

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 10-718 V

Filed: March 15, 2011

Not for Publication

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JAMES FRED COAKLEY, Personal  
Representative of JUNE D. COAKLEY,  
Deceased, on behalf of JUNE D. COAKLEY,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

Respondent.

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\* Damages Decision based on Stipulation;  
\* Flu Vaccine, Vasculitis  
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David C. Richards, Salt Lake City, UT, for petitioner.  
Ryan D. Pyles, Washington, DC, for respondent.

**MILLMAN, Special Master**

### **DECISION AWARDING DAMAGES<sup>1</sup>**

On March 15, 2011, the parties filed the attached stipulation, in which they agreed to settle this case and described the settlement terms. Petitioner alleged that the vaccinee suffered from vasculitis, which substantially contributed to her death, following a trivalent influenza (“flu”) vaccination. Respondent denies that the vaccinee’s vasculitis or death was caused in fact by her flu vaccination. Nonetheless, the parties agreed to resolve this matter informally.

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). Vaccine Rule 18(b) states that all decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to delete such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

The court hereby adopts the parties' said stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a lump sum of **\$240,000.00** in the form of a check made payable to petitioner as personal representative of the Estate of June D. Coakley.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.<sup>2</sup>

**IT IS SO ORDERED.**

Dated: March 15, 2011

/s/ Laura D. Millman  
Laura D. Millman  
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.



for damages on behalf of the Estate of June D. Coakley as a result of Ms. Coakley's alleged condition, resulting in death.

6. Respondent denies that the vaccine received by Ms. Coakley on October 23, 2008, caused her vasculitis and/or any other injury; and denies that Ms. Coakley's death occurred as the result of a 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 **\$240,000.00** in the form of a check payable to petitioner as personal representative of the Estate of June D. Coakley. 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. Payment 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. Petitioner represents that he presently is, or within 90 days of the date of judgment will become, duly authorized to serve as legal representative of the Estate of June D. Coakley under the laws of the State of Utah. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing his appointment as legal representative of the Estate of June D. Coakley. If petitioner is not authorized by a court of competent jurisdiction to serve as executor/administrator of the Estate of June D. Coakley at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as legal representative of the Estate of June D. Coakley upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, in his individual capacity and as legal representative of the Estate of June D. Coakley, on behalf of himself and his 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 Ms. Coakley resulting from, or alleged to have resulted from, the vaccination administered on or about October 23, 2008, as alleged by petitioner in a petition for vaccine compensation filed on or about October 21, 2010, in the

United States Court of Federal Claims as petition No. 10-718V.

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 voidable at the sole discretion of either party.

14. This Stipulation expresses a full and complete negotiated 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. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the vaccine received by Ms. Coakley on October 23, 2008, caused her to suffer from vasculitis and/or any other injury; or that Ms. Coakley's death occurred as the result of a vaccine-related injury.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of the Estate of June D. Coakley.

END OF STIPULATION

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Respectfully submitted,

**PETITIONER:**

  
JAMES FRED COAKLEY

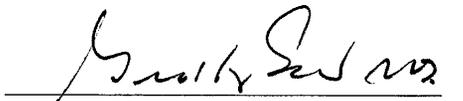
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Dated: March 15, 2011