

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

DEANNA and SCOTT GROMOWSKI, *
As Parents and Natural Guardians of *
IAN GROMOWSKI, A Minor, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 09-511V
Special Master Christian J. Moran

Filed: October 26, 2010

Stipulation; Hepatitis vaccine;
systemic reaction; death
thrombocytopenia;
encephalopathy

UNPUBLISHED DECISION¹

Sheila A Bjorklund, Esq., Lommen Abdo Law Firm, Minneapolis, MN, for Petitioner;
Ryan D. Pyles, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On October 21, 2010, the parties filed a joint stipulation concerning the petition for compensation filed by petitioners, Deanna and Scott Gromowski, as parents and natural guardians of their son, Ian Gromowski, on August 5, 2009. In their petition, the Gromowski's alleged that the Hepatitis B vaccine, which is contained in the Vaccine Injury Table, 42 C.F.R. §100.3(a), and which Ian received on July 1, 2007, caused him to sustain a systemic reaction, including thrombocytopenia, rash, and an encephalopathy, which resulted in his death.

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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 Ian suffered the onset of an encephalopathy within the time period set forth in the Table and denies that the vaccine caused Ian to suffer a systemic reaction, including thrombocytopenia, rash, and/or encephalopathy, and or/ any other injury. Respondent further denies that Ian's death occurred as the result of a vaccine-related injury.

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 \$190,000.00 in the form of a check payable to petitioners as executors/administrators of the Estate of Ian Gromowski.

This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 09-511V according to this decision and the attached stipulation.

Any questions may be directed to my law clerk, Jennifer C. Chapman, at (202) 357-6358.

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran

Special Master

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

DEANNA and SCOTT GROMOWSKI,)	
as parents and natural guardians of minor)	
IAN GROMOWSKI, decedent,)	
)	
Petitioners,)	
)	
v.)	No. 09-511V
)	Special Master Christian J. Moran
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
)	

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of the Estate of Ian Gromowski ("Ian"), deceased, petitioners, Deanna and Scott Gromowski, Ian's parents, 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, resulting in death, allegedly related to Ian's receipt of the Hepatitis B vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. Ian received the Hepatitis B vaccine on July 1, 2007.
3. The vaccine was administered within the United States.
4. Petitioners allege that Ian sustained a systemic reaction, including thrombocytopenia, rash, and an encephalopathy, which resulted in death, as a result of his vaccination received on July 1, 2007.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of the Estate of Ian Gromowski as a result of Ian's alleged condition, resulting in death.

6. Respondent denies that Ian suffered the onset of an encephalopathy within the time period set forth in the Table; denies that the vaccine received by Ian on July 1, 2007, caused him to suffer a systemic reaction, including thrombocytopenia, rash, and/or an encephalopathy, and/or any other injury; and denies that Ian's death occurred as the result 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 paragraphs 8 and 9 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 **\$190,000.00** in the form of a check payable to petitioners as executors/administrators of the Estate of Ian Gromowski. 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 petitioners have 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. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as executors/administrators of the Estate of Ian Gromowski under the laws of the State of Wisconsin.

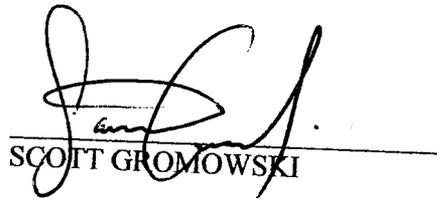
12. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacities and as legal representatives of the Estate of Ian Gromowski, on behalf of themselves and their heirs, executors, administrators, successors or assigns, do forever irrevocably and unconditionally 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 Ian resulting from, or alleged to have resulted from, the vaccination administered on or about July 1, 2007, as alleged by petitioners in a petition for vaccine compensation filed on or about August 5, 2009, in the United States Court of Federal Claims as petition No. 09-511V.

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'

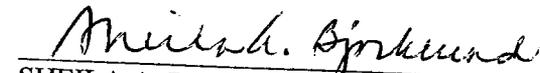
Respectfully submitted,

PETITIONERS:


DEANNA GROMOWSKI


SCOTT GROMOWSKI

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October 21, 2010

Dated: 10/11/10