



3. The vaccine was administered within the United States.

4. Petitioner alleges that the meningococcal vaccine, among other non-covered vaccines, caused-in-fact “post vaccination encephalitis complicated by a movement disorder with cognitive dysfunction, symptoms consisting of fatigue, malaise, fever, profuse sweating, headache myalgias, pharyngitis and tremors.”

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages related to the meningococcal vaccine as a result of his condition. Petitioner did receive a compensatory ruling related to his condition under the Smallpox Vaccine Injury Compensation Program.

6. Respondent denies that John’s injuries were caused-in-fact by the meningococcal 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 [Decision].

8. As soon as practicable after an entry of judgment reflecting [this Decision], and after Petitioner has filed an election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), the Secretary of Health and Human Services [shall] issue the following vaccine compensation payments:

a. A lump sum of \$5,000.00, in the form of a check payable to Petitioner[, which] amount represents compensation for damages that would be available under 42 U.S.C. § 300aa-15(a) (4) (actual and projected pain and suffering and emotional distress); and

b. A lump sum of \$31,977.68, in the form of a check payable to Petitioner and Petitioner’s attorney, Myles D. Jacobson, Esq., for attorneys’ fees and costs; and

c. In compliance with General Order #9, a lump sum of \$1,135.12, in the form of a check payable to Petitioner for out-of-pocket expenses incurred by Petitioner in proceeding on the Petition.

9. Payment made pursuant to paragraph 8 of this [Decision] [shall] be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

10. The parties and their attorneys further agree and stipulate that, except for any award for reasonable attorneys’ fees, litigation costs, and past unreimbursable expenses, the money provided pursuant to this [Decision] [shall] be used solely for the benefit of Petitioner 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).

11. In return for the payments described in paragraph 8(a), Petitioner, in his individual capacity and on behalf of his heirs, executors, administrators, successors or assigns, does 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 (including agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been or could be timely brought in the future in the Court of Federal Claims under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 *et seq.*, on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of Petitioner, resulting from, or alleged to have resulted from, the meningococcal vaccination administered on 6 April 2003, as alleged by Petitioner in a petition for vaccine compensation filed on or about 30 November 2007, in the United States Court of Federal Claims as petition No. 07-0834V, specifically excluding and exempting from this release, acquit and discharge: all actions and causes of action (including agreements judgments, claims, damages, loss of service, expenses, and demands) that have been or could be brought for the purpose of obtaining benefits in the nature of disability payments or assistance, medical care, or retirement payments from the Social Security Administration, Veterans Affairs, or the Department of Defense (including the U.S. Army and National Guard).

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

13. [If the undersigned Special Master does not issue a Decision in complete conformity with the terms of the Stipulation between the parties, or in the event the Court of Federal Claims does not enter judgment in conformity with a decision that is in complete conformity with the terms of the Stipulation between the parties,] then the parties' settlement and their Stipulation shall be null and void at the discretion of either party.

14. This [Decision] expresses a full and complete settlement of liability and damages claimed under the National Childhood 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 Petitioner hereunder shall apply equally to Petitioner's successors and assigns.

I find this conclusion reasonable, just and proper, and adopt these provisions as the Decision of this Court in awarding damages. Therefore, in the absence of the filing of a motion for review, filed pursuant to Vaccine Rule 23 within 30 days of this date, **the clerk shall forthwith enter judgment** in accordance herewith.

**IT IS SO ORDERED.**

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**Richard B. Abell**  
Special Master