

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-1387V

Filed: January 31, 2017

* * * * *		UNPUBLISHED
LORALYN WEBB, as the Personal	*	
Representative of the Estate of	*	Special Master Sanders
CHANDLER BLAKE WEBB,	*	
	*	Joint Stipulation on Damages; Influenza
Petitioner,	*	("Flu") Vaccine; Encephalitis; Death.
	*	
v.	*	
	*	
SECRETARY OF HEALTH	*	
AND HUMAN SERVICES,	*	
	*	
Respondent.	*	
* * * * *	*	

Robert J. Krakow, Law Office of Robert J. Krakow, P.C., New York, NY, for Petitioner.
Sarah C. Duncan, United States Department of Justice, Washington, DC, for Respondent.

DECISION¹

On November 16, 2015, Loralyn Webb ("Petitioner"), on behalf of Chandler Blake Webb ("Mr. Webb"), deceased, filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-1 to -34 (2012). Petitioner alleged that as a result of an influenza ("flu") vaccine administered on October 15, 2013, Mr. Webb suffered encephalitis. *See* Stipulation for Award at ¶¶ 1-4, filed Jan. 31, 2017. Petitioner further alleged that Mr. Webb's death was a sequela of his encephalitis. *Id.* at ¶ 4.

¹ Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, codified as amended at 44 U.S.C. § 3501 note (2012). 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 a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b).

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

On January 31, 2017, the parties filed a stipulation in which they state that a decision should be entered awarding compensation to Petitioner. Respondent denies that the flu vaccine caused any injury to Mr. Webb and denies that Mr. Webb's death was a sequela of his allegedly vaccine-related encephalitis. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds the stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

The parties stipulate that Petitioner shall receive the following compensation:

A lump sum of \$400,000.00 in the form of a check payable to petitioner as Legal Representative of the Estate of Chandler Blake Webb. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

Id. at ¶ 8.

The undersigned approves the requested amount for Petitioner's compensation. Accordingly, an award should be made consistent with the stipulation.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.³

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

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

LORALYN WEBB, as the Personal)	
Representative of the ESTATE OF)	
CHANDLER BLAKE WEBB,)	
)	No. 15-1387V
Petitioner,)	Special Master Sanders
)	ECF
v.)	
)	
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Lorallyn Webb, 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"), on behalf of Chandler Blake Webb ("Mr. Webb"), deceased. The petition seeks compensation for injuries allegedly related to Mr. Webb's receipt of the influenza vaccine, which is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Petitioner received the influenza vaccination on October 15, 2013.
3. The vaccination was administered within the United States.
4. Petitioner alleges that as a result of the influenza vaccine, Mr. Webb suffered encephalitis. Petitioner further alleges that Mr. Webb's death was a sequela of his encephalitis.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Mr. Webb as a result of his condition and/or his death.
6. Respondent denies that Mr. Webb suffered any injury as a result of the influenza

vaccine administered on or about October 15, 2013, and denies that Mr. Webb's death was a sequela of his allegedly vaccine-related encephalitis.

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 \$400,000.00 in the form of a check payable to petitioner as Legal Representative of the Estate of Chandler Blake Webb. 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 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.

11. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as legal representative of Mr. Webb's estate under the laws of the State of Utah. No payment pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as the legal

representative of Mr. Webb's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as the legal representative of Mr. Webb's estate 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 the legal representative of the Estate of Chandler Blake Webb upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and as the legal representative of Mr. Webb's estate, on her own behalf, and on behalf of the Estate and Mr. Webb's heirs, executors, administrators, successors or assigns, does 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 Mr. Webb resulting from, or alleged to have resulted from, the influenza vaccination administered on or about October 15, 2013, as alleged by petitioner in a petition for vaccine compensation filed on or about November 16, 2015, in the United States Court of Federal Claims as petition No. 15-1387V.

13. 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.

14. 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.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the influenza vaccine caused Mr. Webb's alleged encephalitis or any other injury or death.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of the estate of Mr. Webb.

END OF STIPULATION

/

/

/

/

/

/

/

/


/

Respectfully submitted,

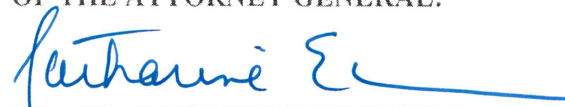
PETITIONER:


LORALYN WEBB

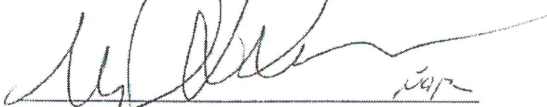
**ATTORNEY OF RECORD FOR
PETITIONER:**


ROBERT J. KRAKOW, ESQ.
Law Office of Robert J. Krakow, P.C.
233 Broadway, Suite 2320
New York, NY 10279
Tel: (212) 227-0600


**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, M.D.
Director, Division of Injury
Compensation Programs (DICP)
Healthcare Systems Bureau
Health Resources and Services Administration
U.S. Department of Health and Human Services
5600 Fishers Lane
Parklawn Building, Mail Stop 08N146B
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**


SARAH C. DUNCAN
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 514-9729

Dated: 1/31/2017