

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: February 4, 2009)

_____)	
MATTHEW JAMES STEIN,)	
)	UNPUBLISHED
)	
Petitioner,)	No. 01-0004V
)	
v.)	Stipulation; Hepatitis B
)	Vaccine
SECRETARY OF THE DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

Jeffrey A. Golvash, Pittsburgh, Pennsylvania, for petitioner.

Ryan D. Pyles, Washington, DC, for respondent.

DECISION¹

This Decision supercedes the Decision issued on February 2, 2009. The re-issued decision reflects that at the time suit was filed, Matthew Stein was a minor. On January 2, 2001, petitioner's mother, Monica Stein, filed a petition on behalf of her son, Matthew James Stein (Matthew) seeking compensation under the National Vaccine Injury Compensation

¹ 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 Clerk of the Court, a party may identify and move for the redaction of privileged or confidential information before the document's public disclosure.

Program (the "Vaccine Program" or the "Act").² During the course of this litigation, Matthew reached the age of majority, at which time the undersigned granted the motion to substitute him as petitioner in this case.

Petitioner alleged that he experienced an adverse event as a result of his hepatitis B immunizations. Petitioner specifically alleges that his Hepatitis B vaccinations either caused or significantly aggravated a pain syndrome and/or one or more neuralgias, resulting in symptoms such as head pain and abdominal spasms. Petitioner received his hepatitis-B vaccinations on October 7, 1997, January 6, 1998 and October 29, 1998. Respondent denied that petitioner suffered any adverse affects as result of his Hepatitis B vaccinations. See Stipulation.

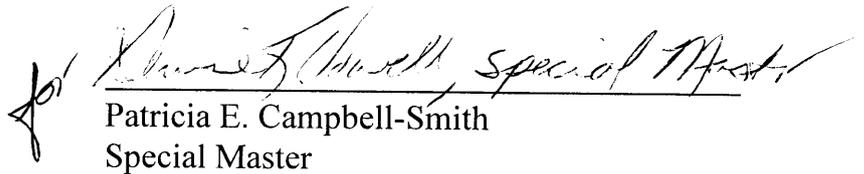
On January 16, 2009, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation. The parties stipulated that petitioner shall receive the following compensation:

A lump sum of \$ 60,000.00 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.

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 \$60,000.00. 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.³

IT IS SO ORDERED.


Patricia E. Campbell-Smith
Special Master

² 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.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002) (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.

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

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IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

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U.S. COURT OF FEDERAL CLAIMS

MATTHEW JAMES STEIN,
Petitioner,
v.
SECRETARY OF HEALTH AND HUMAN
SERVICES,
Respondent.

No. 01-4V
Special Master
Patricia E. Campbell-Smith

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner Matthew James Stein 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 Mr. Stein's receipt of a Hepatitis B vaccine series, which vaccine is contained in the Vaccine Injury Table (the "Table"). 42 U.S.C. § 300aa-14(c); 42 C.F.R. § 100.3 (a) (VIII).

2. Petitioner received three Hepatitis B immunizations on or about October 7, 1997, January 6, 1998, and October 29, 1998.

3. The vaccines were administered within the United States.

4. Petitioner alleges that the Hepatitis B vaccinations either caused or significantly aggravated a pain syndrome and/or one or more neuralgias, resulting in such symptoms as head pain and

abdominal spasms.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Matthew James Stein as a result of his condition.

6. Respondent denies that Hepatitis B immunization is the cause of Matthew James Stein's pain syndrome, neuralgias, and/or any other injury.

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 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 will issue the following vaccine compensation payment:

A lump sum of **\$60,000.00** 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).

9. As soon-as practicable-after the entry of judgment on entitlement in this case, and after petitioner has filed both a proper and timely election to receive compensation pursuant to 42 U.S.C. § 300aa-21(a)(1), and an application, the parties will submit to further proceedings before the special master to award

reasonable attorneys' fees and costs incurred in proceeding upon this petition.

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

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 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).

12. In return for the payments described in paragraphs 8 and 9, petitioner 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, 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 petitioner resulting from, or alleged to have resulted from, the Hepatitis B vaccinations administered on or about October 7, 1997, January 6, 1998, and October 29, 1998, as alleged by petitioner in a petition for vaccine compensation filed on or about January 2, 2001, in the United States Court of Federal

Claims as petition No. 01-4V.

13. If petitioner should die prior to receiving the payment described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if 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 voidable at the sole discretion of either party.

15. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 9 above. 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.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's successors and assigns.

END OF STIPULATION

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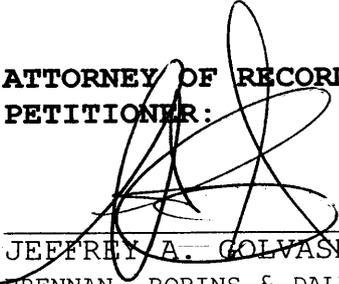
Respectfully submitted,

PETITIONER:



MATTHEW JAMES STEIN

**ATTORNEY OF RECORD FOR
PETITIONER:**



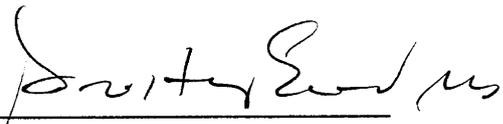
JEFFREY A. GOLVASH
BRENNAN, ROBINS & DALEY, P.C.
Fort Pitt Commons, Suite 500
445 Fort Pitt Boulevard
Pittsburgh, PA 15219-1322
(412) 281-0776

**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**



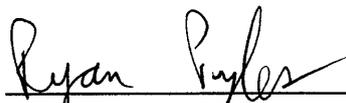
VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

**AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:**



GEOFFREY EVANS, M.D.
Director, Division of
Vaccine Injury Compensation
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Stop 11C-26
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**



RYAN D. PYLES
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 616-9847

Dated: January 16, 2009