

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
Filed: May 8, 2023

MOSEL PEARLMAN-RAMIREZ,	*	No. 22-640V
	*	
Petitioner,	*	Special Master Sanders
v.	*	
SECRETARY OF HEALTH	*	Stipulation for Award; Tetanus Diphtheria
AND HUMAN SERVICES,	*	Acellular Pertussis (“Tdap”) Vaccine;
	*	Guillain-Barré Syndrome (“GBS”)
Respondent.	*	

Elizabeth Abramson, Maglio Christopher & Toale, P.A., Washington, DC, for Petitioner.
Voris Johnson, United States Department of Justice, Washington, DC, for Respondent.

DECISION¹

On June 9, 2022, Mosel Pearlman-Ramirez (“Petitioner”) filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program.² 42 U.S.C. §§ 300aa-10 to -34 (2012); Pet. at 1, ECF No. 1. Petitioner alleged that the tetanus diphtheria acellular pertussis (“Tdap”) vaccine he received on April 19, 2021, caused him to develop Guillain-Barré Syndrome (“GBS”). *Id.* at 3. Petitioner further alleged that he experienced the residual effects of his injury for more than six months. *Id.* at 10.

On May 5, 2023, the parties filed a stipulation in which they state that a decision should be entered awarding compensation to Petitioner. Stipulation, ECF No. 23. Respondent “denies that the Tdap vaccine caused [P]etitioner’s alleged GBS and residual effects, or any other injury.” *Id.* at 1–2. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. *Id.* at 2. I find the stipulation reasonable and adopt it as the decision of the Court in awarding damages, on the terms set forth therein.

The parties stipulate that Petitioner shall receive the following compensation:

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub L. No. 99-660, 100 Stat. 3755.

A lump sum of \$110,000.00 in the form of a check payable to [P]etitioner . . . which amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a)[.]

Id.

I approve the requested amount for Petitioner's compensation. Accordingly, an award should be made consistent with the stipulation.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the Clerk of Court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.³

IT IS SO ORDERED.

s/Herbrina D. Sanders
Herbrina D. Sanders
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

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

MOSEL PEARLMAN-RAMIREZ,)
Petitioner,)
v.) No. 22-640V (ECF)
SECRETARY OF HEALTH) Special Master Sanders
AND HUMAN SERVICES,)
Respondent.)

)

STIPULATION

The parties hereby stipulate to the following matters:

1. Mosel Pearlman-Ramirez (“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 sustained following petitioner’s receipt of a tetanus-diphtheria-acellular pertussis (“Tdap”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. §100.3(a).
2. Petitioner received the Tdap vaccine on April 19, 2021.
3. The vaccine was administered within the United States.
4. Petitioner alleges that he suffered Guillain-Barré syndrome (“GBS”) that was caused-in-fact by his receipt of the Tdap vaccine. Petitioner further alleges that he experienced the residual effects of his GBS for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of his condition.
6. Respondent denies that the Tdap vaccine caused petitioner’s alleged GBS and

residual effects, or any other 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 lump sum of \$110,000.00 in the form of a check payable to petitioner, Mosel Pearlman-Ramirez, which 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 his attorney represent that compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any 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 by entities that provide health services on a pre-paid basis.

11. 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.

12. The parties and their attorneys further agree and stipulate that, except for any award for attorneys' fees and litigation costs, and past unreimbursable expenses, 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 his individual capacity, and on behalf of his heirs, executors, administrators, successors or assigns, does forever irrevocably and unconditionally release, acquit and discharge the Secretary of Health and Human Services and the United States of America 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. § 300aa-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 Tdap vaccine administered on April 19, 2021, as alleged by petitioner in a petition for vaccine compensation filed on or about June 9, 2022, in the United States Court of Federal Claims as petition No. 22-640V.

14. If petitioner should die prior to entry of 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.

16. This Stipulation expresses a full and complete negotiated settlement of liability and damages claimed under the National 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. The parties further agree and understand that the award described in this Stipulation may reflect a compromise of the parties' respective positions as to liability and/or amount of damages, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

17. This Stipulation shall not be construed as an admission by the United States of America or the Secretary of Health and Human Services that petitioner's alleged GBS and residual effects, or any other injury, were caused by the Tdap vaccine.

18. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, successors and/or assigns.

END OF STIPULATION

Respectfully submitted,

PETITIONER:

DocuSigned by:

Mosel Pearlman-Ramirez

871ED34DD0382450
MOSEL PEARLMAN-RAMIREZ

**ATTORNEY OF RECORD FOR
PETITIONER:**

Jeffrey Nelson for

ELIZABETH K. ABRAMSON
Maglio Christopher & Toale Law Firm
1015 15th St. NW, Suite 1125
Washington, DC 20005
(888) 952-5242

**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**

Heather L. Pearlman

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146

**AUTHORIZED REPRESENTATIVE
OF THE SECRETARY OF HEALTH
AND HUMAN SERVICES:**

Henry P.
by Mcmillan -S3

Digitally signed by
Henry P. Mcmillan -S3
Date: 2023.04.18
14:03:01 -04'00'

CDR GEORGE REED GRIMES, MD, MPH
Director, Division of Injury
Compensation Programs
Health Systems Bureau
Health Resources and
Services Administration
U.S. Department of Health
and Human Services
5600 Fishers Lane, 08N146B
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**

Voris E. Johnson, Jr.

VORIS E. JOHNSON, JR.
Senior Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel.: (202) 616-4136
Email: voris.johnson@usdoj.gov

Dated: 5/5/2023