

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

SCOTT L. WILSON, *
Petitioner, * No. 09-548V
Special Master Christian J. Moran

v. *
*

SECRETARY OF HEALTH * Filed: May 7, 2010
AND HUMAN SERVICES, *
Respondent. * Stipulation; influenza (flu) vaccine;
Guillain-Barre Syndrome (GBS)

UNPUBLISHED DECISION¹

Ron A. Sprague, Esq., Gendry & Sprague, P.C., San Antonio, TX, for Petitioner;
Ann D. Martin, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

On May 6, 2010, the parties filed a joint stipulation concerning the petition for compensation filed by Scott Wilson which was filed on August 19, 2009. In his petition, Mr. Wilson 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 October 17, 2007, caused him to sustain the first symptom or manifestation of the onset of Guillain-Barre Syndrome (GBS). Mr. Wilson further alleges that he continues to suffer weakness and fatigue in his extremities as sequelae of his injury.

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

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of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

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 \$30,000.00, 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 \$34,000.00, in the form of a check payable to petitioner and petitioner's attorney, Ron A Sprague, Esq.,** 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 09-548V 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

Christian J. Moran
Special Master

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

_____)	
SCOTT L. WILSON,)	
)	
Petitioner,)	
)	
v.)	No. 09-548V
)	Special Master Moran
)	
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

The parties hereby stipulate to the following matters:

1. Scott L. Wilson, 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 an influenza vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).
2. Petitioner received an influenza vaccine on October 17, 2007.
3. The vaccine was administered within the United States.
4. Petitioner alleges that on or around October 31, 2007, petitioner sustained the first symptom or manifestation of the onset of Guillain-Barre Syndrome (GBS), which was caused-in-fact by the influenza vaccine. He further alleges that he continues to suffer weakness and fatigue in his extremities as sequelae of his injury.
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's GBS was caused-in-fact by his influenza

vaccine and denies that petitioner suffers any current disabilities that are sequelae 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 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 payments:

a. A lump sum of \$30,000.00 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 \$34,000.00 in the form of a check payable to petitioner and petitioner's attorney, Ron A. Sprague, Esq., for attorney's fees and costs. In accordance with General Order # 9, petitioner represents that all litigation costs were paid by his attorney and that he did not personally incur any costs in proceeding on the 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 to him on October 17, 2007, as alleged by petitioner in a petition for vaccine compensation filed on August 19, 2009, in the United States Court of Federal Claims as petition No. 09-548V.

12. If petitioner should die prior to receiving the payment described in paragraph 8.a, 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.

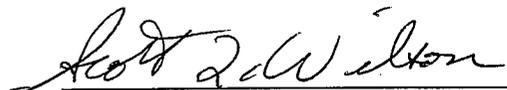
14. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly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

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

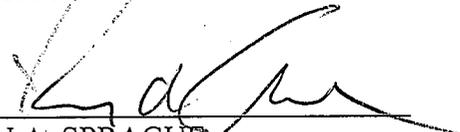
END OF STIPULATION

Respectfully submitted,

PETITIONER:


SCOTT L. WILSON

ATTORNEY OF RECORD FOR
PETITIONER:


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Dated: May 6, 2010