

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

██████████ and ██████████ *

on behalf of ██████████ a minor child, *

Petitioners, *

v. *

SECRETARY OF HEALTH
AND HUMAN SERVICES, *

Respondent. *

No. 16-1679V

Special Master Christian J. Moran

Filed: August 25, 2017

Stipulation; influenza (“flu”) vaccine;
Guillain-Barré syndrome (“GBS”).

Amber D. Wilson, Maglio, Christopher & Toale, Washington, DC, for Petitioners;
Daniel A. Principato, United States Dep’t of Justice, Washington, DC, for
Respondent.

UNPUBLISHED DECISION¹

On August 25, 2017, the parties filed a joint stipulation concerning the petition for compensation filed by ██████████ and ██████████ behalf of ██████████ on February 5, 2016. In their petition, petitioners alleged that the influenza (“flu”) vaccine, which is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a), and which ██████████ received on October 12, 2015, caused ██████████ to suffer Guillain-Barré syndrome. Petitioners further allege that ██████████ suffered the residual effects of this injury for more than six months. Petitioners represent that there has been no prior award or settlement of a civil action for damages on his behalf as a result of his condition.

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 the vaccines either caused or significantly aggravated [REDACTED]'s alleged injury or any other injury.

Nevertheless, the parties agree to the joint stipulation, attached hereto. 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 lump sum payment of \$3,731.55 in the form of a check payable to petitioners for full satisfaction of past expenses.

A lump sum payment of \$180,720.00 in the form of a check payable to petitioners, as guardians/conservators of [REDACTED]'s estate. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 16-1679V according to this decision and the attached stipulation.²

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.

[REDACTED] and DAVID [REDACTED]
on [REDACTED] a minor child,

Petitioners,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

The parties hereby stipulate to the following matters:

2. [REDACTED] received the flu vaccination on or about October 12, 2015.

4. Petitioners allege that the vaccine caused [REDACTED] to develop Guillain-Barre Syndrome ("GBS"), and that [REDACTED] experienced the residual effects of this condition for more than six months.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages as a result of [REDACTED]'s condition.

and/or any other injuries;

[illegible]

35. A person appointed to the position of judge of the judicial commission will be
 (His term of office is 4 years), and the appointment shall be made by the Commission on
 Appointment and Dismissal of Judges of the Judicial Commission.
 36. The following shall be the composition of the Commission on Appointment and Dismissal of
 Judges of the Judicial Commission:

an Allimpsum of 5270156 in the form of a half payable in 1000000
and 1000000 in 1000000.

On 4/11/2019, payment of \$240,722.00 in the form of a check payable to the petitioners as
guarantors was made to [REDACTED] second. The amount of payment was made in full.
Remaining damages will be provided under #2 USC 2000e-17(a).

39. Assuming approval with the release of the government information in this case, and after petitioners have effected the proper and timely action to receive compensation pursuant to 42 U.S.C. § 300e-42 (a)(1)), and an application, the parties will submit to the presiding officer the guidelines to award reasonable attorney's fees and costs incurred in proceeding upon this petition.

100. Bellinover and Chikina deny any responsibility for having failed to respond until
November 2006 to a request from the Commission for which the Program is not primarily liable
under 42 USC §§ 3006e-3(gg), including those compensation programs, insurance policies,
Federal or State health care programs (other than Title 38 of the Social Security Act (42
USC 3701 et seq.)) or by entities that provide health services on a non-profit basis.

11. Payment made pursuant to paragraph 8 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.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, and past unreimbursable expenses, the money provided pursuant to this Stipulation will be used solely for the benefit of B.W.S. as contemplated by a strict construction of 42 U.S.C. § 300aa-15(a) and (d), and subject to the conditions of 42 U.S.C. § 300aa-15(g) and (h).

13. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as guardians/conservators [REDACTED]'s estate under the laws of the State of Illinois. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardians of B.W.S.'s estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians of [REDACTED]'s estate 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 guardian/conservator of the estate of B.W.S upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacities and as legal representatives of B.W.S., and on behalf of themselves, B.W.S., and his heirs, executors, administrators, successors and/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 death of [REDACTED] resulting from, or alleged to have resulted from, the flu vaccine administered on or about October 12, 2015 as alleged by petitioners in a petition for vaccine compensation filed on or about December 21, 2016, in the United States Court of Federal Claims as petition No. 16-1679V.

15. If [REDACTED] should die prior to entry of judgment, this agreement shall be voidable upon proper notice to the Court on behalf of either or both of the parties.

16. 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.

17. 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 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, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

188. This Agreement shall not be construed as an admission by the United States or the
Secretary of Health and Human Services of the fact that [REDACTED] and Agent [REDACTED],
and/or any other injury.

189. All rights and obligations of petitioners hereunder shall apply equally to petitioners
heirs, executors, administrators, successors, and assigns as legal representatives [REDACTED]


END OF CERTIFICATION

Respectfully submitted,

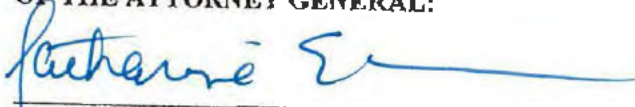
PETITIONERS:



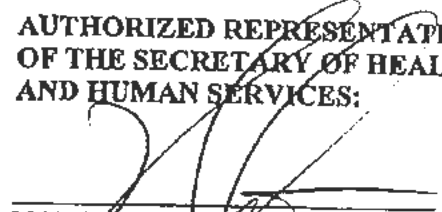
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Dated: 6/7/12