

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: December 2, 2021

* * * * *

LINDSEY HANSON, on behalf of *
L.R.H., *

Petitioner, *

No. 18-590V

v. *

Special Master Dorsey

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

* * * * *

ORDER CONCLUDING PROCEEDINGS¹

On April 25, 2018, Lindsey Hanson (“petitioner”), on behalf of L.R.H., filed a petition for compensation under the National Vaccine Injury Compensation Program (“Vaccine Act” or “the Program”), 42 U.S.C. § 300aa-10 et seq. (2012).² Petitioner alleged that L.H.R. suffered a chronic arthritis as a result of a Measles-Mumps-Rubella (“MMR”) vaccination on June 30, 2017. Petition at Preamble (ECF No. 1).

On October 31, 2018, respondent file respondent’s Rule 4(c) report arguing against compensation. Respondent’s Report (“Resp. Rept.”), filed Oct. 31, 2018, at 1 (ECF No. 8). Petitioner filed an expert report on August 5, 2019. Petitioner’s Exhibit (“Pet. Ex.”) 20. This

¹ The undersigned intends to post this Order on the United States Court of Federal Claims’ website. **This means the Order will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access. Because this Order contains a reasoned explanation for the action in this case, undersigned is required to post it on the United States Court of Federal Claims’ website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

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-10 to -34 (2012). All citations in this Order to individual sections of the Vaccine Act are to 42 U.S.C. § 300aa.

case was reassigned to the undersigned on October 2, 2019. Order Reassigning Case dated October 3, 2019 (ECF No. 20).

Respondent filed responsive expert reports on December 18, 2019. Resp. Exs. A-D. On February 25, 2020, petitioner filed a supplemental expert report from Dr. Brawer. Pet. Ex. 24. Petitioner then filed an additional expert report from Dr. Brawer on May 29, 2020. Pet. Ex. 25. Respondent filed a responsive expert report on July 30, 2020. Resp. Ex. E-F.

The undersigned scheduled a Rule 5 status conference on October 8, 2020. However, after a review of the expert reports and medical records, the undersigned was unable to deliver her preliminary thoughts and opinions and suggested petitioner file updated medical records and an expert report from an immunologist in sixty (60) days. Order dated Oct. 8, 2020 (ECF No. 49).

Petitioner filed a status report on April 6, 2021 stating petitioner “has been unable to find a medical expert specializing in immunology who would be willing to provide an opinion in this case.” Pet. Status Rept., filed Apr. 6, 2021 (ECF No. 57). Thereafter, Mr. Daniel Bellig filed a consented motion to substitute attorney. Consented Motion to Substitute Attorney of Record, filed May 4, 2021 (ECF No. 59).

On May 25, 2021, the undersigned held a status conference requesting updated medical records and as to how petitioner wished to proceed with the case. See Order dated May 25, 2021 (ECF No. 60). Petitioner filed numerous status reports indicating that petitioner was attempting to file an expert report, however, after several months of no expert report, the undersigned scheduled a status conference on October 28, 2021. See Order dated Oct. 28, 2021 (ECF No. 70). The undersigned opined that it was reasonable for petitioner to exhaust all avenues before filing a voluntary motion for dismissal. Id. The undersigned granted petitioner thirty days to indicate whether petitioner had retained an expert or to file a voluntary motion of dismissal. Id.

On December 2, 2021, respondent filed a joint stipulation of dismissal, attached hereto as Appendix A. Stipulation of Dismissal.

Under Vaccine Rule 21, which governs dismissal of a petition, a “[p]etitioner may dismiss the petition without order of the special master or the court by filing: (A) a notice of dismissal at any time before service of respondent’s report; (B) a stipulation of dismissal signed by all parties who have appeared in the action.” Vaccine Rule 21(a)(1)(A)-(B). Unless stated otherwise, the dismissal is without prejudice. Vaccine Rule 21(a)(2). “A petition dismissed under this subdivision (a) will not result in a judgment pursuant to Vaccine Rule 11 for purposes of 42 U.S.C. § 300aa-21(a).” Vaccine Rule 21(a)(3).

In accordance with Vaccine Rule 21(a), this case is hereby **dismissed without prejudice**. The Clerk of Court is instructed that **judgment shall not enter** in the instant case pursuant to Vaccine Rule 21(a)(3).

IT IS SO ORDERED.

s/Nora Beth Dorsey

Nora Beth Dorsey

Special Master

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JOINT STIPULATION OF DISMISSAL

It is hereby stipulated by and between the parties, the following matters:

1. On April 25, 2018, petitioner filed a Petition for Vaccine Compensation.

2. The parties hereby stipulate pursuant to Vaccine Rule 21(a) that this action shall
be dismissed.

/s/ Sarah C. Duncan
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