

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS
No. 00-749V
Filed: December 3, 2008**

[REDACTED], a minor, by her *
parents and natural guardian, [REDACTED] *
[REDACTED], *
*
Petitioners, *
*
v. *
*
SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *
*
Respondent. *

DECISION ON JOINT STIPULATION

Vowell, Special Master:

Petitioners filed a petition (Pet.) for compensation on behalf of their daughter, [REDACTED], under the National Vaccine Injury Compensation Program¹ on February 11, 2000. Petitioners allege that their daughter [REDACTED] suffers from juvenile dermatomyositis (“JDM”) that was caused-in-fact by her hepatitis B vaccination received on December 9, 1997. See Pet. at ¶ 3. Respondent denies that [REDACTED] suffered the claimed injuries from the hepatitis B vaccination and that her current medical condition is a sequelae of a vaccine related injury. See Stipulation, filed December 3, 2008, at ¶ 6.

Nevertheless, the parties have agreed to settle the case. On December 3, 2008, the parties filed a [59] joint stipulation agreeing to settle this case and describing the settlement terms. Respondent agreed to pay petitioners:

¹ As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire decision” will be available to the public. *Id.*

A lump sum payment of **\$125,000.00** in the form of a check payable to petitioners, [REDACTED], on behalf of their daughter [REDACTED]. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The special master adopts the parties' stipulation attached hereto, and awards compensation in the amount and on the terms set forth therein. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.²

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
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

_____, a minor, by her
parents and natural guardians, _____

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 00-749V
Special Master Vowell

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of their daughter, _____ and _____ 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 _____ receipt of a hepatitis B vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table") at 42 C.F.R. §100.3(a)(VIII).
2. _____ received a hepatitis B vaccination on December 9, 1997.
3. The vaccine was administered within the United States.
4. Petitioners allege that _____ sustained a vaccine-related injury diagnosed as juvenile dermatomyositis ("JDM") that was caused-in-fact by the hepatitis B vaccine. They further allege that _____ experienced the residual effects of her JDM for more than six months.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of [REDACTED] as a result of her condition.

6. Respondent denies that [REDACTED] JDM and alleged residual effects were caused-in-fact by the hepatitis B vaccine.

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 petitioners have 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 payments:

A lump sum of \$125,000.00 in the form of a check payable to petitioners. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

9. Any payment made pursuant to paragraph 8 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

10. As soon as practicable after the entry of judgment on entitlement in this case, and after petitioners have filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the special master shall preside over further proceedings to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

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 [REDACTED] 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. Petitioners represent that they presently are, or within 90 days of this date of judgment will become, duly authorized to serve as guardians/conservators of [REDACTED] estate under the laws of the State of Illinois. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardians/conservators of [REDACTED] estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians/conservators of the estate of [REDACTED] at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian/conservator of the estate of [REDACTED] upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraph 8, petitioners, in their individual capacities and as legal representatives of [REDACTED] on behalf of themselves, [REDACTED] and her heirs, executors, administrators, successors or assigns, do 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 of, [REDACTED] resulting from, or alleged to have resulted from, the hepatitis B vaccination administered on

December 9, 1997, as alleged by petitioners in a petition for vaccine compensation filed on or about December 11, 2000, in the United States Court of Federal Claims as petition No. 00-749V.

14. If [REDACTED] should die prior to receiving the payment described in paragraph 8(a), this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

15. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation, or in the event 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.

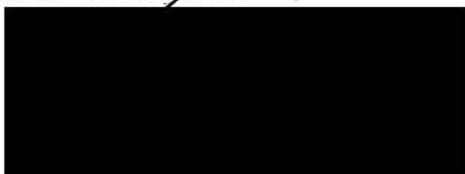
16. This Stipulation expresses a full and complete settlement of liability and damages claimed in this matter by petitioners under the National Vaccine Injury Act of 1986, as amended. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

17. All rights and obligations of petitioners hereunder shall apply equally to their heirs, successors and/or assigns as legal representatives of [REDACTED].

END OF STIPULATION

Respectfully submitted,

PETITIONERS:



**ATTORNEY OF RECORD FOR
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Dated: December 2, 2008