

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

NANCY FREDERICKSON,	*	
	*	No. 07-455V
Petitioner,	*	Special Master Moran
	*	

v.	*	
	*	Filed: March 26, 2010

SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	Stipulation; influenza (flu)
	*	vaccine; relapsing myelitis
Respondent.	*	
	*	

UNPUBLISHED DECISION¹

Ronald C. Homer, Esq., Conway, Homer & Chin-Caplan, P.C., Boston, MA, for Petitioner;
Michael P. Milmo, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On March 25, 2010, the parties filed a joint stipulation concerning the petition for compensation filed by Nancy Frederickson on June 28, 2007. In her petition, Ms. Frederickson alleged that the influenza (“flu”) vaccine, which is contained in the Vaccine Injury Table, 42 C.F.R. §100.3 (a), and which she received on November 29, 2000, caused her to suffer a relapsing myelitis.

Respondent denies that Ms. Frederickson’s suffered the onset of myelitis as a result of the influenza vaccine and denies that Ms. Frederickson’s current disabilities are caused by any vaccination she received.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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

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 \$110,000.00, in the form of a check payable to petitioner.

This amount represents compensation for all damages 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 07-455V according to this decision and the attached stipulation.

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

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

NANCY FREDRICKSON,)	
)	
Petitioner,)	
)	
v.)	
)	No. 07-455V
SECRETARY OF HEALTH AND HUMAN)	Special Master Moran
SERVICES,)	
)	
Respondent.)	
)	

STIPULATION

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

1. Petitioner, Nancy Fredrickson, 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 her receipt of an influenza vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Petitioner received her immunization on November 29, 2000.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she suffered a relapsing myelitis which was caused-in-fact by the influenza vaccine she received on November 29, 2000.
5. 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.

6. Respondent denies that petitioner suffered the onset of myelitis as a result of the influenza vaccine and denies that petitioner's current disabilities are caused by any vaccination 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:

A lump sum of \$110,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages 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 special master shall preside over further proceedings to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payments made pursuant to paragraph 8 and any amount 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, Nancy Frederickson, 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, 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, the influenza vaccine administered to her on November 29, 2000, as alleged by petitioner in a petition for vaccine compensation filed on June 28, 2007, in the United States Court of Federal Claims as petition No. 07-455V.

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 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, 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.

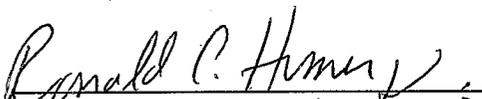
END OF STIPULATION

Respectfully submitted,

PETITIONER:


NANCY FREDRICKSON

**ATTORNEY OF RECORD FOR
PETITIONER:**


RONALD C. HOMER *by Kevin Conway*
Conway, Homer & Chin-Caplan
16 Shawmut Street
Boston, MA 02116
(617) 695-1990

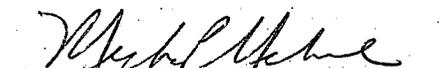
**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


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:**


MICHAEL P. MILMOE
Senior Trial Counsel
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 616-4125

Dated: March 25, 2010