

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 06-428V  
Filed: February 9, 2009

### UNPUBLISHED VACCINE DECISION

\*\*\*\*\*

AMY B. ALEXANDER,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

Respondent.

\*\*\*\*\*

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Stipulation; HepB; Neuropathy;  
Charcot-Marie Tooth Disease;  
Chronic Inflammatory Demyelinating  
Polyneuropathy; Postural Orthostatic  
Tachycardia Syndrome

### DECISION<sup>1</sup>

On February 2, 2009, the parties to the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner alleges that she sustained vaccine related injuries of peripheral neuropathy, Charcot-Marie Tooth disease, chronic inflammatory demyelinating polyneuropathy, and postural orthostatic tachycardia syndrome, which she alleges were caused-in-fact by the HepB vaccines she received on October 21, 2002, November 18, 2002 and April 23, 2003. Respondent denies that any of petitioner's injuries were caused by the HepB vaccines she received. Nonetheless, the parties agreed informally to resolve this matter.

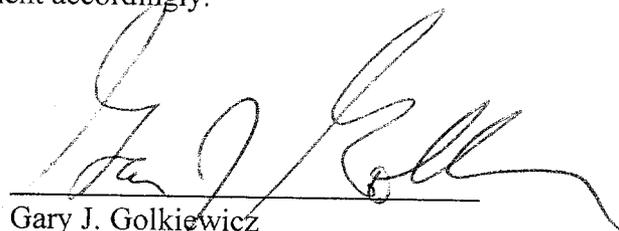
The court hereby **adopts** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Specifically, petitioner is awarded \$350,000.00 divided equally between two life insurance companies to purchase annuity contracts described in paragraph 10 of the Stipulation, paid to the life insurance companies from

---

<sup>1</sup>The undersigned intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). 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.

which the annuities will be purchased. See Stipulation, para. 8, para. 10, February 2, 2009. The Clerk of the Court is directed to enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**



\_\_\_\_\_  
Gary J. Golkiewicz  
Chief Special Master

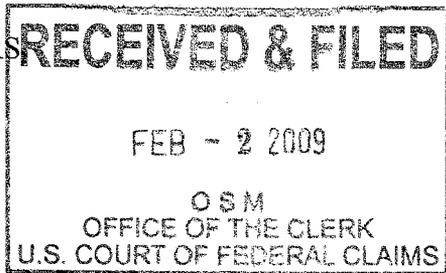
---

<sup>2</sup>Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

XTRA

THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS



AMY B. ALEXANDER,	)
	)
Petitioner,	)
	)
v.	)
	)
SECRETARY OF HEALTH AND	)
HUMAN SERVICES,	)
	)
Respondent.	)
	)
	)

No. 06-428V  
Chief Special Master  
Gary J. Golkiewicz

STIPULATION

It is hereby stipulated by and between the parties, the following matters:

1. On May 26, 2006, Amy B. Alexander ("petitioner"), filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34, as amended (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of a series of Hepatitis B ("Hep B") vaccines. Hep B vaccine is covered under the Vaccine Injury Table (the "Table"), 42 C.F.R. §100.3(a), as amended.
2. Petitioner received Hep B vaccines on October 21, 2002, November 18, 2002, and April 23, 2003.
3. The vaccines were administered within the United States.
4. Petitioner alleges that during the first week of June 2003, she began to experience numbness and a tingling sensation in her hands. Within days, her symptoms included vertigo, dizziness, and gait difficulty. Petitioner was diagnosed with peripheral neuropathy, Charcot-Marie Tooth disease, chronic inflammatory demyelinating polyneuropathy, and postural

orthostatic tachycardia syndrome, which she alleges were caused-in-fact by the Hep B vaccines she received.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of her alleged vaccine-related injury.

