

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

JANE DOE/75,	*	
	*	
Petitioner,	*	No. [Redacted]V
	*	Special Master Christian J. Moran
	*	
v.	*	
	*	Filed: June 17, 2010
SECRETARY OF HEALTH	*	Reissued: July 21, 2010
AND HUMAN SERVICES,	*	
	*	Stipulation; influenza (flu) vaccine;
Respondent.	*	hepatitis A vaccine; hepatitis B
	*	vaccine; acute disseminated
	*	encephalomyelitis (ADEM).

UNPUBLISHED DECISION¹

Thomas P. Gallagher, Esq., Gallagher & Gallagher Law Firm, LLC, Somers Point, NJ, for Petitioner;
Traci R. Patton, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On June 11, 2010, the parties filed a joint stipulation concerning the petition for compensation filed by petitioner, which was filed on February 8, 2005. In her petition, petitioner alleged that influenza (flu) vaccines, hepatitis A vaccines and hepatitis B vaccines, which are contained in the Vaccine Injury Table, 42 C.F.R. §100.3(a), caused her to develop multiple adverse effects. After her petition was filed, petitioner alleged that she developed acute disseminated encephalomyelitis (ADEM) as a result of her hepatitis B vaccinations.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, the person submitting the information has 14 days to identify and to move to delete such information before the document's disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

The undersigned found in the Findings of Fact issued on January 4, 2008, that petitioner received flu vaccinations on October 22, 1996; at some time in October 1997; on October 28, 1999; at some point in October 2000; and on December 5, 2001. Petitioner also received hepatitis B vaccinations on January 25, 2002; February 25, 2002; and on July 10, 2002. She received a hepatitis A vaccination on January 25, 2002. Petitioner alleges that she experienced the residual effects of her injuries for more than six months.

Respondent denies that petitioner suffered ADEM, or any other injury or condition as a result of the flu, hepatitis B and/or hepatitis A vaccinations that she received between October 22, 1996, and July 10, 2002. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

Damages awarded in that stipulation include:

A lump sum payment of \$25,000.00, in the form of a check payable to petitioner. The amount described herein represents compensation for remaining elements of compensation available under 42 U.S.C. § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 05-203V according to this decision and the attached stipulation.

Any questions may be directed to my law clerk, Francina Segbefia, at (202) 357-6358.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

[REDACTED]

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

[REDACTED])	
)	
Petitioner,)	
v.)	No. [REDACTED]
)	Special Master Moran
SECRETARY OF HEALTH AND HUMAN)	ECF
SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. [REDACTED] ("petitioner") filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 to 34 (the "Vaccine Program"). She filed an amended petition on April 30, 2007, seeking compensation for injuries allegedly related to petitioner's receipt of influenza ("flu") vaccinations, Hepatitis A vaccinations, and Hepatitis B vaccinations, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. According to Findings of Fact issued by the Special Master on January 4, 2008, petitioner received flu vaccinations on October 22, 1996; at some point in October 1997; October 28, 1999; at some point in October 2000; and December 5, 2001.
3. Petitioner received Hepatitis B vaccinations on January 25, 2002; February 25, 2002; and July 10, 2002.
4. Petitioner received a Hepatitis A vaccination on January 25, 2002.
5. The vaccines were administered within the United States.
6. Petitioner alleges that she sustained multiple adverse effects on her health following

[REDACTED]

the administration of numerous flu vaccinations, a Hepatitis A vaccination, and three Hepatitis B vaccinations. After her petition was filed, she alleged that she developed ADEM as a result of her Hepatitis B vaccinations. She further alleges that she suffered the residual effects or complications of her alleged injuries or conditions for more than six months after the administration of the vaccines.

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

8. Respondent denies that petitioner suffered ADEM, or any other injury or condition, as a result of the flu, Hepatitis B, and/or Hepatitis A vaccinations she received between October 22, 1996, and July 10, 2002.

9. 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 10 of this Stipulation.

10. 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 of \$25,000.00 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).

11. 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

[REDACTED]

petition.

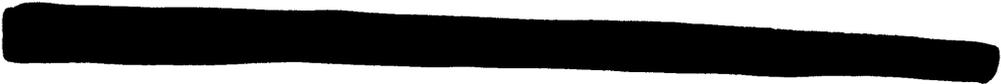
12. Payment made pursuant to paragraph 10 of this Stipulation will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

13. 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).

14. In return for the payment described in paragraph 10, petitioner, on behalf of herself and 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 petitioner resulting from, or alleged to have resulted from, the vaccinations administered between October 22, 1996, and July 10, 2002, as alleged by petitioner in a petition for vaccine compensation filed on or about February 8, 2005, in the United States Court of Federal Claims as petition No. 05-203V, and as amended by petitioner in subsequent pleadings.

15. If petitioner should die prior to receiving the payment described in paragraph 10, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

16. 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.

17. 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 11 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.

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

END OF STIPULATION

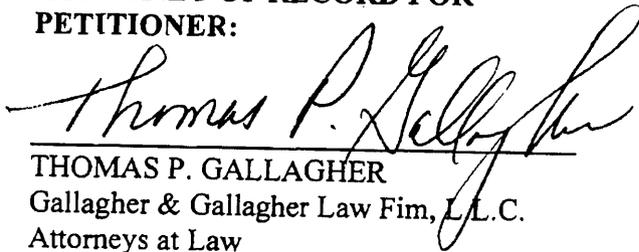
[REDACTED]

Respectfully submitted,

PETITIONER:

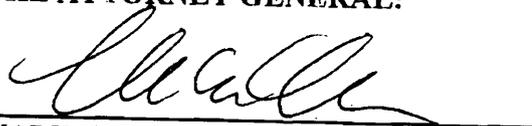
[REDACTED]

**ATTORNEY OF RECORD FOR
PETITIONER:**



THOMAS P. GALLAGHER
Gallagher & Gallagher Law Firm, L.L.C.
Attorneys at Law
822 Shore Road
Somers Point, NJ 08244
(609) 926-6450

**AUTHORIZED REPRESENTATIVE OF
THE ATTORNEY GENERAL:**



MARK W. ROGERS
Deputy Director
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 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:**



TRACI R. PATTON
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 353-1589

Dated: 6-8-10