

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 07-244V

Filed: November 25, 2009

ROBERT E. CURTIS and BARBARA)	
CURTIS,)	
)	NOT TO BE PUBLISHED
Petitioners,)	
)	Stipulation; Influenza Vaccination;
v.)	Guillain Barre Syndrome
)	
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

Firooz Taghi Namei, Cincinnati, OH, for Petitioners.

Voris E. Johnson, United States Department of Justice, Washington, D.C., for Respondent

DECISION¹

LORD, Special Master.

On November 18, 2009, the parties to the above captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioners alleged that Robert's October 11, 2005 trivalent influenza vaccination was the cause-in-fact of his Guillain-Barre Syndrome (GBS). Stipulation at 1. Respondent denies that the above-mentioned vaccine caused Petitioner's GBS. Id. at 2. Nonetheless, the parties have agreed informally to resolve this matter.

The court hereby **adopts** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Specifically, Petitioners are

¹The undersigned intends to post this decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction "of any information furnished by that party (1) that is trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire" decision will be available to the public. Id.

awarded a lump sum of **\$350,000.00** in the form of a check payable to petitioner, Robert E. Curtis. The Clerk of the Court is directed to enter judgment accordingly.²

IT IS SO ORDERED.

s/ Dee Lord
Dee Lord
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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS

_____)	
ROBERT E. CURTIS and)	
BARBARA CURTIS,)	
)	
Petitioners,)	
)	No. 07-244V (ECF)
v.)	Special Master Lord
)	
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Robert E. and Barbara Curtis (“petitioners”) filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the “Vaccine Program”). The petition seeks compensation for injuries sustained following Robert’s receipt of a trivalent influenza (“flu”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. §100.3(a).
2. On October 11, 2005, Robert received a flu vaccine.
3. The vaccine was administered within the United States.
4. Petitioners allege that Robert subsequently suffered the injury Guillain-Barré Syndrome, which petitioners allege was caused-in-fact by Robert’s receipt of the flu vaccine. Petitioners further allege that Robert experienced the residual effects of his injury 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 Robert's condition.

6. Respondent denies that Robert's alleged injury and residual effects were caused-in-fact by the flu vaccine.

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 petitioners have 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 \$350,000.00 in the form of a check payable to petitioner, Robert E. Curtis. 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 petitioners have 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 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. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, the money provided pursuant to this Stipulation

will be used solely for the benefit of petitioner, Robert E. Curtis, 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).

12. In return for the payment described in paragraph 8, petitioners, on behalf of themselves and their heirs, executors, administrators, successors or assigns, do forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to, or death of, petitioner Robert E. Curtis resulting from, or alleged to have resulted from, the flu vaccine administered on October 11, 2005, as alleged by petitioners in a petition for vaccine compensation filed on or about April 23, 2007, in the United States Court of Federal Claims as petition No. 07-244V.

13. If petitioner, Robert E. Curtis, should die prior to receiving the payments described in paragraph 8(a), this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation, or in the event 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 null and void at the sole discretion of either party.

15. This Stipulation expresses a full and complete settlement of liability and damages

claimed in this matter by petitioners under the National 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.

16. All rights and obligations of petitioners hereunder shall apply equally to petitioners' heirs, successors and/or assigns.

END OF STIPULATION