

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

SASHA MARTIN, parent, on behalf *
of, A.N.M., a minor (deceased), *

Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 15-715V

Special Master Christian J. Moran

Filed: June 23, 2016

Stipulation; Hepatitis A, Haemophilus
influenza type b, measles-mumps-
rubella, pneumococcal conjugate, and
varicella vaccines; death.

Michael F. Becker, The Becker Law Firm, Elyria, OH, for Petitioner;
Gordon Elliot Shemin, U.S. Dep't of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION¹

On June 23, 2016, the parties filed a joint stipulation concerning the petition for compensation filed by Sasha Martin, on behalf of her deceased minor child, A.N.M., on July 9, 2015. In the petition, petitioner alleged that the Hepatitis A, Haemophilus influenza type b, measles-mumps-rubella, pneumococcal conjugate, and varicella vaccines (collectively, “the vaccines”), which are contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. §100.3(a), and which A.N.M. received on or about July 10, 2013, caused A.N.M. to suffer a Table encephalopathy that caused her death on July 18, 2013. Alternatively, petitioner alleges that A.N.M.’s death was caused-in-fact by the vaccines. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of A.N.M. as a result of her condition and/or her death.

¹ The E-Government Act, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the parties have 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Respondent denies that A.N.M. suffered a Table injury as a result of receiving the vaccines, and further denies that the vaccines caused her any injury or her death.

Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

Damages awarded in that stipulation include:

- a. A lump sum of \$29,388.36, representing reimbursement of a Medicaid lien from the State of Ohio, in the form of a check payable jointly to petitioner and**

**Ohio Tort Recovery Unit
350 Worthington Road, Suite G
Westerville, Ohio 43082**

Petitioner agrees to endorse this check over to the State; and

- b. A lump sum of \$300,000.00 in the form of a check payable to Sasha Martin, as Legal Representative of the Estate of A.N.M. This amount represents compensation for all remaining damages that would be available under 42 U.S.C. § 300aa-1 5(a).**

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 15-715V according to this decision and the attached stipulation.²

Any questions may be directed to my law clerk, Shannon Proctor, at (202) 357-6360.

IT IS SO ORDERED.

s/Christian J. Moran
Christian J. Moran
Special Master

² 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.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of A.N.M. as a result of her condition and/or her death.

6. Respondent denies that A.N.M. suffered a Table injury as a result of receiving the vaccines, and further denies that the vaccines caused her any injury or her death.

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 payments:

- a. A lump sum of \$29,388.36, representing reimbursement of a Medicaid lien from the State of Ohio, in the form of a check payable jointly to petitioner and

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Petitioner agrees to endorse this check over to the State; and

- b. A lump sum of \$300,000.00 in the form of a check payable to petitioner as Legal Representative of the Estate of A.N.M. This amount represents compensation for all remaining 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. Payments made pursuant to paragraph 8 of this Stipulation, 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. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as the legal representative of A.N.M.'s estate under the laws of the State of Ohio. No payment pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as the legal representative of A.N.M.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as the legal representative of A.N.M.'s estate at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party of parties appointed by a court of competent jurisdiction to serve as the legal representative of the Estate of A.N.M. upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and as the legal representative of A.N.M.'s estate, on her own behalf, and on behalf of the Estate and A.N.M.'s heirs, executors, administrators, successors and/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 A.N.M. resulting from, or alleged to have resulted from, the vaccines administered on or about July 10, 2013, as

alleged in a petition for vaccine compensation filed on or about July 9, 2015, in the United States Court of Federal Claims as petition No. 15-715V.

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, 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 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 A.N.M. sustained a Table injury, or that the vaccines caused A.N.M. any injury or her death.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of the estate of A.N.M.


END OF STIPULATION

Respectfully submitted,


PETITIONER:


SASHA MARTIN

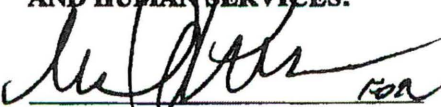
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Dated: June 23, 2016