

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No.

Filed:

Unpublished

Estate of [redacted], Executor,
Petitioner,
v.
SECRETARY OF HEALTH AND HUMAN SERVICES,
Respondent.

Damages Decision Based on Proffer;
Varicella Vaccine; Disseminated
Varicella Zoster Virus ("VZV") Infection;
Immunocompromised Person; Death;
Special Processing Unit ("SPU")

Edward M. Kraus, Law Offices of Chicago Kent, Chicago, IL, for petitioner.
Glenn A. MacLeod, U.S. Department of Justice, Washington, DC, for respondent.

DECISION AWARDING DAMAGES^1

Dorsey, Chief Special Master:

On [redacted], ("petitioner") filed a petition for
compensation under the National Vaccine Injury Compensation Program, 42 U.S.C.
§300aa-10, et seq.,^2 (the "Vaccine Act"), on behalf of the Estate of [redacted].
Petitioner alleged that [redacted] death on [redacted], was caused in fact by the
Varicella vaccine he received on [redacted]. Pet. at [redacted]. The case was assigned
to the Special Processing Unit ("SPU") of the Office of Special Masters.

On [redacted], the undersigned issued a ruling on entitlement finding
petitioner entitled to compensation for [redacted] death on behalf of his Estate. On
[redacted], respondent filed a proffer on award of compensation ("Proffer")
indicating petitioner should be awarded \$450,000.00. Proffer at [redacted]. In the Proffer,

^1 Because this unpublished decision contains a reasoned explanation for the action in this case, the
undersigned intends 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). 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.

^2 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).

respondent represented that petitioner agrees with the proffered award. *Id.* Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards a lump sum payment of \$450,000.00 in the form of a check payable to petitioner, as Legal Representative of the Estate of** .³ This amount represents compensation for all damages that would be available under § 300aa-15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

s/Nora Beth Dorsey
Nora Beth Dorsey
Chief Special Master

³ "Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as legal representative of estate under the laws of the State of ." Proffer at . "No payments pursuant to [the] Proffer shall be made until petitioner provides the Secretary with documentation establishing appointment as Legal Representative of estate. If petitioner is not authorized by a court of competent jurisdiction to serve as Legal Representative of the estate of 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 Legal Representative of the estate of upon submission of written documentation of such appointment to the Secretary. Petitioner agrees." *Id.* at n. .

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.