

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS

SAMUEL HUSSEY,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 14-56V
Special Master Moran
Filed: March 12, 2015
Stipulation; influenza and Hepatitis B
("Hep B") vaccines; Guillain-Barré
("GBS").

Amber D. Wilson, Maglio, Christopher & Toale, Washington, DC, for Petitioner;
Alexis Babcock, United States Dep't of Justice, Washington, DC, for Respondent.

UNPUBLISHED DECISION¹

On March 11, 2015, respondent filed a joint stipulation concerning the petition for compensation filed by Samuel Hussey on January 24, 2014. In his petition, Mr. Hussey alleged that the influenza and Hepatitis B ("Hep B") vaccines, which are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. §100.3(a), and which he received the influenza vaccination on February 21, 2012 and received Hep B vaccinations on March 10, 2012, April 7, 2012, and May 5, 2012, caused him to suffer from Guillain-Barré Syndrome ("GBS"). Petitioner alleges that he suffered from Guillain-Barré Syndrome ("GBS") which was caused-in-fact by his influenza vaccination. In the alternative, petitioner alleged that his Hep B vaccinations either alone or in combination with his influenza vaccination, caused his GBS. Petitioner further alleges that he experienced the residual effects of this injury for more than six months. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of his GBS.

¹ The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the party has 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

Respondent denies that petitioner's GBS was caused-in-fact by his influenza vaccination and/or his Hep B vaccinations, and denies that the vaccines caused any other injury or his current condition.

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. A lump sum of \$30,077.17, representing compensation for satisfaction of the State of Hawaii Medicaid lien, payable jointly to petitioner; and**

**Department of Human Services
Med-QUEST Division
1001 Kamokila Blvd., Suite 317
Kapolei, Hawaii 96707
Attn: Gary Ojiri**

Petitioner agrees to endorse this payment to the Hawaii Department of Human Services; and

- B. A lump sum of \$95,000.00 in the form of a check payable to petitioner, Samuel Hussey. This amount represents compensation for all remaining 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 14-56V according to this decision and the attached stipulation.²

Any questions may be directed to my law clerk, Christina Gervasi, at (202) 357-6360.

IT IS SO ORDERED.

s/ Christian J. Moran
Christian J. Moran
Special Master

² Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

months.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of his GBS.

6. Respondent denies that petitioner's GBS was caused-in-fact by his influenza vaccination and/or his Hep B vaccinations, and denies that the vaccines caused any other injury or his current condition.

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 \$30,077.17 representing compensation for satisfaction of the State of Hawaii Medicaid lien, payable jointly to petitioner; and

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Petitioner agrees to endorse this payment to the Hawaii Department of Human Services; and

(b) A lump sum of \$95,000.00 in the form of a check payable to petitioner. This amount represents compensation for all remaining 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 attorney's fees and costs incurred in proceeding upon this petition.

10. Petitioner and his attorney represent that they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including 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 entities that provide health services on a pre-paid basis.

11. Payments 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 attorney's 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 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. § 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 influenza vaccination administered on February 21, 2012, and/or Hep B vaccinations administered on March 10, 2012, April 7, 2012, and May 5, 2012, as alleged in a petition for vaccine compensation filed on or about January 24, 2014, in the United States Court of Federal Claims as petition No. 14-56V.

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 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. 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 or the Secretary of Health and Human Services that the influenza or Hep B vaccines caused petitioner's alleged GBS, or any other injury or his current disabilities.

Respectfully submitted,

PETITIONER:



SAMUEL HUSSEY

**ATTORNEY OF RECORD FOR
PETITIONER:**



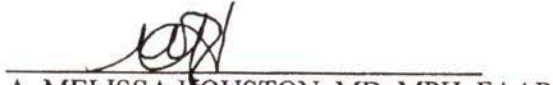
AMBER D. WILSON
Attorney for Petitioner
Maglio, Christopher & Toale
1775 Pennsylvania Avenue, N.W., Ste. 225
Washington, DC 20006
(888) 952-5242

**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**




VINCENT J. MATANOSKI
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:**



A. MELISSA HOUSTON, MD, MPH, FAAP
Director, Division of
Injury Compensation Programs (DICP)
Healthcare Systems Bureau
U.S. Department of Health
and Human Services
5600 Fishers Lane
Parklawn Building, Mail Stop 11C-26
Rockville, MD 20857

**ATTORNEY OF RECORD FOR
RESPONDENT:**



ALEXIS B. BABCOCK
Senior Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
(202) 616-7678

Dated: 3/11/15