

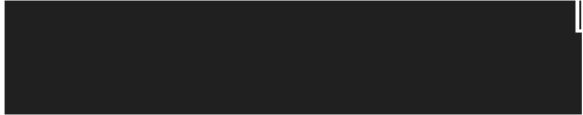
In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTER

E-Filed: November 16, 2010

No. 09-707

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UNPUBLISHED

Petitioner,

Influenza Vaccine; Death;  
Stipulation

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

\*\*\*\*\*

Franklin Caldwell, Sarasota, FL, for petitioner.

Traci Patton, Washington, DC, for respondent.

**DECISION**<sup>1</sup>

**Campbell-Smith**, Special Master

On October 19, 2009, [REDACTED] (“petitioner”) on behalf of her deceased husband, [REDACTED], filed a petition for compensation for Mr. [REDACTED]’s death, which petitioner alleges was the result of an influenza vaccine, that is listed on the

<sup>1</sup> Vaccine Rule 18(b) states that all of the decisions of the special masters will be made available to the public unless the decisions contain trade secrets or commercial or financial information that is privileged or confidential, or the decisions contain medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. Within 14 days of the filing of a decision or substantive order with the Court, a party may identify and move for the redaction of privileged or confidential information before the document’s public disclosure.

Vaccine Injury Table. Petitioner sought an award under the National Vaccine Injury Compensation Program, National Vaccine Injury Compensation Program<sup>2</sup> (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2006).

On November 15, 2010, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation and that the parties had also reached an agreement regarding attorneys' fees and costs. The parties stipulated that petitioner shall receive the following compensation:

A lump sum of \$250,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

#### Stipulation ¶ 8(a)

The parties further stipulated that they had reached the following agreement with respect to attorneys' fees:

A lump sum of \$16,861.87 in the form of a check payable to petitioner and petitioner's law firm, Maglio, Christopher & Toale, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e). In accordance with General Order # 9, petitioner represents that all litigation costs were paid by petitioner's attorney and that petitioner did not personally incur any costs in proceeding on the petition.

#### Stipulation ¶8(b).

The undersigned approves the requested amount for petitioner's compensation. Accordingly, an award should be made in the form of a check payable to petitioner in the amount of \$250,000.00. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.<sup>3</sup>

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<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in 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. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

The undersigned also approves the requested amount for attorneys' fees and costs as reasonable. Accordingly, an award should be made in the form of a check payable jointly to petitioner and the Maglio, Christopher & Toale in the amount of \$16,861.87. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.<sup>4</sup>

**IT IS SO ORDERED.**

s/ Patricia E. Campbell-Smith  
Patricia Campbell-Smith  
Special Master

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<sup>4</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.