

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: May 19, 2020

\* \* \* \* \*
GLORIA MANETTA,
Petitioner,
v.
SECRETARY OF HEALTH
AND HUMAN SERVICES,
Respondent.
\* \* \* \* \*

UNPUBLISHED
No. 18-172V
Special Master Gowen
Stipulation for Award;
Pneumococcal conjugate;
Shoulder Injury Related to
Vaccine Administration ("SIRVA").

Christina Ciampolillo, Conway, Homer, P.C., Boston, MA, for petitioner.
Adriana R. Teitel, U.S. Department of Justice, Washington, D.C., for respondent.

DECISION FOR STIPULATION1

On February 2, 2018, Gloria Manetta ("petitioner"), filed a petition for compensation under the National Vaccine Injury Program.2 Petition at Preamble (ECF No. 1). Petitioner received a pneumococcal conjugate vaccine on June 23, 2015. Stipulation at ¶ 2 (ECF No. 50). Petitioner alleges that as a result of receiving the pneumococcal conjugate vaccine, she suffered a Shoulder Injury Related to Vaccine Administration ("SIRVA"). Id.; Stipulation at ¶ 4.

On May 19, 2020, respondent filed a stipulation providing that a decision should be entered awarding compensation to petitioner. Respondent denies that the flu vaccine is the cause of petitioner's alleged injuries, or any other injury or her current condition. Id. at ¶ 6. Nevertheless, maintaining their respective positions, the parties now agree that the issues between them shall be settled and that a decision should be entered awarding the compensation

1 Pursuant to the E-Government Act of 2002, see 44 U.S.C. § 3501 note (2012), because this opinion contains a reasoned explanation for the action in this case, I am required to post it on the website of the United States Court of Federal Claims. The court's website is at http://www.uscfc.uscourts.gov/aggregator/sources/7. This means the opinion will be available to anyone with access to the Internet. Before the opinion is posted on the court's website, each party has 14 days to file a motion requesting 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). "An objecting party must provide the court with a proposed redacted version of the decision." Id. If neither party files a motion for redaction within 14 days, the opinion will be posted on the court's website without any changes. Id.

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 (2012) (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.

to the petitioner according to the terms of the stipulation attached hereto as Appendix A. *Id.* at ¶ 7.

The stipulation provides:

- 1) **A lump sum of \$50,000.00, in the form of a check payable to petitioner. This amount represents compensation for all damages, including pain and suffering and past unreimbursable expenses that would be available under 42 U.S.C. § 300aa-15(a).**

I adopt the parties' stipulation attached hereto, and award compensation in the amount and on the terms set forth therein. The Clerk of the Court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Thomas L. Gowen**  
Thomas L. Gowen  
Special Master

---

<sup>3</sup> Entry of judgment is expediated by each party's filing notice renouncing the right to seek review. Vaccine Rule 11(a).

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

GLORIA MANETTA,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 18-172V  
Special Master Gowen  
ECF

**STIPULATION**

The parties hereby stipulate to the following matters:

1. Petitioner Gloria Manetta (“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 a pneumococcal conjugate vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).

2. Petitioner received her pneumococcal conjugate immunization on June 23, 2015.

3. The vaccine was administered within the United States.

4. Petitioner alleges that she suffered a shoulder injury related to vaccine administration (“SIRVA”) within the time period set forth in the Table and that her alleged shoulder condition is actually caused by the vaccine. In the alternative, petitioner alleges that the vaccination significantly aggravated a pre-existing condition. Petitioner further alleges that she experienced the residual effects of her injury for more than six months.

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

6. Respondent denies that petitioner sustained a SIRVA Table injury and denies that petitioner's alleged shoulder injury and its residual effects were caused-in-fact by her vaccination. Respondent further denies that petitioner's vaccination significantly aggravated a pre-existing condition or caused petitioner 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 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 **\$50,000.00** in the form of a check payable to petitioner. This amount represents compensation for all damages, including pain and suffering and past unreimbursable expenses 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. Petitioner and her attorney represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including 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 entities that provide health services on a pre-paid basis.

11. 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.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs and past unreimbursable expenses, the money provided pursuant to this Stipulation will be used solely for the benefit of 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).

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and on behalf of her 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 petitioner resulting from, or alleged to have resulted from, the pneumococcal conjugate vaccination administered on June 23, 2015, as alleged by petitioner in her petition for vaccine compensation filed on February 2, 2018, in the United States Court of Federal Claims as petition No. 18-172V.

14. If petitioner 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.

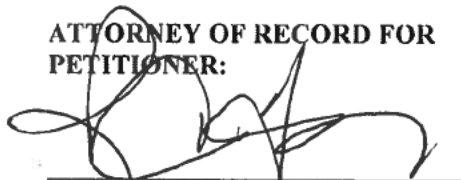


Respectfully submitted,

**PETITIONER:**

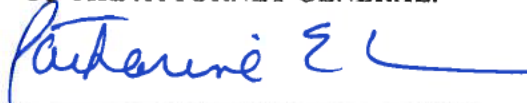
  
GEORGIA MANETTA

**ATTORNEY OF RECORD FOR  
PETITIONER:**



RONALD C. HOMER  
Conway Homer, P.C.  
16 Shawmut Street  
Boston, MA 02116  
Tel: (617) 695-1990

**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:**

*Ward Sorensen for*

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

**ATTORNEY OF RECORD FOR  
RESPONDENT:**

*Adriana Teitel  
by Catharine E. Reeves*

ADRIANA TEITEL  
Trial Attorney  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146  
(202) 616-3677

Dated: 5/19/20