

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

JOSEPHINE K. AMI,

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Petitioner,

*

*

v.

*

No. 07-480V

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Special Master Christian J. Moran

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

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Filed: May 19, 2008

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Respondent.

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Stipulation; influenza vaccine;
Guillain-Barre Syndrome (GBS)

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UNPUBLISHED DECISION¹

Jay A. Bansal, Esq., Law Offices of Jay A. Bansal, Tempe, A.Z., for Petitioner;
Katherine C. Esposito, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On May 8, 2008, the parties filed a joint stipulation concerning the petition for compensation filed by Josephine K. Ami on June 29, 2007. In her petition, Ms. Ami alleged that the influenza vaccine, which vaccine is contained in the Vaccine Injury Table, 42 C.F.R. §100.3 (a), and which Ms. Ami received on November 10, 1998, caused Guillain-Barre Syndrome (“GBS”), amongst other injuries.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, the person submitting the information has 14 days to identify and to move to delete such information before the document’s disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

Respondent denies that Ms. Ami's condition were caused by her influenza immunization. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. 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 \$10,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available pursuant to 42 U.S.C. § 300aa-15(a).

A lump sum payment of \$19,000.00 in the form of a check payable to petitioner and petitioner's attorney, Jay A. Bansal, for attorney's fees and costs, and in compliance with General Order #9, no out-of-pocket expenses were incurred by petitioner in proceeding on her petition.

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 07-480V according to this decision and the attached stipulation.

Any questions may be directed to Francina Segbefia at (202) 357-6358.

IT IS SO ORDERED.

Christian J. Moran
Special Master

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SECRETARY OF HEALTH AND)
HUMAN SERVICES,)
)
Respondent.)

No. 07-480V
Special Master Moran

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioner, Josephine K. Ami ("Josephine"), filed a petition for vaccine injury 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 Josephine's receipt of the influenza vaccine, which is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. Josephine received the immunization at issue on November 10, 1998.
3. The vaccine was administered within the United States.
4. Josephine alleges that she suffered Guillain-Barre Syndrome ("GBS"), amongst other injuries, caused in fact by her receipt of the influenza vaccination.
5. Petitioner represents there has been no prior award or settlement of a civil action for damages as a result of her condition.

6. Respondent denies that Josephine's condition was caused by her influenza immunization.

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 payments:

a. A lump sum of \$10,000.00 in the form of a check payable to petitioner. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).

b. A lump sum of \$19,000.00 in the form of a check payable to petitioner and petitioner's attorney, Jay A. Bansal, for attorney's fees and costs, and in compliance with General Order #9, no out-of-pocket expenses were incurred by petitioner in proceeding on her petition.

9. 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.

10. 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 Josephine 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).

11. In return for the payments described in paragraphs 8, petitioner, on her own behalf and on behalf of her heirs, executors, administrators, successors or assigns, does 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 Josephine resulting from, or alleged to have resulted from, the influenza immunization administered on November 10, 1998, as alleged by petitioner in a petition for vaccine compensation filed on or about June 29, 2007, in the United States Court of Federal Claims as petition No. 07-480V.

12. If Josephine should die prior to receiving the payments described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

13. 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 will be null and void at the sole discretion of either party.

14. This Stipulation expresses a full and complete 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.

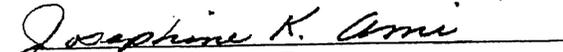
15. All rights and obligations of petitioner hereunder shall apply equally to petitioner's successors and assigns.

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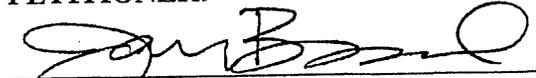
END OF STIPULATION

Respectfully submitted,

PETITIONER:


JOSEPHINE K. AMI

**ATTORNEY OF RECORD FOR
PETITIONER:**


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**AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:**


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Healthcare Systems Bureau
U.S. Department of Health and
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Dated: 5/8/08

**AUTHORIZED REPRESENTATIVE OF
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