

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS


(Filed: October 21, 2005)

MARIA MORALES,)	
)	
Petitioner,)	
)	
v.)	No. 03-1982V
)	DO NOT PUBLISH
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

DECISION DIRECTING ENTRY OF JUDGMENT¹

The parties filed a stipulation on October 18, 2005. The special master has reviewed thoroughly the stipulation. He adopts completely the stipulation. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment based upon the stipulation in petitioner's favor.²

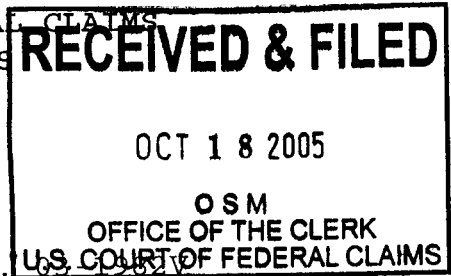
The clerk of court shall send petitioner's copy of this decision to petitioner by overnight express delivery.


John F. Edwards
Special Master

¹ 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.*

² Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review. Then, under Vaccine Rule 12(a), petitioner may expedite payment by filing an election to accept the judgment.

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



* * * * *
MARIA MORALES,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

* * * * *

No. 05-1982V
Special Master
Edwards

STIPULATION

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

1. On her own behalf, petitioner, Maria Morales, 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 in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 300aa-14(a)(I); 42 C.F.R. § 100.3(a)(I).

2. Petitioner received a Td immunization on October 20, 2000.

3. The vaccine was administered within the United States.

4. Petitioner sustained the first symptom or manifestation of the onset of a 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 October 20, 2000 Td immunization.

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. 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 the following vaccine compensation payments:

a. A lump sum of \$180,000.00 in the form of a check payable to petitioner, Maria Morales. This amount represents compensation for all vaccine-related items and care, pain and suffering, lost wages, and past unreimbursable expenses; and

b. A lump sum of \$27,500 in the form of a check payable to petitioner and petitioner's attorney, Nora Constance Marino, for attorneys' fees and costs. In compliance with General Order #9, no out-of-pocket expenses have been incurred by petitioner in proceeding on the petition.

10. Payments made 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. In return for the payments described in paragraph 9, petitioner, 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 Maria Morales resulting from, or alleged to have resulted from, the Td vaccination administered on October 20, 2000, as alleged by petitioner in a petition for vaccine compensation filed on or about August 22, 2002 in the United States Court of Federal Claims as petition No. 03-1982V.

12. In the event petitioner should die prior to the Secretary making any or all of the payments described in paragraph 9(a), this agreement shall be considered voidable upon a proper notice to the Court on behalf of either or both of the parties.

13. In the event the special master fails to issue a decision in complete conformity with the terms of this Stipulation or in the event 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.

14. 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.

15. All rights and obligations of petitioner hereunder shall apply equally to her successors and assigns.

END OF STIPULATION

Respectfully submitted,

PETITIONER:

Maria Morales
MARIA MORALES

Sworn to before me
Queens, N.Y.
Sept 26 2005
[Signature]
RUDOLPH E. GRECO, JR.
Notary Public, State of New York
No. 41-480473
Qualified in Queens County
Term Expires September 30, 2009

ATTORNEY OF RECORD FOR
PETITIONERS:

[Signature] 9/27/05
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AUTHORIZED REPRESENTATIVE OF
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HUMAN SERVICES:

[Signature]
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Dated: 10-18-05