

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 10-519V
(Not to be published)

██████████, as Fiduciary of the
Estate of ██████████,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

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* Filed: August 7, 2014
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* Decision by Stipulation; Damages;
* Influenza (Flu) Vaccine; Guillain-
* Barré syndrome (GBS);
* Attorneys' Fees & Costs
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Diana S. Sedar, Maglio, Christopher & Toale, Sarasota, FL, for Petitioner.

Lisa A. Watts, U.S. Dep't of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES AND ATTORNEYS' FEES¹

On August 5, 2010, Petitioner ██████████ filed an action seeking compensation under the National Vaccine Injury Compensation Program (the "Vaccine Program")². Petitioner alleges that he suffered Guillain-Barré syndrome ("GBS") as a result of receiving an influenza ("flu") vaccine. Mr. ██████████ died on March 8, 2012 from causes unrelated to the vaccine injury, and his

¹ Because this decision contains a reasoned explanation for my action in this case, it will be posted 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)). As provided by 42 U.S.C. § 300aa-12(d)(4)(B), however, the parties may object to the decision's inclusion of certain kinds of confidential information. Specifically, under Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, the whole decision will be available to the public. (*Id.*)

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C.A. § 300aa-10-§ 300aa-34 (West 1991 & Supp. 2002). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

spouse and executor of his estate, [REDACTED], was substituted as Petitioner on May 29, 2012.

Respondent denies that [REDACTED]' GBS or any related medical problems were caused by his receipt of the flu vaccine. Nonetheless both parties, while maintaining their above-stated positions, agreed in a stipulation filed August 7, 2014 that the issues before them can be settled, and that a decision should be entered awarding Petitioner compensation.

I have reviewed the file, and based upon that review, I conclude that the parties' stipulation is reasonable. I therefore adopt it as my decision in awarding damages on the terms set forth therein.

The stipulation awards:

- a) A lump sum of \$100,000.00, in the form of a check payable to petitioner as the executor of the estate of [REDACTED]. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

Stipulation ¶ 9(a).

The parties further set forth in their August 7th stipulation that they had reached the following agreement with respect to attorney's fees and costs:

- b) A lump sum of \$28,322.17 in the form of a check payable jointly to petitioner and petitioner's attorney, Diana S. Sedar, Esq., for [all] attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e).

Stipulation ¶ 9(b).³

I approve a Vaccine Program award in the requested amount set forth above to be made to Petitioner. In addition, I also approve of the attorneys' fees and costs in the requested amount to be made payable to Petitioner and Petitioner's counsel. 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.⁴

³ Paragraph 9(b) of the stipulation also contained a statement in accordance with General Order #9 of the Vaccine Program indicating that Petitioner had incurred no reimbursable costs in pursuit of his claim.

⁴ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by jointly (or separately) filing notice(s) renouncing their right to seek review.

IT IS SO ORDERED.

/s/ Brian H. Corcoran
Brian H. Corcoran
Special Master