

CORRECTED

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: February 3, 2026

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CURTISS GUNTER, *as executor of the*
ESTATE OF KELLEY GUNTER,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

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No. 20-1812V

Special Master Young

Gary A. Butler, Massa Butler Giglione, Pittsburgh, PA, for Petitioner.
Dorian Hurley, United States Department of Justice, Washington, DC, for Respondent.

DECISION¹

On December 9, 2020, Curtiss Gunter (“Petitioner”) filed a petition for compensation pursuant to the National Vaccine Injury Compensation Program² on behalf of his wife, Kelley Gunter.³ 42 U.S.C. §§ 300aa-10 to -34 (2018). Petitioner alleged that Ms. Gunter suffered from Guillain-Barré Syndrome (“GBS”) that was caused-in-fact by an influenza (“flu”) vaccine she received on December 12, 2017. Pet., ECF No. 1; Amend. Pet., ECF No. 37.

On February 3, 2026, the parties filed a stipulation (attached as Appendix A) in which they state that a decision should be entered awarding compensation to Petitioner. Stipulation ¶ 7, ECF No. 85. Respondent “denies that [Ms. Gunter] sustained a GBS Table injury; denies that [Ms. Gunter’s] alleged GBS or its residual effects were caused-in-fact by the flu vaccine; and denies

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.

³ Petitioner originally filed this case on behalf of his wife as her power of attorney on December 9, 2020. He then filed an amended petition as the executor of his wife’s estate on March 21, 2022, following her death.

that the flu vaccine caused [Ms. Gunter] any other injury or [Ms. Gunter's] death." *Id.* ¶ 6. Nevertheless, the parties agree to the joint stipulation. *See id.* ¶ 7. 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:

- (a) **An amount of \$251,649.26 to be paid through an ACH deposit to Petitioner's counsel's IOLTA account for prompt disbursement to Petitioner; and**
- (b) **An amount of \$13,350.74, representing compensation for satisfaction of a Kentucky Medicaid Recovery Unit lien, to be paid through an ACH deposit to Petitioner's IOLTA account for prompt disbursement to:**

**Kentucky Medicaid Recovery Unit
c/o Gainwell Technologies
P.O. Box 2107
Frankfort, KY 40602**

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

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.⁴

IT IS SO ORDERED.

s/Herbrina D. S. Young
Herbrina D. S. Young
Special Master

⁴ 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**

CURTISS GUNTER, *as executor of the*
ESTATE of KELLEY GUNTER,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 20-1812V
Special Master Young
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. Curtiss Gunter (“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”), as the executor of the estate of Kelley Gunter (“decedent”). The petition seeks compensation for injuries allegedly related to decedent’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. Decedent received a flu vaccine on or about December 12, 2017.
3. The vaccination was administered within the United States.
4. Petitioner alleges that decedent sustained Guillain-Barré Syndrome (“GBS”) within the time period set forth in the Table following administration of the flu vaccine and that the GBS was caused-in-fact by the flu vaccine. Petitioner further alleges that decedent experienced

that residual effects of this condition for more than six months and died on April 4, 2021, as a result of a vaccine injury.¹

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on decedent's behalf as a result of decedent's alleged condition or death.

6. Respondent denies that decedent sustained a GBS Table injury; denies that decedent's alleged GBS or its residual effects were caused-in-fact by the flu vaccine; and denies that the flu vaccine caused decedent any other injury or decedent's 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 payments:

- a. An amount of \$251,649.26 to be paid through an ACH deposit to petitioner's counsel's IOLTA account for prompt disbursement to petitioner; and
- b. An amount of \$13,350.74,² representing compensation for satisfaction of a Kentucky Medicaid Recovery Unit lien, to be paid through an ACH deposit to petitioner's IOLTA account for prompt disbursement to:

¹ The original petition, filed on December 9, 2020, by petitioner as then power of attorney for decedent, alleged that decedent suffered GBS within the time period set forth in the Table and that decedent experienced the residual effects of this condition for more than six months. On March 21, 2022, petitioner filed an amended petition as executor of the estate of decedent and added the allegation that decedent died as a result of a vaccine injury.

² This amount represents full satisfaction of any right of subrogation, assignment, claim, lien, or cause of action the State of Kentucky may have against any individual as a result of any Medicaid payments the State of Kentucky has made to or on behalf of decedent as a result of decedent's alleged injury relating to a vaccine administered on or about December 12, 2017, under Title XIX of the Social Security Act, see 42 U.S.C. § 300aa-15(g), (h).

Kentucky Medicaid Recovery Unit
c/o Gainwell Technologies
P.O. Box 2107
Frankfort, KY 40602

These amounts represent 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 petitioner's 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. Petitioner represents that petitioner presently is, or within 90 days of the date of judgment will become, duly authorized to serve as the legal representative of decedent's estate under the laws of the State of Kentucky. No payments made pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing petitioner's appointment as legal representative of decedent's estate. If the petitioner is not authorized by a

court of competent jurisdiction to serve as legal representative of decedent's estate 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 legal representative of decedent's estate upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraphs 8 and 9, petitioner, in petitioner's individual capacity and as the executor of the estate of decedent, on petitioner's own behalf, and on behalf of decedent's 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 decedent resulting from, or alleged to have resulted from, the flu vaccination administered on or about December 12, 2017, as alleged by petitioner in a petition for vaccine compensation filed on or about December 9, 2020, amended on March 21, 2022, in the United States Court of Federal Claims as petition No. 20-1812V.

14. 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.

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, 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.

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 decedent's alleged injury or any other injury or decedent's death, or that decedent suffered an injury contained in the Vaccine Injury Table.

17. All rights and obligations of petitioner in his personal capacity as the executor of the estate of decedent shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns.

END OF STIPULATION

Respectfully submitted,

PETITIONER:

Curtiss Gunter
CURTISS GUNTER

ATTORNEY OF RECORD FOR
PETITIONER:

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AND HUMAN SERVICES:

Jeffrey S. Beach -S
Digitally signed by Jeffrey S. Beach -S
Date: 2026.01.13 08:52:26 -0500 for
CAPT GEORGE REED GRIMES, MD, MPH
Director, Division of Injury
Compensation Programs
Health Systems Bureau
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Dated: 2/3/2026