

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**

No. 10-412V  
Filed: June 30, 2011  
Unpublished

\*\*\*\*\*

MARK ROBERTS,

\*

\*

Petitioner,

\*

\*

v.

\*

\*

Stipulation; Influenza vaccine, flu;  
Guillain-Barré Syndrome, GBS;  
Attorney fees and costs

SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

\*

\*

\*

Respondent.

\*

\*\*\*\*\*

*Diana Lynn Stadelnikas, Maglio Christopher & Toale, Sarasota, F.L., for Petitioners.*  
*Glenn Alexander MacLeod, U.S. Department of Justice, Washington, D.C., for Respondent.*

**DECISION**<sup>1</sup>

**GOLKIEWICZ**, Special Master.

On June 29, 2011, the parties to the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner alleges that he suffered Guillain-Barré Syndrome (“GBS”) as a consequence of the influenza vaccine he received on or about October 27, 2009, and that he suffered the residual effects of this injury for more than six months. Stipulation at ¶ 4. “Respondent denies that the flu vaccine caused petitioner to suffer GBS, and further denies that his current disabilities are a sequelae of a vaccine-related injury.” *Id.* at ¶ 6. Nonetheless, the parties agreed informally to resolve this matter. *Id.* at ¶ 7.

The court hereby **ADOPTS** the parties’ said Stipulation, attached hereto, and awards

---

<sup>1</sup> The undersigned intends to post this decision on the website for the United States Court of Federal Claims, 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 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 entire decision will be available to the public. *Id.* Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing.** Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.

compensation in the amount and on the terms set forth therein. **Specifically, petitioner is awarded a lump sum of \$250,000.00 in the form of a check payable to petitioner; petitioner is also awarded a lump sum of \$10,250.00 in the form of a check payable to petitioner and petitioner's attorney for attorney fees and costs.** See Stipulation, ¶ 8, filed June 29, 2011.

The Clerk of the Court is directed to enter judgment accordingly.

**IT IS SO ORDERED.**<sup>2</sup>

s/ Gary J. Golkiewicz  
Gary J. Golkiewicz  
Special Master

---

<sup>2</sup> This document constitutes a final "decision" in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. 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**

\*\*\*\*\*

**MARK ROBERTS,**

Petitioner,

v.

**SECRETARY OF HEALTH  
AND HUMAN SERVICES,**

Respondent.

\*\*\*\*\*

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

**No. 10-412V  
SPECIAL MASTER  
GARY GOLKIEWICZ**

**STIPULATION**

The parties hereby stipulate to the following matters:

1. Petitioner 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 allegedly related to petitioner's receipt of the trivalent influenza ("flu") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).

2. Petitioner received his flu immunization on or about October 27, 2009.

3. The vaccine was administered within the United States.

4. Petitioner alleges that he suffered Guillain Barre Syndrome ("GBS"), a peripheral neuropathy as a consequence of his flu vaccination, and further alleges that he experienced residual effects of this injury for more than six months.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on his behalf as a result of his condition.

6. Respondent denies that the flu vaccine caused petitioner to suffer GBS, and further denies that his current disabilities are a sequelae 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 payments:

a. A lump sum of \$250,000.00 in the form of a check payable to petitioner, representing compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a); and

b. A lump sum of \$10,250.00 in the form of a check payable to petitioner and petitioner's attorney, Diana Lynn Stadelnikas, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(c), and in compliance with General Order #9, no out-of-pocket expenses were incurred by petitioner in proceeding on the petition.

9. Petitioner and his attorney represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including State compensation programs, insurance policies, Federal or State health benefits programs (other than Title XIX of the Social Security Act (42 U.S.C. § 1396 et seq.)), or entities that provide health services on a pre-paid basis.

10. Payments made pursuant to paragraph 8 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 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 payments described in paragraph 8, petitioner, in his individual capacity and on behalf of his 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 petitioner resulting from, or alleged to have resulted from, the flu vaccination administered on or about October 27, 2009, as alleged by petitioner in a petition for vaccine compensation filed on or about June 30, 2010, in the United States Court of Federal Claims as petition No. 10-412V.

13. If petitioner 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.

14. 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.

15. 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. 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.

16. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the flu vaccine caused petitioner to suffer GBS or his current disabilities.

17. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.


END OF STIPULATION

Respectfully submitted,


PETITIONER:

  
MARK ROBERTS

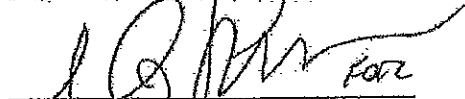
ATTORNEY OF RECORD FOR  
PETITIONER:

  
DIANA LYNN STADELNIKAS ESQ.  
MAGLIO, CHRISTOPHER & TOALE LAW FIRM  
1751 Mound Street, Second Floor  
Sarasota, FL. 34236  
Tel: (941) 952-5242  
Fax: (941) 952-5042

AUTHORIZED REPRESENTATIVE  
OF THE ATTORNEY GENERAL:


  
VINCENT J. MATANOSKI  
Acting 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:

  
GEOFFREY EVANS, M.D.  
Director, Division of  
Vaccine Injury Compensation  
Healthcare Systems Bureau  
U.S. Department of Health  
and Human Services  
5600 Fishers Lane  
Parklawn Building, Mail Stop 11C-26  
Rockville, MD 20857

Dated: 6/29/11

ATTORNEY OF RECORD FOR  
RESPONDENT:

  
GLENN A. MACLEOD  
Senior Trial Counsel  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, DC 20044-0146  
Tel: (202) 616-4122