

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

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MONA PORTER,	*	No. 99-639V
	*	Judge Nancy B. Firestone
	*	Special Master Christian J. Moran
	*	
v.	*	Filed: July 13, 2010
	*	
SECRETARY OF HEALTH	*	Damages decision based on proffer;
AND HUMAN SERVICES,	*	autoimmune hepatitis;
	*	hepatitis B vaccine
Respondent.	*	
	*	
*****		

*Ronald. C. Homer*, Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner;  
*Althea Walker Davis*, United States Dep't of Justice, Washington, D.C., for respondent.

**UNPUBLISHED DECISION AWARDING DAMAGES\***

In 1999, Mona Porter filed a petition seeking compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-1 et seq., alleging that the hepatitis B vaccine, which she received in three doses between 1992 and 1993, caused her to suffer autoimmune hepatitis. The Court found that Ms. Porter was entitled to compensation and remanded the case to determine damages. Rotoli v. Sec'y of Health & Human Servs., 89 Fed. Cl. 71, 102 (2009).

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\* Because this published decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it 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 clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, petitioner has 14 days to identify and to move to delete such information before 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.

On July 8, 2010, respondent filed a Proffer on Award of Compensation. Petitioner agreed to each item of compensation in the proffer. Based upon the record as a whole, the special master finds the proffer reasonable and that petitioner is entitled to an award as stated in the Proffer. Pursuant to the attached Proffer, attached as Appendix A, the court awards petitioner:

1. **A lump sum payment of \$476,563.59, in a check made payable to petitioner,** representing compensation for past lost wages (\$197,220.58), pain and suffering (\$205,000.00), and past unreimbursable expenses (\$36,807.96); and
2. **An amount sufficient to purchase the annuity contract described in section II.B. of the respondent's proffer.**

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk's Office is directed to enter judgment herewith. Pursuant to Vaccine Rule 28.1(a), the Clerk's Office is instructed to provide a copy of this decision to the assigned judge.

IT IS SO ORDERED.

S/ Christian J. Moran

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Christian J. Moran  
Special Master

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

AMANDA KNIGHT,	)	
Personal Representative	)	
of the Estate of	)	
Claudia J. Rotoli-Barr, deceased,	)	
	)	
Petitioner,	)	No. 99-644V
	)	Special Master Moran
	)	Judge Nancy B. Firestone
v.	)	
	)	
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
	)	

**RESPONDENT'S PROFFER ON AWARD OF COMPENSATION**

These proceedings are before the special master for a determination of an appropriate award of damages after Judge Firestone of the United States Court of Federal Claims reversed the original entitlement decision, and found Ms. Claudia Rotoli-Barr entitled to compensation for her vaccine-related injuries.<sup>1</sup>

**I. Items of Compensation**

A. Pain and Suffering

Respondent proffers that petitioner, as the personal representative of the Estate of Claudia Rotoli-Barr, should be awarded \$250,000.00 for past pain and suffering. Petitioner agrees.

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<sup>1</sup> The parties have no objection to the proffered award of damages. Assuming the special master issues a damages decision in conformity with this proffer, the parties waive their right to seek review of such damages decision, recognizing that respondent reserves her right, pursuant to 42 U.S.C. § 300aa-12(f), to seek review of Judge Firestone's August 17, 2009 decision finding Ms. Rotoli-Barr entitled to an award under the Vaccine Act. This right accrues following entry of judgment.

B. Past Unreimbursable Expenses

Petitioner supplied evidence that Ms. Rotoli-Barr incurred unreimbursable expenses related to her vaccine-related injury. Respondent proffers that petitioner, as the personal representative of the Estate of Claudia Rotoli-Barr, should be awarded compensation for past unreimbursable expenses in the amount of \$18,100.00. Petitioner agrees.

C. Past Lost Wages

Based upon the evidence, petitioner, as the personal representative of the Estate of Claudia Rotoli-Barr, should be awarded compensation for Ms. Rotoli-Barr's past lost wages in the amount of \$193,274.10. Petitioner agrees.

D. Medicaid Lien

Respondent proffers that petitioner, as the personal representative of the Estate of Claudia Rotoli-Barr, should be awarded funds to satisfy the State of Florida's Medicaid lien in the amount of \$14,983.92, which represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Florida may have against any individual as a result of any Medicaid payments the State of Florida has made to or on behalf of Claudia Rotoli-Barr from the date of her eligibility for benefits under Title XIX of the Social Security Act through the date of death, as a result of her vaccine-related injury suffered on or about May 5, 1995.

E. Death Benefit

While the parties were working to determine the amount of compensation due Ms. Rotoli-Barr for her damages, Ms. Rotoli-Barr passed away. See Petitioner's Exhibit 109 (Florida

Death Certificate indicating that Ms. Rotoli-Barr died on November 20, 2009). On May 27, 2010, the special master ruled that the evidence established that Ms. Rotoli-Barr's death was a sequela of her vaccine-related injury. See Unpublished Ruling on Entitlement, filed May 27, 2010. As such, respondent proffers that petitioner, as the personal representative of the Estate of Claudia Rotoli-Barr, should be awarded \$250,000.00 pursuant to 42 U.S.C. 300aa-15(a)(2). Petitioner agrees.

## **II. Form of the Award**

The parties recommend that compensation be provided to petitioner, as the personal representative of the Estate of Claudia Rotoli-Barr, through lump sum payments as follows:

A. A lump sum payment of \$711,374.10, representing compensation for past lost wages (\$193,274.10), past pain and suffering (\$250,000.00), past unreimbursable expenses (\$18,100.00), and the death benefit (\$250,000.00), in the form of a check payable to petitioner, as personal representative of the Estate of Claudia Rotoli-Barr. No payments shall be made until petitioner provides respondent with documentation establishing that she has been appointed as the personal representative of the Estate of Claudia Rotoli-Barr; and

B. A lump sum payment of \$14,983.92, representing compensation for satisfaction of the State of Florida Medicaid lien, payable jointly to petitioner and

ACS Recovery Services  
State of Florida Medicaid  
P.O. Box 12188  
Tallahassee, Florida 32317-2188  
Attn: Mark Lyles

Petitioner agrees to endorse this payment to the State of Florida.

**III. Summary of Recommended Payments Following Judgment**

- |    |  |                      |
|----|--|----------------------|
| A. | Lump Sum paid to petitioner as personal representative of the Estate of Claudia Rotoli-Barr: | <b>\$ 711,374.10</b> |
| B. | Reimbursement for Medicaid lien:   | <b>\$ 14,983.92</b>  |

Respectfully submitted,

TONY WEST  
Assistant Attorney General

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Director  
Torts Branch, Civil Division

MARK W. ROGERS  
Deputy Director  
Torts Branch, Civil Division

GABRIELLE M. FIELDING  
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          s/Althea Walker Davis            
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DATED: 7 June 2010