

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-326V

Filed: April 3, 2018

Not for Publication

NICHOLAS REINKING and *
HILARY KATHERINE REINKING, *
as the Parents and Natural Guardians of *
M.R., a Minor, *

Petitioners, *

v. *

Damage decision based on
stipulation; Hepatitis A and
influenza vaccines; immune
thrombocytopenic purpura

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

Mark T. Sadaka, Englewood, NJ, for petitioners.
Christine M. Becer, Washington, DC, for respondent.

MILLMAN, Special Master

DECISION AWARDING DAMAGES¹

On April 3, 2018, the parties filed the attached stipulation in which they agreed to settle this case and described the settlement terms. Petitioners allege that their daughter, M.R., suffered from immune thrombocytopenic purpura that was caused by her receipt of the Hepatitis A and influenza (“flu”) vaccines on January 28, 2013. Respondent denies that the Hepatitis A and flu vaccines caused M.R. to suffer from immune thrombocytopenic purpura, any other

¹ Because this unpublished decision contains a reasoned explanation for the special master’s action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims’s website, in accordance with the E-Government Act of 2002, Pub.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). Vaccine Rule 18(b) states that 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 constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to redact such information prior to the document’s disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall redact such material from public access.

injury, or her current condition. Nonetheless, the parties agreed to resolve this matter informally.

The undersigned finds the terms of the stipulation to be reasonable. The court hereby adopts the parties' said stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein.

Accordingly, the court awards:

- a. a lump sum of **\$10,000.00**, representing compensation for past unreimbursed vaccine-related expenses available under 42 U.S.C. § 300aa-15(a)(1)(B). The award shall be in the form of a check made payable to petitioners in the amount of **\$10,000.00**; and
- b. a lump sum of **\$80,000.00**, representing compensation for all remaining damages available under 42 U.S.C. § 300aa-15(a). The award shall be in the form of a check made payable to petitioners, as guardians of the estate of M.R., in the amount of **\$80,000.00**.

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: April 3, 2018

/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, either separately or jointly, filing a notice renouncing the right to seek review.

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

NICHOLAS REINKING AND HILARY)
KATHERINE REINKING, AS THE)
PARENTS AND NATURAL)
GUARDIANS OF, M.R., A MINOR,)
)
Petitioners,)
)
v.)
)
SECRETARY OF HEALTH AND)
HUMAN SERVICES,)
)
Respondent.)

No. 15-326V
Special Master Millman
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioners filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the "Vaccine Program"), on behalf of their daughter, M.R. The petition seeks compensation for injuries allegedly related to M.R.'s receipt of the Hepatitis A and influenza vaccines, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. M.R. received the Hepatitis A and influenza vaccines on January 28, 2013.
3. The vaccinations were administered within the United States.
4. Petitioners allege that M.R. suffered from immune thrombocytopenic purpura as a result of receiving the Hepatitis A and influenza vaccines and that M.R. experienced the residual effects of this condition for more than six months.
5. Petitioners represent that there has been no prior award or settlement of a civil action for damages as a result of M.R.'s condition.

6. Respondent denies that the Hepatitis A and influenza vaccines caused M.R. to suffer from immune thrombocytopenic purpura or any other injury or her current condition.

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 petitioners have 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 \$10,000.00 in the form of a check payable to petitioners. This amount represents compensation for past unreimbursed vaccine-related expenses available under 42 U.S.C. § 300aa-15(a)(1)(B); and

b. A lump sum of \$80,000.00 in the form of a check payable to petitioners, as guardians of the estate of M.R. This amount represents compensation for all remaining 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 petitioners have 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. Petitioners and their attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C.

§ 1396 et seq.)), or by entities that provide health services on a pre-paid basis.

11. Payments made pursuant to paragraph 8 of this Stipulation 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.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, and past unreimbursed expenses, the money provided pursuant to this Stipulation will be used solely for the benefit of M.R., 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. Petitioners represent that they are presently, or within 90 days of the date of judgment will become, duly authorized to serve as guardians of M.R.'s estate under the laws of the State of Colorado. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardians of M.R.'s estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians of the estate of M.R. 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 M.R. upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacity, and as legal representatives of M.R., on behalf of themselves, M.R., and her heirs, executors, administrators, successors or assigns, do forever irrevocably and unconditionally release, acquit and discharge the United States and the Secretary of Health and Human Services from any and all actions or causes of action (including agreements, judgments,

claims, damages, loss of services, expenses and all demands of whatever kind or nature) that have been brought, could have been brought, or could be timely brought in the Court of Federal Claims, under the National Vaccine Injury Compensation Program, 42 U.S.C. § 300aa-10 et seq., on account of, or in any way growing out of, any and all known or unknown, suspected or unsuspected personal injuries to or death of M.R. resulting from, or alleged to have resulted from, the Hepatitis A and influenza vaccines administered on January 28, 2013, as alleged by petitioners in a petition for vaccine compensation filed on or about March 30, 2015, in the United States Court of Federal Claims as petition No. 15-326V.

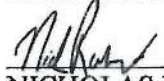
15. If M.R. should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

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 voidable at the sole discretion of either party.

17. This Stipulation expresses a full and complete negotiated 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. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

Respectfully submitted,

PETITIONERS:



NICHOLAS REINKING




HILARY KATHERINE REINKING

**ATTORNEY OF RECORD FOR
PETITIONER:**



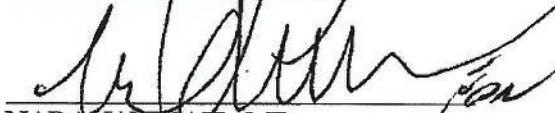
MARK T. SADAKA, ESQ.
Sadaka Associates, LLC
155 North Dean Street, 4th Floor
Englewood, NJ 07631

**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**



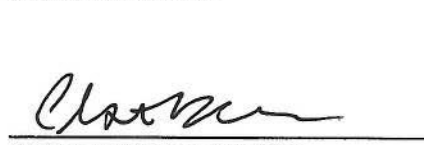
CATHARINE E. REEVES
Deputy Director
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146

**AUTHORIZED REPRESENTATIVE
OF THE SECRETARY OF HEALTH
AND HUMAN SERVICES:**



NARAYAN NAIR, MD
Director, Division of Injury
Compensation Programs
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Mail Stop 08N146B
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**



CHRISTINE M. BECER
Trial Attorney
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 616-3665

Dated: 4/3/18