

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 06-3V

Filed: May 22, 2008

Not for publication

ELIZABETH BABCOCK,

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Petitioner,

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v.

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Damages decision based on
stipulation; TM following Hep A
Hep B vaccinations

SECRETARY OF THE DEPARTMENT
OF HEALTH AND HUMAN SERVICES,

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*

Respondent.

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Russell E. Nordstrom, Tustin, CA, for petitioner.

Alexis B. Babcock, Washington, DC, for respondent.

DECISION AWARDING DAMAGES¹

On May 14, 2008, the parties filed the attached stipulation, in which they agreed to settle this case and described the settlement terms. Petitioner alleges that she suffers from transverse myelitis (“TM”) as a consequence of her receipt of hepatitis A (“Hep A”) and hepatitis B (“Hep B”) vaccinations. Respondent denies that petitioner’s alleged injury was vaccine-related, and denies that she suffers any current disabilities that are sequelae of her alleged injury. Nonetheless, the parties agreed to resolve this matter informally.

The court hereby adopts the parties’ stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards a lump sum of **\$85,000.00** in the form of a check made payable to petitioner. This amount represents compensation for all elements of compensation under 42 U.S.C. § 300aa-15(a) to which petitioner would be entitled.

¹ The undersigned intends to post this decision on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). 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 trade secret or commercial or financial information and is privileged or confidential or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b). Otherwise, “the entire” decision will be available to the public. Id.

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: May 22, 2008

Laura D. Millman
Laura D. Millman
Special Master

² Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

RECEIVED & FILED

MAY 14 2008

OSM
OFFICE OF THE CLERK
U.S. COURT OF FEDERAL CLAIMS

ELIZABETH BABCOCK,

Petitioner,

v.

SECRETARY OF HEALTH AND HUMAN
SERVICES,

Respondent.

No. 06-03V

Special Master Millman

STIPULATION

The parties hereby stipulate to the following matters:

1. 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 Hepatitis B ("Hep B") and Hepatitis A ("Hep A") vaccines, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 300aa-14(a) (VIII) & (XIV).

2. Petitioner received Hep B and Hep A immunizations on January 9, 2003.

3. The vaccines were administered within the United States.

4. Petitioner alleges that she suffered from an injury that was caused in fact by her immunizations.

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's injury was caused in fact by her Hep B & Hep A immunizations.

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 \$85,000.00 in the form of a check payable to petitioner. 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 attorney's fees and costs incurred in proceeding upon this petition.

10. 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.

11. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs / attorneys' fees, 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).

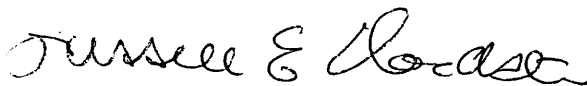
12. In return for the payments described in paragraphs 8 and 9, petitioner, on behalf of herself and her heirs, executors, administrators, successors or assigns, does forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America 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 petitioner resulting from, or alleged to have resulted from, the Hep B & Hep A vaccinations administered on January 9, 2003, as alleged by petitioner in a petition for vaccine compensation filed on or about

Respectfully submitted,

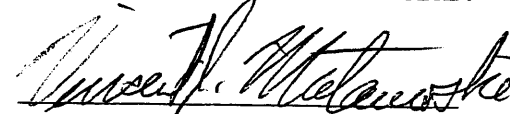
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ELIZABETH BABCOCK


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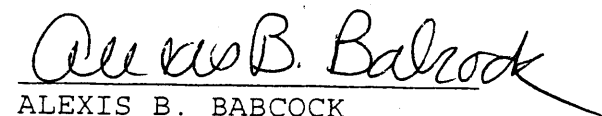
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Dated: 5/14/08