

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

No. 06-170V

Filed: November 30, 2006

Not for Publication

ANITA REINO, Parent of *
ANGELA REINO, a Minor * Td; Scar;
 * Stipulation for Settlement
Petitioner, *
 *
v. *
 *
SECRETARY OF THE DEPARTMENT *
OF HEALTH AND HUMAN SERVICES, *
 *
Respondent. *
 *

Ronald Homer, Esq., Conway, Homer & Chin-Caplan, P.C., Boston, MA, for petitioner.
Linda Renzi, Esq., U.S. Department Of Justice, Washington, DC, for respondent.

VOWELL, Special Master:

DECISION AWARDING DAMAGES

On November 28, 2006, the parties filed the attached stipulation agreeing to settle this case and describing the settlement terms. Respondent agreed to pay petitioner a lump sum payment of \$24,000.00 in the form of a check payable to petitioner, as guardian of Angela's estate. The amount represents compensation for past and future unreimbursed medical expenses, lost wages, and pain and suffering.

The special master adopts the parties' stipulation attached hereto, and awards compensation in the amount and on the terms set forth therein. The Clerk of the Court is directed to enter judgment accordingly.

IT IS SO ORDERED.

s/ Denise K. Vowell
Denise K. Vowell
Special Master

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

<hr/>)
ANITA REINO, Parent of)
ANGELA REINO, a Minor,)
)
Petitioner,)
)
v) No. 06-170V
) Special Master Vowell
)
SECRETARY OF HEALTH AND HUMAN)
SERVICES,)
)
Respondent.)
<hr/>)

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her daughter, Angela Reino ("Angela"), 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 Angela's receipt of the tetanus-diphtheria vaccine ("Td"), which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 100.3 (a) (I).
2. Angela received a Td immunization on March 17, 2003.
3. The vaccine was administered within the United States.
4. Angela suffered an adverse reaction to the Td vaccination and as a result, suffers from a permanent scar.
5. Angela suffered the residual effects or complications of her injury for more than six months after her vaccination.

RECEIVED
 WITH THE CLERK
 NOV 29 2006
 THE OFFICE OF THE CLERK
 U.S. COURT OF FEDERAL CLAIMS

6. There is not a preponderance of the evidence demonstrating that Angela's condition is due to a factor unrelated to her March 17, 2003, immunization.

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

8. Accordingly, Angela 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 payment:

a. A lump sum of \$24,000.00 in the form of a check payable to petitioner, as guardian of Angela's estate. This amount represents compensation for all damages that would be 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 parties will submit to further proceedings before the special master to award

reasonable attorneys' fees and costs incurred in proceeding upon this petition.

11. Any payment 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.

12. The parties and their attorneys further agree and stipulate that the money provided pursuant to this Stipulation will be used solely for the benefit of Angela 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).

13. Petitioner represents that she is or within 90 days of the date of judgment will become, duly authorized to serve as guardian of Angela's estate under the laws of the State of New York. No payment pursuant to this stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian of Angela's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as the guardian of the estate of Angela Reino at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as guardian of the estate of Angela Reino upon submission of written documentation of such appointment to the Secretary.

14. In return for the payment described in paragraph 9, petitioner, in her individual capacity and as legal representative of Angela on behalf of herself, Angela, 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 Angela resulting from, or alleged to have resulted from, the Td vaccination administered on March 17, 2003, as alleged by petitioner in a petition for vaccine compensation filed on or about March 6, 2006, in the United States Court of Federal Claims as petition No. 06-170V.

15. If Angela should die prior to the Secretary making any or all of the payments 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.

16. If 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.

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. 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 her successors and assigns as legal representatives of Angela Reino.

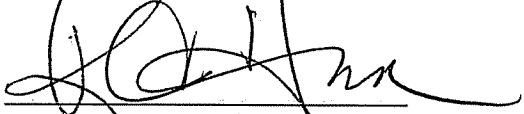
END OF STIPULATION

Respectfully submitted,

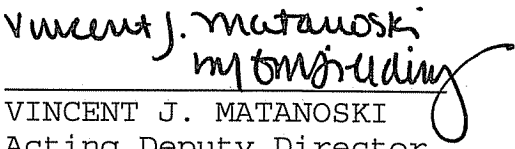
PETITIONER:


ANITA REINO

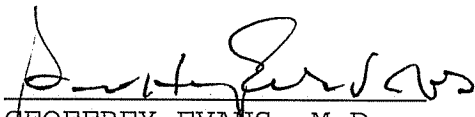
ATTORNEY OF RECORD FOR
PETITIONER:


RONALD C. HOMER
Conway Homer and Chin-Caplan
16 Shawmut Street
Boston, Massachusetts 02116


AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:


VINCENT J. MATANOSKI
Acting Deputy Director
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146

AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:


GEOFFREY EVANS, M.D.
Acting 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:


LINDA S. RENZI
Senior Trial Counsel
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, D.C. 20044-0146
(202) 616-4133

Dated: November 27, 2006