

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 09-437V

Filed: August 3, 2010

Not to be Published

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DIANE LEE,

Petitioner,

v.

SECRETARY OF THE DEPARTMENT  
OF HEALTH AND HUMAN SERVICES,

Respondent.

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Stipulation; Influenza vaccine;  
Guillain-Barré Syndrome, GBS

### DECISION<sup>1</sup>

On August 2, 2010, 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 she sustained an injury, Guillain-Barré Syndrome (“GBS”), as a result of an influenza vaccine she received on October 15, 2008. Petitioner further alleges she developed tingling in her fingertips and toes and impaired vision in her right eye as sequelae of her injury, and that she experienced residual effects of this injury for more than six months. Respondent denies the influenza vaccine caused petitioner’s GBS and current disabilities. Nonetheless, the parties agree 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, petitioner is awarded a lump sum of \$450,000.00 in the form of a check payable to petitioner.** See Stipulation, para. 8, filed August 2, 2010.

The Clerk of the Court is directed to enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**

s/Gary Golkiewicz  
Gary Golkiewicz  
Special Master

<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.

<sup>2</sup> 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

DIANNE LEE,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 09-437V
	)	Special Master Gary J. Golkiewicz
SECRETARY OF HEALTH AND	)	
HUMAN SERVICES	)	
	)	
Respondent.	)	
	)	

STIPULATION

The parties hereby stipulate to the following matters:

1. Dianne Lee, 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 her flu immunization on October 15, 2008.
3. The vaccine was administered within the United States.
4. Petitioner alleges that she sustained the first symptom or manifestation of the onset of Guillain-Barré syndrome on or about October 26, 2008. She further alleges that she developed tingling in her fingertips and toes and impaired vision in her right eye as sequelae of her injury, and that she 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 her behalf as a result of her condition.

6. Respondent denies the flu vaccine caused petitioner's Guillain-Barré syndrome and current disabilities.

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 \$450,000.00 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).

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. Petitioner and her 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.

11. Payments 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, 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).

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity, and on behalf of her 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. § 300 aa-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 October 15, 2008, as alleged by petitioner in a petition for vaccine compensation filed on or about June 30, 2009, in the United States Court of Federal Claims as petition No. 09-437V.

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

15. 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.

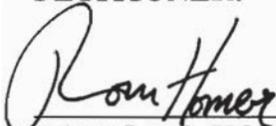
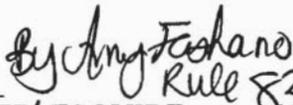


Respectfully submitted,

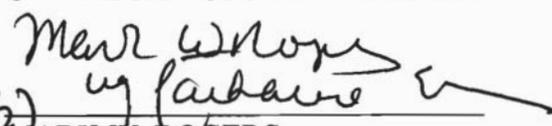
**PETITIONER:**

  
DIANNE LEE

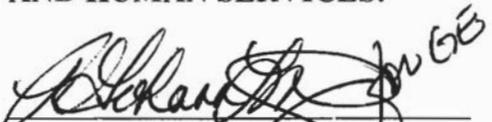
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Dated: August 2, 2010