

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: November 14, 2006)

DO NOT PUBLISH

MALOREE MCDONOUGH,)	
)	
Petitioner,)	
)	
v.)	No. 05-1294V
)	Stipulation
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

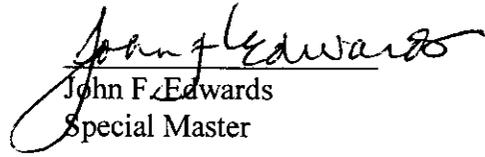
DECISION DIRECTING ENTRY OF JUDGMENT¹

On November 13, 2006, the parties filed a stipulation. The special master has reviewed thoroughly the stipulation. He adopts completely the stipulation. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment based upon the stipulation in petitioner's favor.²

¹ 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and 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.*

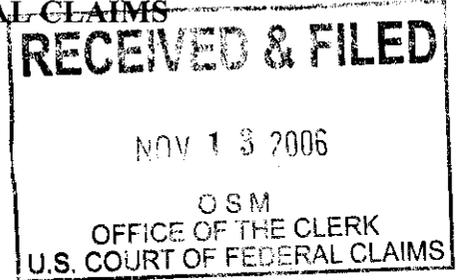
² Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review. Then, under Vaccine Rule 12(a), petitioner may expedite payment by filing an election to accept the judgment.

The clerk of court shall send petitioner's copy of this decision to petitioner by overnight express delivery.


John F. Edwards
Special Master

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS



MALOREE McDONOUGH,)
)
Petitioner,)
)
v.)
)
SECRETARY OF HEALTH AND HUMAN)
SERVICES,)
)
Respondent.)
_____)

No. 05-1294V

Special Master Edwards

STIPULATION

It is hereby stipulated by and between the parties, the following matters:

1. Maloree McDonough, petitioner, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34, as amended (the "Vaccine Program"), on her own behalf. The petition seeks compensation for injuries allegedly related to her receipt of the influenza vaccine, which is contained on the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a), as amended.
2. Petitioner received the above vaccine on December 16, 2003.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she developed Guillian-Barre Syndrome or "GBS" as a result of receiving the above vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of her alleged vaccine-related injury.
6. Respondent denies that petitioner has established by a preponderance of evidence that her injuries were in fact caused by the vaccine administered to her on December 16, 2003.

7. Maintaining the 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 Ten Thousand Dollars (\$10,000.00) 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); and
- b. A lump sum of Eight Thousand Six Hundred Sixty-Four Dollars and Thirty-Four Cents (\$8,664.34) in the form of a check payable to petitioner and petitioner's attorney, Paul McNeill, for attorneys' fees and costs, and, in compliance with General Order #9, no out-of-pocket expenses incurred by petitioner in proceeding on the petition.

9. Payment 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. In return for the payments described in paragraph 8, petitioner, in her individual capacity on her own behalf, and on behalf of her heirs, executors, administrators, successors, and 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 influenza vaccination administered to her on December 16, 2003, as alleged by petitioner in a

petition for vaccine compensation filed on or about December 15, 2005, and in amended petitions filed on or about January 18, 2006, and March 24, 2006, in the United States Court of Federal Claims as petition No. 05-1294V.

11. If petitioner should die prior to the Secretary making any or all of the payments 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.

12. In the event the special master fails to issue a decision in complete conformity with the terms of this Stipulation or in the event 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.

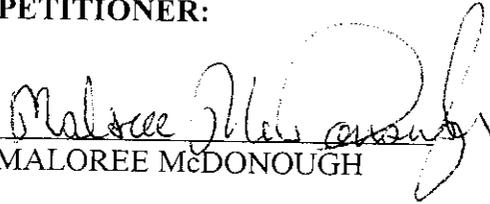
13. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly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

14. All rights and obligations of petitioner hereunder shall apply equally to her heirs, successors and/or assigns.

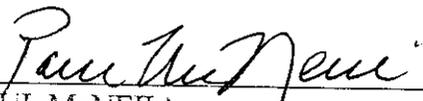
END OF STIPULATION

Respectfully submitted,

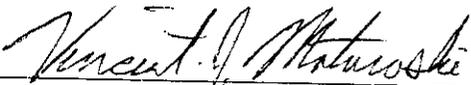
PETITIONER:


MALOREE McDONOUGH

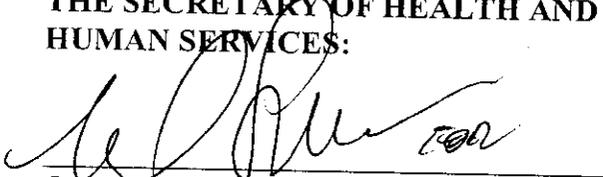
**ATTORNEY OF RECORD FOR
PETITIONER:**


PAUL McNEILL
Womack, Landis, Phelps, McNeill & McDaniel
301 West Washington
P.O. Box 3077
Jonesboro, AR 72403

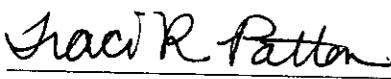
**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


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.
Acting Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health and
Human Services
5600 Fishers Lane
Parklawn Building, Mail Stop 11C-26
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**


TRACI R. PATTON
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 353-1589

Date: 11-13-06