

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. [redacted]

Filed: August 17, 2009

Not for publication

Redacted Decision Re-issued: September 2, 2009

JANE DOE/44,

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Petitioner,

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Damages decision based on stipulation;
MS following hepatitis B vaccination

v.

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SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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*

Respondent.

*

Clifford J. Shoemaker, Vienna, VA, for petitioner.
Linda S. Renzi, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On August 7, 2009, the parties filed the attached stipulation, in which they agreed to settle this case and described the settlement terms. Petitioner alleged that she sustained Multiple Sclerosis (“MS”) as a result of a hepatitis B vaccination received on October 5, 1992. Respondent denies that petitioner suffered MS as a result of her hepatitis B vaccination. Nonetheless, the parties agreed to resolve this matter informally.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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. Petitioner so moved on August 31, 2009, and the undersigned’s granted petitioner’s motion. This is the redacted copy of the undersigned’s August 17, 2009 Decision.

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 **\$35,000.00** in the form of a check payable to petitioner, Jane Doe/44. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

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.²

IT IS SO ORDERED.

Dated: August 17, 2009

/s/ Laura D. Millman
Laura D. Millman
Special Master

² 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.

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

[REDACTED])	
Petitioner,)	
v.)	No. [REDACTED]
SECRETARY OF HEALTH AND HUMAN)	Special Master
SERVICES,)	Millman
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner, [REDACTED], 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 her receipt of a hepatitis B ("hep B") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 100.3 (a).
2. Petitioner received her third hep B immunization on October 5, 1992.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she sustained multiple sclerosis ("MS") as a result of her vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action as a result of her condition.
6. Respondent denies that petitioner suffered MS as a

result of the vaccination she received October 5, 1992, and denies that her current medical condition is a sequelae 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 \$35,000.00 in the form of a check payable to petitioner, [REDACTED]. 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. The 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. 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 her individual capacity and on behalf of her 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 resulting from, or alleged to have resulted from, a hep B vaccination administered on October 5, 1992, as alleged by petitioner in a petition for vaccine compensation filed on or about June 28, 1999, in the United States Court of Federal Claims as petition No. [REDACTED].

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 petitioner's successors and assigns.

END OF STIPULATION

Respectfully submitted,

PETITIONER:



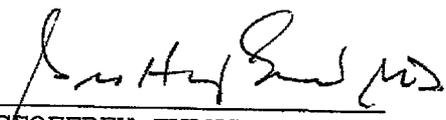
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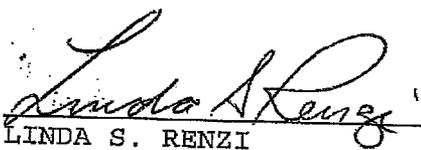
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Dated: Aug 7, 2009