

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 14-912V

Filed: May 13, 2016

UNPUBLISHED

\*\*\*\*\*

[Redacted]

v. Petitioner,  
  
SECRETARY OF HEALTH  
AND HUMAN SERVICES,  
  
Respondent.

!  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

Joint Stipulation on Damages;  
Influenza ("Flu") Vaccine;  
Guillain-Barre Syndrome ("GBS");  
Special Processing Unit ("SPU")

\*\*\*\*\*

Alison H. Haskins, Maglio Christopher and Toale, PA, Sarasota, FL, for petitioner.  
Ann Donohue Martin, U.S. Department of Justice, Washington, DC, for respondent.

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

Dorsey, Chief Special Master:

On September 26, 2014, [Redacted] filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the "Vaccine Act"). The Petition alleges that [Redacted] suffered Guillain-Barre Syndrome ("GBS") as a result of her November 15, 2013 influenza ("flu") vaccination. Petition at ¶¶ 1, 9; Stipulation, filed May 12, 2016, at ¶¶ 2, 4. [Redacted] ("petitioner") was substituted as petitioner upon [Redacted] death. Petitioner alleges that [Redacted] suffered the residual effects of her GBS for more than six months, and that "Ms. [Redacted] death was the sequela of her alleged vaccine related injury." Stipulation at ¶ 4. "Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of [Redacted] as a result of her alleged vaccine-related injury or her death." Stipulation at ¶ 5. "Respondent denies that [Redacted] suffered

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims' website,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.

<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).

GBS or any other injury as a result of her influenza vaccine, and denies that Ms. [REDACTED] death was the result of a vaccine-related injury.” Stipulation at ¶ 6.

Nevertheless, on May 12, 2016, the parties filed the attached joint stipulation, stating that a decision should be entered awarding compensation. The undersigned finds the stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

The parties stipulate that petitioner shall receive the following compensation:

**A lump sum of \$315,000.00 in the form of a check payable to petitioner as Personal Representative of the Estate of [REDACTED].** Stipulation at ¶ 8. This amount represents compensation for all items of damages that would be available under 42 U.S.C. § 300aa-15(a). *Id.*

The undersigned approves the requested amount for petitioner’s compensation. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**  
Nora Beth Dorsey  
Chief Special Master

---

<sup>3</sup> 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.



5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of [REDACTED] as a result of her alleged vaccine-related injury or her death.

6. Respondent denies that [REDACTED] suffered GBS or any other injury as a result of her influenza vaccine, and denies that Ms [REDACTED] death was the 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 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 \$315,000.00 in the form of a check payable to petitioner as Personal Representative of the Estate of [REDACTED]. 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. Payment made pursuant to paragraph 8 of this Stipulation and any amounts 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 conservator of [REDACTED] estate under the laws of the State of Florida. No payment pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as conservator of [REDACTED] estate. If petitioner is not authorized by a court of competent jurisdiction to serve as conservator of the estate of [REDACTED] 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 conservator of the estate of [REDACTED], 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 legal representative of [REDACTED], on her own behalf and on behalf of the estate and [REDACTED] 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 [REDACTED] resulting from, or alleged to have resulted from, the influenza vaccination administered on November 15, 2013, as alleged by petitioner in a petition for vaccine compensation filed on or about September 26, 2014, in the United States Court of Federal Claims as petition No. 14-912V.



Respectfully submitted,

PETITIONER:



ATTORNEY OF RECORD FOR  
PETITIONER:

ALISON H. HASKINS, Esq.  
Maglio Christopher & Toale, PA  
1605 Main Street, Suite 710  
Sarasota, FL 34236  
(888) 952-5242

AUTHORIZED REPRESENTATIVE  
OF THE ATTORNEY GENERAL:

VINCENT J. MATANOSKI  
Deputy Director  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146

AUTHORIZED REPRESENTATIVE  
OF THE SECRETARY OF HEALTH  
AND HUMAN SERVICES:

NARAYAN NAIR, M.D.  
Acting Director, Division of Injury  
Compensation Programs  
Healthcare Systems Bureau  
Health Resources and Services Administration  
U.S. Department of Health and Human Services  
5600 Fishers Lane  
Parklawn Building, Mail Stop 08N146B  
Rockville, MD 20857

ATTORNEY OF RECORD FOR  
RESPONDENT:

ANN D. MARTIN  
Senior Trial Attorney  
Torts Branch, Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146  
Tel: (202) 307-1815

Dated: 5/12/14