

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 08-838V

FILED: January 5, 2010

Not for publication

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SHARYN SCHROEPFER,  
as Trustee of the Estate of  
MARVIN SCHROEPFER,  
decedent

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

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Damages decision based on  
stipulation; Guillain Barre  
Syndrome

Sheila A. Bjorklund, Minneapolis, MN, for petitioner.  
Glenn A. MacLeod, Washington, DC, for respondent.

**MILLMAN, Special Master**

### DECISION AWARDING DAMAGES<sup>1</sup>

On January 4, 2010, the parties filed the attached stipulation, in which they agreed to settle this case and described the settlement terms. Petitioner alleged that Marvin Schroepfer

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<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post this unpublished decision on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub.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). Vaccine Rule 18(b) states that 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 constitute a clearly unwarranted invasion of privacy. When such a decision is filed, petitioner has 14 days to identify and move to delete such information prior to the document's disclosure. If the special master, upon review, agrees that the identified material fits within the banned categories listed above, the special master shall delete such material from public access.

suffered from Guillain Barre Syndrome, and died as a consequence of his influenza immunization. Respondent denies that Marvin Schroepfer suffered any injury caused by his influenza vaccination. Nonetheless, the parties agreed to resolve this matter informally.

The court hereby adopts the parties' said stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. Pursuant to the stipulation, the court awards:

- a. a lump sum of **\$250,000.00** in the form of a check made payable to petitioner as the Trustee of the Estate of Marvin Schroepfer, decedent.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.<sup>2</sup>

**IT IS SO ORDERED.**

Dated: January 5, 2010

s/ Laura D. Millman  
Laura D. Millman  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party's filing a notice renouncing the right to seek review.

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

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SHARYN SCHROEPFER, )  
as Trustee of the Estate of )  
MARVIN SCHROEPFER, decedent, )  
) )  
Petitioner, )  
) )  
v. )  
) )  
SECRETARY OF HEALTH )  
AND HUMAN SERVICES, )  
) )  
Respondent. )

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No. 08-838V  
Special Master  
LAURA D. MILLMAN

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") on behalf of her husband, Marvin Schroepfer, deceased. The petition seeks compensation for injuries and death allegedly related to Marvin Schroepfer's receipt of the Trivalent Influenza ("flu" or "influenza") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).

2. Marvin Schroepfer received an influenza immunization on October 19, 2006.

3. The vaccine was administered within the United States.

4. Petitioner alleges that Marvin Schroepfer suffered Guillain Barre Syndrome, and died as a consequence of his October 19, 2006 flu immunization on January 26, 2007.

5. Petitioner represents that there has been no prior award

or settlement of a civil action for damages on behalf of Marvin Schroepfer as a result of his alleged vaccine-related injury and death.

6. Respondent denies that Marvin Schroepfer suffered any injury caused by his flu vaccination, and further denies that his death on January 26, 2007, was vaccine-related.

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 payment, which represents compensation for all damages that would be available to petitioner under 42 U.S.C. §300aa-15(a):

A lump sum of \$250,000.00 in the form of a check payable to petitioner as the Trustee of the Estate of Marvin Schroepfer, decedent.

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. 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.

11. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as Trustee of Marvin Schroepfer's estate under the laws of the State of Minnesota. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as Trustee of Marvin Schroepfer's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as Trustee of the estate of Marvin Schroepfer 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 Trustee(s) of the estate of Marvin Schroepfer upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, on behalf of Marvin Schroepfer, and his 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 Marvin Schroepfer resulting from, or alleged to have resulted from the flu immunization administered on October 19, 2006, as alleged by petitioner in a petition for vaccine compensation filed on November 28, 2008, in the United States Court of Federal Claims as petition No. 08-838V.

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 shall 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, 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.

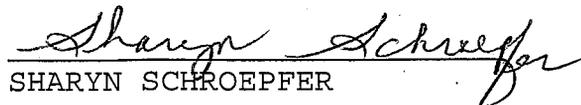
15. All rights and obligations of petitioner hereunder shall apply equally to her successors and assigns as legal

representatives of the estate of Marvin Schroepfer.

END OF STIPULATION

Respectfully submitted,

**PETITIONER:**

  
SHARYN SCHROEPFER

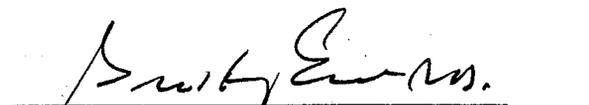
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Dated: 1/04/10