6. Respondent denies that any of petitioner's claimed injuries was caused by the Hep B vaccines she received.

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:

An amount of \$350,000.00, divided equally between two life insurance companies to purchase the annuity contracts described in paragraph 10 below, paid to the life insurance companies from which the annuities will be purchased (the "Life Insurance Companies"). This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

9. The Life Insurance Companies must have a minimum of \$250,000,000 capital and surplus, exclusive of any mandatory security valuation reserve. The Life Insurance Companies must have one of the following ratings from two of the following rating organizations:

- a. A.M. Best Company: A++, A+, A+g, A+p, A+r, or A+s;
- b. Moody's Investor Service Claims Paying Rating: Aa3, Aa2, Aa1, or Aaa;

c. Standard and Poor's Corporation Insurer Claims-Paying Ability Rating: AA-, AA, AA+, or AAA;

d. Fitch Credit Rating Company, Insurance Company Claims Paying Ability Rating: AA-, AA, AA+, or AAA.

10. The Secretary of Health and Human Services agrees to purchase two annuity contracts from the Life Insurance Companies for the benefit of Amy B. Alexander, pursuant to which the Life Insurance Companies will agree to make payments periodically to petitioner for the following items of compensation:

For all elements of compensation under § 300aa-15(a), the following payments:

- a. Beginning one month from the date of purchase, \$983.95 per month for 20 years certain and life thereafter.

The purchase price of the annuity described in paragraph 10(a) shall not exceed \$175,000.00. In the event that the cost of the annuity payments set forth in this paragraph 10(a) varies from \$175,000.00, the monthly benefit shall be adjusted to ensure that the total cost of the annuity is neither less nor greater than \$175,000.00; and

- b. Beginning one month from the date of purchase, \$983.95 per month for 20 years certain and life thereafter.

The purchase price of the annuity described in paragraph 10(b) shall not exceed \$175,000.00. In the event that the cost of the annuity payments set forth in this paragraph 10(b) varies from \$175,000.00, the monthly benefit shall be adjusted to ensure that the total cost of the annuity is neither less nor greater than \$175,000.00.

The certain and life payments provided herein shall be made in monthly payments guaranteed for the 20 year period and life thereafter, as set forth above. Should Amy B. Alexander predecease the exhaustion of the certain payments during the 20 year certain period, any remaining payments

shall be made to her estate. However, the representative of petitioner's estate shall provide written notice to the Secretary of Health and Human Services and to the Life Insurance Companies within twenty (20) days of Amy B. Alexander's death.

11. The annuity contracts will be owned solely and exclusively by the Secretary of Health and Human Services and will be purchased as soon as practicable following the entry of a judgment in conformity with this Stipulation. The parties stipulate and agree that the Secretary of Health and Human Services and the United States of America are not responsible for the payment of any sums other than the amounts set forth in paragraph 8 herein and the amounts awarded pursuant to paragraph 12 herein, and that they do not guarantee or insure any of the future annuity payments. Upon the purchase of the annuity contracts, the Secretary of Health and Human Services and the United States of America are released from any and all obligations with respect to future annuity payments.

12. 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 special master shall preside over further proceedings to award reasonable attorney's fees and costs incurred in proceeding upon this petition.

13. Payments made pursuant to paragraph 8 and any amount awarded pursuant to paragraph 12 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

14. The parties and their attorneys further agree and stipulate that the money provided pursuant to this Stipulation as part of the annuity contracts will be used solely for the benefit of

petitioner, Amy B. Alexander, 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).

15. In return for the payments described in paragraphs 8 and 12, petitioner, in her individual capacity, and on behalf of her 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, 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 herself resulting from, or alleged to have resulted from, Hep B vaccines administered to her on October 21, 2002, November 18, 2002, and April 23, 2003, as alleged by petitioner in a petition for vaccine compensation filed on May 26, 2006, in the United States Court of Federal Claims as petition No. 06-428V.

16. If petitioner should die prior to the Secretary making any or all of the payments 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.

17. 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 null and void at the sole discretion of either party.

18. 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 12 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.

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

END OF STIPULATION