

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. [REDACTED]

Filed: March 28, 2014

Redacted: [REDACTED]

Not for Publication

[REDACTED] and
[REDACTED], as Parents
and Natural Guardians of [REDACTED],

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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Damages decision based on proffer;
adverse effects; GBS; hepatitis B

Altom M. Maglio, Sarasota, FL, for petitioners.
Linda S. Renzi, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On August 5, 1999, petitioners filed a petition under the National Childhood Vaccine Injury Act, 42 U.S.C. § 300aa-10-34 (2006), alleging that [REDACTED] suffered “adverse effects,” including Guillain-Barré syndrome (“GBS”), as a result of receiving hepatitis B (“Hep B”)

¹ Because this decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this 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 redact 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 redact such material from public access.

vaccine on June 7, 1995.

This case was part of the Hepatitis B-Neurological Demyelinating Omnibus Proceeding (“Omnibus” or “Hep B Omnibus”), and was effectively stayed until 2006, when decisions were issued in the Omnibus test cases.²

A hearing was held in January 2010. On December 10, 2010, then-Chief Special Master Lord issued a Ruling on Entitlement, finding that [REDACTED]’s GBS was caused by his Hep B vaccination.

On March 28, 2014, respondent filed Respondent’s Proffer on Award of Compensation. The undersigned finds the terms of the proffer to be reasonable. Based on the record as a whole, the undersigned finds that petitioners are entitled to the award as stated in the proffer. Pursuant to the terms stated in the attached proffer, the court awards petitioners:

- a. a lump sum payment of **\$2,888,204.00**, representing compensation for lost earnings (\$877,840.70), pain and suffering (\$250,000.00), and life care expenses expected to be incurred during the first year after judgment (\$1,760,363.30). The award shall be in the form of a check made payable to petitioners as guardians/conservators of [REDACTED], for the benefit of [REDACTED]; and
- b. a lump sum payment of **\$1,329,251.68**, representing compensation for past unreimbursable expenses. The award shall be in the form of a check made payable to [REDACTED], petitioners; and
- c. a lump sum payment of **\$932,088.85**, representing compensation for satisfaction of the State of Florida Medicaid lien. The award shall be in the form of a check made payable jointly to petitioners and

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioners agree to endorse this payment to the State of [REDACTED]; and

² The Omnibus proceedings are described in Stevens v. Sec’y of HHS, No. 99-594V, 2006 WL 659525 (Fed. Cl. Spec. Mstr. Feb. 24, 2006). The Omnibus was divided into four test cases, one for each category of injury—multiple sclerosis (“MS”), GBS, transverse myelitis (“TM”), and chronic inflammatory demyelinating polyneuropathy (“CIDP”). The GBS and CIDP test cases were later combined into one case. Gilbert v. Sec’y of HHS, No. 04-455V, 2006 WL 1006612 (Fed. Cl. Spec. Mstr. Mar. 30, 2006).

- d. an amount sufficient to purchase the annuity contract subject to the conditions described in section II.D of the attached proffer.

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.³

IT IS SO ORDERED.

Dated: March 28, 2014

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

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party, either separately or jointly, filing a notice renouncing the right to seek review.