

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: December 15, 2022

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JUNE T. TAYLOR and EDWARD
TIMOTHY CANAVAN, as Personal
Representatives of the ESTATE OF
EDWARD T. CANAVAN,

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UNPUBLISHED

Petitioners,

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No. 20-1255V

v.

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*

Special Master Dorsey

SECRETARY OF HEALTH
AND HUMAN SERVICES,

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Decision Based on Stipulation; Influenza
("Flu") Vaccine; Guillain-Barré Syndrome
("GBS").

Respondent.

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Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioners.

Claudia Barnes Gangi, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION BASED ON STIPULATION¹

On September 23, 2020, June T. Taylor and Timothy Canavan ("Petitioners"), as personal representatives of the estate of Edward T. Canavan ("Mr. Canavan"), filed a petition in the National Vaccine Injury Program² alleging that Mr. Canavan suffered from Guillain-Barré Syndrome ("GBS") as a result of an influenza ("flu") vaccine he received on September 27, 2017. Petition at Preamble (ECF No. 1).

¹ Because this Decision contains a reasoned explanation for the action in this case, the undersigned is required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (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), Petitioners have 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, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-10 to -34 (2012) ("Vaccine Act" or "the Act"). All citations in this Decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

On December 15, 2022, the parties filed a stipulation recommending an award of compensation to Petitioners. Stipulation (ECF No. 39). Respondent denies that the flu vaccine caused Mr. Canavan's alleged GBS, or any other injury, or his death. Petitioners do not allege that Mr. Canavan's death was the sequela of his alleged vaccine-related injury. Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds the stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

The parties stipulate that Petitioners shall receive the following compensation:

(1) A lump sum of \$143,770.00 in the form of a check payable to Petitioners as legal representatives of the Estate of Edward T. Canavan.

This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a). Stipulation at ¶ 8.

The undersigned approves the requested amount for Petitioners' 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/Nora B. Dorsey
Nora B. Dorsey
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

_____)	
JUNE T. TAYLOR and EDWARD)	
TIMOTHY CANAVAN, as Personal)	
Representatives of the ESTATE OF)	
EDWARD T. CANAVAN,)	
)	No. 20-1255V
Petitioner,)	Special Master Dorsey
)	
v.)	
)	
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

STIPULATION

The parties hereby stipulate to the following matters:

1. June T. Taylor and Edward Timothy Canavan (“petitioners”), as personal representatives of the Estate of Edward T. Canavan (“Mr. Canavan”), deceased, 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 Mr. Canavan’s receipt of an influenza (“flu”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).
2. Mr. Canavan received the flu vaccine on September 27, 2017.
3. The vaccine was administered within the United States.
4. Petitioners allege that as a result of receiving the flu vaccine, Mr. Canavan suffered Guillain-Barré Syndrome (“GBS”). Mr. Canavan passed away on April 11, 2020. Petitioners do not allege that Mr. Canavan’s death was the sequela of his alleged vaccine-related injury.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of Mr. Canavan as a result of his alleged vaccine-related condition or his death.

6. Respondent denies that the flu vaccine caused Mr. Canavan's alleged GBS, any other injury, or his death.

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 \$143,770.00 in the form of a check payable to petitioners as legal representatives of the Estate of Edward T. Canavan. 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. Petitioners and their 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 of this Stipulation, and any amount awarded pursuant to paragraph 9, will be made in accordance with 42 U.S.C. § 300aa-15(i), subject to the availability of sufficient statutory funds.

12. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as the legal representatives of the Estate of Edward T. Canavan under the laws of the State of New York. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as the legal representatives of the Estate of Edward T. Canavan. If petitioners are not authorized by a court of competent jurisdiction to serve as the legal representatives of the Estate of Edward T. Canavan at the time a payment pursuant to this Stipulation is to be made, any such payment shall be paid to the party or parties appointed by a court of competent jurisdiction to serve as the legal representatives of the Estate of Edward Canavan upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraph 8, and any amount awarded pursuant to paragraph 9, petitioners, in their individual capacities, and as the Personal Representatives of the Estate of Edward T. Canavan, on behalf of the Estate and Mr. Canavan's 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 Mr. Canavan resulting from, or alleged to have resulted from, the flu vaccine administered on September 27, 2017, as alleged in a Petition filed on September 23, 2020, in the United States Court of Federal Claims as petition No. 20-1255V.

14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the United States 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.

15. 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. There is absolutely no agreement on the part of the parties hereto to make any payment or 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.

16. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the flu vaccine caused Mr. Canavan's alleged GBS or any other injury or his death.

17. All rights and obligations of petitioners in their capacities as the Personal Representatives of the Estate of Edward T. Canavan shall apply equally to petitioners' heirs, executors, administrators, successors, and/or assigns.

END OF STIPULATION


Respectfully submitted,

PETITIONERS:



JUNE T. TAYLOR


EDWARD TIMOTHY CANAVAN

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PETITIONERS:**


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

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Dated: 12-14-22