

## OFFICE OF SPECIAL MASTERS

**No. 14-211V**

**Filed: August 27, 2015**

**(Not to be published)**

\* \* \* \* \*

HENRIETTA DUPLESSIS JOINER,

*The Estate of, through*

ALEX JOINER, GUY C. JOINER,

DWAIN JOINER,

DOROTHY JEAN DISHER,

LINDA GUAGLIARDO, and

ROBBIN THOMPSON,

Petitioner,

**V.**

SECRETARY OF HEALTH

AND HUMAN SERVICES,

Respondent.

\* \* \* \* \*

*Jessica Wittmer Hayes*, Murray Law Firm, New Orleans, LA, for petitioners.

Amy Kokot, U.S. Dep't. of Justice, Washington, DC, for respondent.

## DECISION ON JOINT STIPULATION<sup>1</sup>

**Gowen, Special Master:**

On behalf of the Estate of Henrietta Duplessis Joiner, Alex Joiner, Guy C. Joiner, Dwain Joiner, Dorothy Jean Disher, Linda Guagliardo, and Robbin Thompson[“petitioners”] filed a petition for compensation under the National Vaccine

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

Injury Compensation Program<sup>2</sup> on March 13, 2014. Petitioners alleged that Henrietta Duplessis Joiner developed Guillain-Barre syndrome [GBS] and died as a result of the flu vaccine she received on March 1, 2012. See Stipulation, filed Aug. 27, 2015, at ¶¶ 2, 4. Respondent denies that the Henrietta Duplessis Joiner's flu vaccination caused any injury or her death; and denies that her death occurred as a result of a vaccine-related injury. Stipulation at ¶ 6.

Nevertheless, the parties have agreed to settle the case. On August 27, 2015, the parties filed a joint stipulation agreeing to settle this case and describing the settlement terms.

Respondent agrees to pay petitioners:

- a. **A lump sum of \$351,000.00 in the form of a check payable to petitioners, The Estate of Henrietta Duplessis Joiner, through Alex Joiner, Guy C. Joiner, Dwain Joiner, Dorothy Jean Disher, Linda Guagliardo, and Robbin Thompson .** This amount represents compensation for all damages that would be available under § 300aa-15(a).

The special master adopts the parties' stipulation attached hereto, and awards compensation in the amount and on the terms set forth therein. The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

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

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<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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

Estate of HENRIETTA DUPLESSIS )  
JOINER through ALEX JOINER, GUY C. )  
JOINER, DWAIN JOINER, DOROTHY )  
JEAN DISHER, LINDA GUAGLIARDO, )  
and ROBBIN THOMPSON, )

Petitioners, )

v. )

SECRETARY OF HEALTH AND )  
HUMAN SERVICES, )

Respondent. )

No. 14-211V  
Special Master Gowen  
**ECF**

STIPULATION

The parties hereby stipulate to the following matters:

1. On the behalf of the Estate of Henrietta Duplessis Joiner, deceased, petitioners 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 an injury, resulting in death, allegedly related to Henrietta Duplessis Joiner's receipt of the influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Henrietta Duplessis Joiner received the flu vaccination on March 1, 2012.
3. The vaccine was administered within the United States.
4. Petitioners allege Henrietta Duplessis Joiner developed Guillain-Barré Syndrome ("GBS") and died as a result of the March 1, 2012, flu vaccination.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of the Estate of Henrietta Duplessis Joiner as a result of any alleged injury resulting in death.

6. Respondent denies that Henrietta Duplessis Joiner's flu vaccination caused any injury or her death; and denies that Henrietta Duplessis Joiner's death occurred as a result of a vaccine-related injury.

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 petitioners have 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 **\$351,000.00** in the form of a check payable to petitioners, as legal representatives of the estate of Henrietta Duplessis Joiner. 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 petitioners have 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. Payments made pursuant to paragraph 8 and any amount 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. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as the legal representatives of the Estate of Henrietta Duplessis Joiner under the laws of the State of Louisiana. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as the legal representatives of the Estate of Henrietta Duplessis Joiner. If petitioners are not authorized by a court of competent jurisdiction to serve as the legal representatives of the Estate of Henrietta Duplessis Joiner 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(s) of the Estate of Henrietta Duplessis Joiner upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacity and as legal representatives of the Estate of Henrietta Duplessis Joiner, on behalf of themselves and Henrietta Duplessis Joiner's heirs, executors, administrators, successors or assigns, do 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 the death of Henrietta Duplessis Joiner resulting from, or alleged to have resulted from, the vaccination administered on or about March 1, 2012, as alleged by petitioners in a petition for vaccine



compensation filed on or about March 13, 2014, as well as in an amended petition, filed on or about June 30, 2014, in the United States Court of Federal Claims as petition No. 14-211 V.

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. 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 vaccine received by Henrietta Duplessis Joiner caused her to suffer any injury or death; or that Henrietta Duplessis Joiner's death occurred as the result of a vaccine-related injury.

16. All rights and obligations of petitioners hereunder shall apply equally to petitioners' heirs, executors, administrators, successors, and/or assigns as legal representatives of the Estate of Henrietta Duplessis Joiner.

END OF STIPULATION

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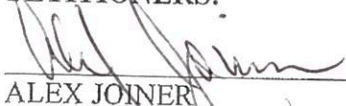
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Respectfully submitted,

**PETITIONERS:**

  
ALEX JOINER

  
GUY C. JOINER


  
DWAIN JOINER

  
LINDA GUAGLIARDO


  
ROBBIN THOMPSON

  
DOROTHY JEAN DISHER

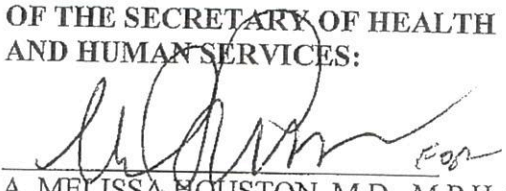
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Dated: August 27, 2015