

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 99-309V

Filed: May 22, 2008

Not for publication

MIKE MORRILL,

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Petitioner,

*

*

v.

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Damages decision based on stipulation; MS following Hep B vaccinations

SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES,

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*

Respondent.

*

Clifford Shoemaker, Vienna, VA, for petitioner. Richard F. Topping, Washington, DC, fo respondent.

DECISION AWARDING DAMAGES¹

On May 19, 2008, the parties filed the attached stipulation, in which they agreed to settle this case and described the settlement terms. Petitioner alleges that he suffers from multiple sclerosis (“MS”) as a consequence of his receipt of hepatitis B (“Hep B”) vaccinations. Respondent denies that petitioner’s alleged injury was vaccine-related, and denies that he suffers any current disabilities that are sequelae of his alleged injury. Nonetheless, the parties agreed to resolve this matter informally.

The court hereby adopts the parties’ stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a lump sum of **\$30,000.00** in the form of a check made payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

¹ The undersigned intends to post this decision on the United States Court of Federal Claims’ 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.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.²

IT IS SO ORDERED.

Dated: May 22, 2008

/s/ Laura D. Millman

Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

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

MIKE MORRILL,)	
)	
Petitioner,)	
v.)	
)	No. 99-309V
SECRETARY OF HEALTH)	Special Master Millman
AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

STIPULATION

The parties hereby stipulate to the following matters:

1. 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"). The petition seeks compensation for injuries allegedly related to petitioner's receipt of the hepatitis B vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 300aa-14(a); 42 C.F.R. § 100.3(a).
2. Petitioner received the vaccinations on April 14, July 3, and November 3, 1993.
3. The vaccinations were administered within the United States.
4. Petitioner alleges that he sustained multiple sclerosis ("MS") as a consequence of his receipt of the vaccinations.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of his condition.
6. Respondent denies that petitioner suffered an injury actually caused by his receipt of the vaccinations, and denies that his current disabilities are sequelae of his alleged vaccine-related injury.

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 \$30,000 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).

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 parties will submit to further proceedings before the special master to award reasonable attorneys' fees and costs incurred in proceeding upon this petition.

10. Payment made pursuant to paragraph 8 and any amounts 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 the 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).

12. In return for the payments described in paragraphs 8 and 9, petitioner, on behalf of

himself, his 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 hepatitis B vaccine administered on April 14, July 3, and November 3, 1993, as alleged by petitioner in a petition for vaccine compensation filed on or about May 14, 1999, in the United States Court of Federal Claims as petition No. 99-309V.

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.

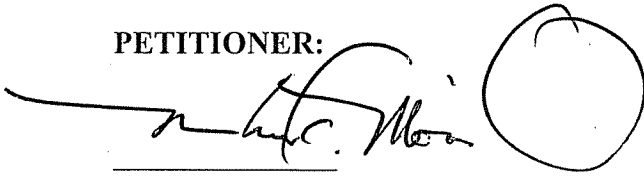
16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's

successors and assigns.

END OF STIPULATION

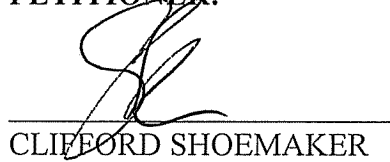
Respectfully submitted,

PETITIONER:



MIKE MORRILL

ATTORNEY OF RECORD FOR
PETITIONER:



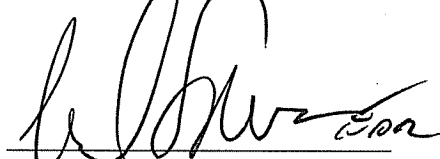
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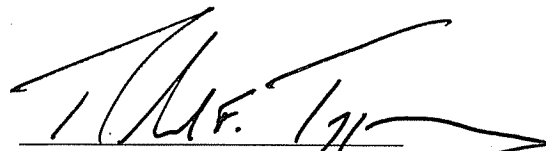
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Dated: 5/19/2008