

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 05-570V

Filed: June 29, 2006

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 DEBORAH KELLY, \*  
 \*  
 Petitioner, \*  
 \*  
 v. \*  
 \*  
 SECRETARY OF THE DEPARTMENT \*  
 OF HEALTH AND HUMAN SERVICES, \*  
 \*  
 Respondent. \*  
 \*\*\*\*\*

DECISION<sup>1</sup>

On June 20, 2006, the parties to the above captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. The court hereby **grants** the parties' said Stipulation. The Clerk shall enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**



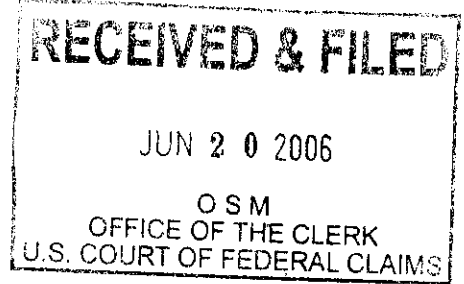
\_\_\_\_\_  
 Gary J. Golkiewicz  
 Chief Special Master

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<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.

<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.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**



DEBORAH KELLY,	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 05-570V
	)	
SECRETARY OF HEALTH	)	Chief Special Master
AND HUMAN SERVICES,	)	Golkiewicz
	)	
Respondent.	)	
	)	

**STIPULATION**

The parties stipulate to the following matters:

1. Deborah Kelly, petitioner, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq. (the "Vaccine Program"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of the Tetanus Diphtheria ("Td") vaccine, which vaccine is contained on the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3.
2. Petitioner received her Td vaccination on July 26, 2004.
3. The vaccine was administered within the United States.
4. Petitioner sustained the first symptom or manifestation of the onset of brachial neuritis within the time period set forth in the Table.
5. Petitioner suffered the residual effects or complications of her brachial neuritis for more than six months after her vaccination.
6. There is not a preponderance of the evidence demonstrating that petitioner's condition is due to a factor unrelated to her July 26, 2004 immunization.

7. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of her condition.

8. Accordingly, petitioner is entitled to compensation under the terms of the Vaccine Program. Therefore, a decision should be entered awarding the compensation described in paragraph 9 of this Stipulation.

9. 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 a lump sum payment of One Hundred Fifty-Thousand Dollars (\$150,000.00) in the form of a check payable to petitioner. This sum represents all elements of compensation available under 42 U.S.C. § 300aa-15(a).

10. 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 attorneys' fees and costs incurred in proceedings upon this petition.

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

12. In return for the payments described in paragraphs 9 and 10, petitioner in her individual capacity, on her own behalf, and on behalf of her heirs, executors, administrators, successors, and 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 herself or death of petitioner resulting from, or alleged to have resulted from, the Tetanus Diphtheria vaccination administered to her on July 26, 2004, as alleged by petitioner in a petition for vaccine compensation filed on or about May 24, 2005, in the United States Court of Federal Claims as petition No. 05-570V.

13. If petitioner should die prior to the Secretary making the payment described in paragraph 9, 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 null and void 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. 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 her heirs, successors and/or assigns.

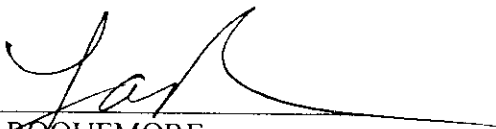
END OF STIPULATION

Respectfully submitted,


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DEBORAH KELLY


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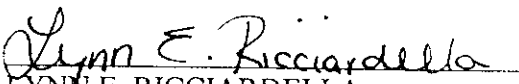
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Date: June 19, 2006