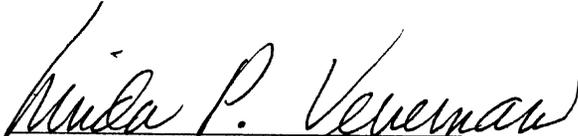
14. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

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

END OF STIPULATION

Respectfully submitted,

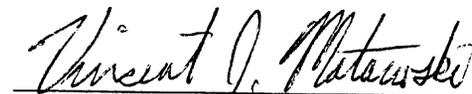
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LINDA P. VENEMAN

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Dated: 7.17.08