

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 09-522V

Filed: August 17, 2012

PAMELA A. GOUDGE, as Parent	)	
and Legal Representative of	)	
her Minor Daughter,	)	NOT TO BE PUBLISHED
MEGAN ELIZABETH GOUDGE,	)	
	)	Stipulation; Influenza
Petitioner,	)	vaccine; Acute demyelinating
	)	encephalomyelitis
v.	)	
	)	
SECRETARY OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

Ramon Rodriguez, III, Rawls & McNelis, P.C., Richmond, VA, for Petitioner;  
Linda S. Renzi, United States Dep't of Justice, Washington, D.C., for Respondent.

### **DECISION**<sup>1</sup>

**LORD**, Special Master.

On August 17, 2012, the parties in the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Pamela Goudge ("Petitioner") alleges that her daughter, Megan Elizabeth Goudge, suffered injuries related to her receipt of the influenza vaccine on or about October 3, 2006, which vaccine is contained in the Vaccine Injury Table, 42 C.F.R § 100.3(a). Specifically, Petitioner alleges that Megan suffered from acute demyelinating encephalomyelitis ("ADEM") and that she experienced the residual effects of this injury for more than six months as a result of the influenza immunization. Petitioner seeks compensation related to these injuries pursuant to the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10 to 34.

Respondent denies that the influenza vaccine caused Megan's ADEM, or any other injury; denies that any current disabilities are sequel of her alleged injury; and

<sup>1</sup> In accordance with Vaccine Rule 18(b), Petitioner has 14 days to file a proper motion seeking redaction of medical or other information that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Redactions ordered by the special master, if any, will appear in the document as posted on the United States Court of Federal Claims' website.

denies that Megan experienced the residual effects of this injury for more than six months. Nonetheless, the parties have agreed informally to resolve this matter.

The Court hereby ADOPTS the parties' said Stipulation, attached hereto as Appendix A, and awards compensation in the amount and on the terms set forth therein. Specifically, Petitioner is awarded:

**A lump sum of \$375,000.00, in the form of a check payable to Petitioner as guardian/conservator of Megan's estate**, which amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

The Court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**

s/Dee Lord  
Dee Lord  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

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

_____ )	
PAMELA A. GOUDGE, as Parent )	
and Legal Representative of )	
her Daughter, )	
MEGAN ELIZABETH GOUDGE, )	
)	No. 09-522V
Petitioner, )	Special Master Lord
)	(ECF)
v. )	
)	
SECRETARY OF HEALTH )	
AND HUMAN SERVICES, )	
)	
Respondent. )	
_____ )	

**STIPULATION**

The parties hereby stipulate to the following matters:

1. Pamela A. Goudge (“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 her daughter, Megan Elizabeth Goudge (“Megan”). The petition seeks compensation for injuries allegedly related to Megan’s receipt of an influenza (“flu”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3 (a).
2. Megan received a flu vaccination on October 3, 2006.
3. The vaccination was administered within the United States.
4. Petitioner alleges that Megan suffered acute demyelinating encephalomyelitis (“ADEM”) that was caused in fact by the vaccination.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on Megan’s behalf as a result of her condition.

6. Respondent denies that the flu vaccine caused Megan's ADEM, or any other injury; denies that any current disabilities are sequelae of her alleged injury; and denies that Megan experienced the residual effects of this injury for more than six months.

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 \$375,000.00 in the form of a check payable to petitioner as guardian/conservator of Megan's estate. 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. Petitioner and her 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 entities that provide health services on a pre-paid basis.

11. Payment made pursuant to paragraph 8 of this Stipulation and any amounts awarded pursuant to paragraph 9 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, the money provided pursuant to this Stipulation will be used solely for the benefit of Megan 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. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian/conservator of Megan's estate under the laws of the State of California. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of Megan's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of Megan 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/conservator of the estate of Megan Elizabeth Goudge upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraph 8 and 9, petitioner, in her individual capacity, and as legal representative of Megan, on behalf of herself, Megan, and 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 Megan resulting from, or alleged to have resulted from a flu vaccination administered on October 3, 2006, as alleged by petitioner in a petition for vaccine compensation filed on or about August 10, 2009, in the United States Court of Federal Claims as petition No. 09-522V.

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

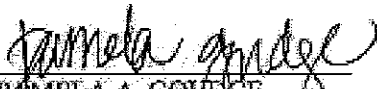
16. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the Court of Federal Claims fails to enter judgment in conformity with a decision that is in complete conformity with the terms of this Stipulation, then the parties' settlement and this 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

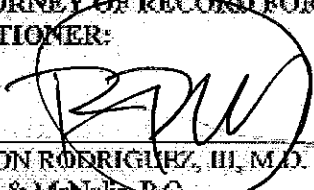


Respectfully submitted,

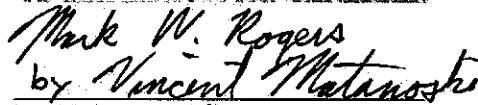
PETITIONER:

  
PAMELA A. GOUDGE

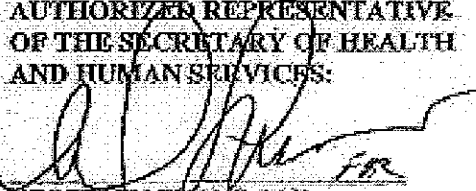
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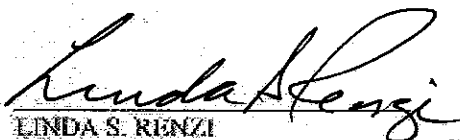
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Dated: AUGUST 17, 2012