

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

**OFFICE OF SPECIAL MASTERS**

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JOHN THOMPSON,

\*

Petitioner,

\*

No. 09-253V

Special Master Christian J. Moran

\*

v.

\*

\*

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

\*

Filed: May 18, 2010

\*

Respondent.

\*

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

\*

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**UNPUBLISHED DECISION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

David N. Damick, Esq., Law Offices of David N. Damick, St. Louis, MO, for Petitioner;  
Althea Walker Davis, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On May 13, 2010, the parties filed a joint stipulation concerning the petition for compensation filed by John Thompson which was filed on April 23, 2009. In his petition, Mr. Thompson alleged that the influenza vaccine, which is contained in the Vaccine Injury Table, 42 C.F.R. §100.3(a), and which he received on December 27, 2006, caused him to sustain the first symptom or manifestation of the onset of Guillain-Barre Syndrome (GBS).

Respondent denies that Mr. Thompson’s GBS was caused-in-fact by his influenza vaccine and denies that Mr. Thompson suffers any current disabilities that are sequelae of a vaccine-related injury. Nevertheless, the parties agree to the joint stipulation, attached hereto as

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 Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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

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) **A lump sum payment of \$300,000.00, in the form of a check payable to petitioner.** This amount represents compensation for all damages available under 42 U.S.C. § 300aa-15(a).
- B) **A lump sum of \$27,672.00, in the form of a check payable to petitioner and petitioner's attorney, David N. Damick, Esquire.,** for attorney's fees and costs, and, in compliance with General Order #9, petitioner incurred no out-of-pocket expenses in proceedings on this petition.

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 09-253V according to this decision and the attached stipulation.

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

IT IS SO ORDERED.

S/ Christian J. Moran

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Christian J. Moran  
Special Master

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

_____ JOHN THOMPSON,	)	
	)	
Petitioner,	)	No. 09-253V
v.	)	Special Master Moran
	)	
SECRETARY OF HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	
_____	)	

STIPULATION

The parties hereby stipulate to the following matters:

1. John Thompson, 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 influenza vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).

2. Petitioner received his influenza vaccination on December 27, 2006.

3. The vaccination was administered within the United States.

4. Petitioner alleges that he suffered the onset of Guillian Barré Syndrome ("GBS") as the result of the influenza vaccination.

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 petitioner suffered the onset of GBS as the result of his December 27, 2006 influenza vaccination, and denies that petitioner's current disabilities are

sequelae of his alleged 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 payment:

- (a) A lump sum of \$300,000.00 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); and
- (b) A lump sum of \$27,672.00 in the form of a check payable to petitioner and petitioner's attorney, David N. Damick, Esquire, for attorney's fees and costs, and, in compliance with General Order #9, petitioner incurred no out-of-pocket expenses in proceedings on this 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 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).

11. 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 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 resulting from, or alleged to have resulted from, the influenza vaccination administered on December 27, 2006, as alleged by petitioner in a petition for vaccine compensation filed on or about April 23, 2009, in the United States Court of Federal Claims as petition No. 09-253V.

12. If petitioner 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 shall be null and void at the sole discretion of either party.

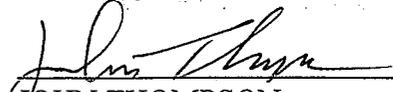
14. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

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

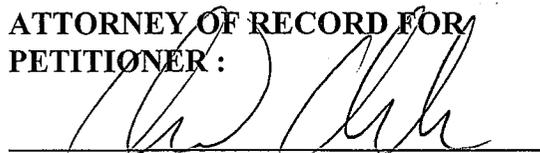
END OF STIPULATION

Respectfully submitted,

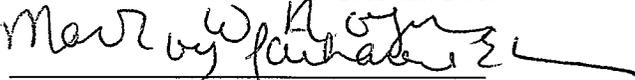
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JOHN THOMPSON

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Dated: 13 May 2010