

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 11-674V
(Not to be published)

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[REDACTED] Filed: February 13, 2015

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Petitioner,

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v.

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

*

Respondent.

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Decision by Stipulation; Damages;
Tetanus-Diphtheria-Acellular
Pertussis (“Tdap”) Vaccine;
Meningococcal Vaccine; Acute
Disseminated Encephalomyelitis
(“ADEM”)

* * * * *

Franklin John Caldwell, Jr., Maglio Christopher and Toale, PA, Sarasota, FL, for Petitioner.

Ryan Pyles, U.S. Dep’t of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On October 13, 2011, [REDACTED] filed a petition seeking compensation under the National Vaccine Injury Compensation Program.² Petitioner alleges that as a result of receiving the tetanus-diphtheria-acellular pertussis (“Tdap”) and meningococcal vaccines on or about June 5, 2010, he developed acute disseminated encephalomyelitis (“ADEM”) and related sequelae, and that he experienced the effects of this injury for more than six months.

¹ Because this decision contains a reasoned explanation for my action in this case, it will be posted on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the inclusion of certain kinds of confidential information. To do so, Vaccine Rule 18(b) provides that each party has fourteen (14) days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, the decision will be available to the public. *Id.*

² The National Vaccine Injury Compensation Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755 (codified as amended, 42 U.S.C.A. § 300aa-10 – 34 (2006)) [hereinafter “Vaccine Act” or “the Act”]. Individual sections references hereafter will be to § 300aa of the Act.

Respondent denies that the vaccines, either singly or in combination, are the cause of Petitioner's ADEM and/or any other injury. Nonetheless both parties, while maintaining their above-stated positions, agreed in a stipulation (filed February 12, 2015) that the issues before them can be settled, and that a decision should be entered awarding Petitioner compensation.

I have reviewed the file, and based upon that review, I conclude that the parties' stipulation (as attached hereto) is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The stipulation awards:

- A lump sum of \$325,000.00 in the form of a check payable to Petitioner.

Stipulation ¶ 8. This amount represents all compensation for damages that would be available under 42 U.S.C. § 300aa-15(a).

I approve a Vaccine Program award in the requested amounts set forth above to be made to Petitioner. 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.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by each filing (either jointly or separately) a notice renouncing their right to seek review.