

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 15-483V

Filed: December 7, 2016

\* \* \* \* \*  
MICOLOUS GRIFFIS, *personal*  
*representative of the Estate of* LAVERN  
GRIFFIS, *deceased*,

Petitioner,

v.

SECRETARY OF HEALTH  
AND HUMAN SERVICES,

Respondent.

UNPUBLISHED

Special Master Gowen

Joint Stipulation on Damages;  
Influenza (“Flu”) Vaccine;  
Guillain-Barré Syndrome (“GBS”);  
Transvers Myelitis; Kidney  
Failure; Death

\* \* \* \* \*  
Paul R. Brazil, Muller Brazil, LLP, Dresher, PA, for petitioner.  
Douglas Ross, United States Department of Justice, Washington, DC, for respondent.

### **DECISION ON JOINT STIPULATION<sup>1</sup>**

On May 11, 2015, Lavern Griffis filed a petition pursuant to the National Vaccine Injury Compensation Program.<sup>2</sup> 42 U.S.C. §§ 300aa-10 to 34 (2012). Upon Ms. Griffis’ death, Micolous Griffis (“petitioner”) was substituted as petitioner and personal representative of Ms. Griffis’ estate. Petitioner alleged that as a result of receiving an influenza (“flu”) vaccine on October 10, 2013, Ms. Griffis suffered Guillain-Barré Syndrome (“GBS”), transverse myelitis, and urinary retention and kidney failure, and that she subsequently died on May 7, 2015, as a result of her alleged vaccine-related injury. Stipulation at ¶ 4.

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<sup>1</sup> Because this decision contains a reasoned explanation for the undersigned’s action in this case, the undersigned intends to post this ruling on the website of the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). As provided by Vaccine Rule 18(b), each party has 14 days within which to request redaction “of any information furnished by that party: (1) that is a trade secret or commercial or financial in substance and is privileged or confidential; or (2) that includes medical files or similar files, the disclosure of which would constitute a clearly unwarranted invasion of privacy.” Vaccine Rule 18(b).

<sup>2</sup> 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-1 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 7, 2016, the parties filed a stipulation in which they state that a decision should be entered awarding compensation. Respondent denies that the flu vaccine caused Ms. Griffis' alleged GBS, TM, or any other injury or condition, or her death. Stipulation at ¶ 6. 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 petitioner shall receive the following in compensation:

- a. **A lump sum of \$200,000.00 in the form of a check payable to petitioner, Micolous Griffis, as legal representative of the estate of Lavern Griffis. This amount represents compensation for all damages that would be available under 42 U.S.C. § 300aa-15(a).**

Id. at ¶ 8.

The undersigned approves the requested amount for petitioner's compensation. Accordingly, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.<sup>3</sup>

**IT IS SO ORDERED.**

s/Thomas L. Gowen  
Thomas L. Gowen  
Special Master

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<sup>3</sup> 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**

MICOLOUS GRIFFIS,  
personal representative of the Estate of  
LAVERN GRIFFIS, deceased,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 15-483V  
Special Master Gowen  
ECF

**STIPULATION**

The parties hereby stipulate to the following matters:

1. A petition for vaccine compensation was filed by Lavern Griffis ("Ms. Griffis") under the National Vaccine Injury Compensation Program, 42 U.S.C. §§ 300aa-10 to -34 (the "Vaccine Program"). Upon Ms. Griffis' death, Micolous Griffis was substituted as petitioner and personal representative of Ms. Griffis' estate. The petition seeks compensation for Ms. Griffis' injuries and death, which petitioner alleges were caused by 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. Ms. Griffis received the flu immunization on October 10, 2013.
3. The vaccination was administered within the United States.
4. Petitioner alleges that this immunization caused Ms. Griffis to develop Guillain-Barré syndrome ("GBS"), transverse myelitis ("TM"), urinary retention and kidney failure, and that she subsequently died on May 7, 2015, as a result of her alleged vaccine-related injury.
5. Petitioner represents that there has been no prior award or settlement of a civil action

for damages on behalf of Ms. Griffis as a result of her alleged vaccine-related condition or her death.

6. Respondent denies that the flu vaccine caused Ms. Griffis' alleged GBS, or TM, or any other injury or condition, or her 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 \$200,000.00 in the form of a check payable to petitioner, Micolous Griffis, as legal representative of the estate of Lavern Griffis. 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 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. Payment made pursuant to paragraph 8 of this Stipulation 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.

11. Petitioner represents that he presently is, or within 90 days of the date of judgment will become, duly authorized to serve as legal representative of the Estate of Lavern Griffis

under the laws of the State of Oklahoma. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing his appointment as legal representative of the Estate of Lavern Griffis. If petitioner is not authorized by a court of competent jurisdiction to serve as legal representative of the Estate of Lavern Griffis 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 the Estate of Lavern Griffis upon submission of written documentation of such appointment to the Secretary.

12. In return for the payments described in paragraphs 8 and 9, petitioner, in his individual capacity, and as legal representative of the estate of Lavern Griffis, on behalf of himself, the estate and Lavern Griffis' 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 flu vaccination administered on October 10, 2013, as alleged by Lavern Griffis in a petition for vaccine compensation filed on or about May 11, 2015, and amended on or about October 12 2016, in the United States Court of Federal Claims as petition No. 15-483V.



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 voidable at the sole discretion of either party.

14. 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.

15. 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 Ms. Griffis to suffer GBS, or TM, or any other injury or condition, or that caused her death.

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

END OF STIPULATION

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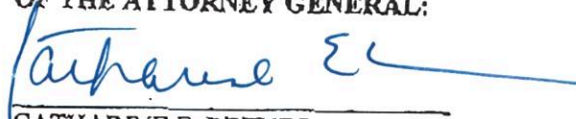
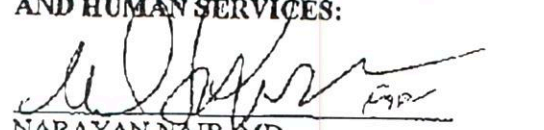
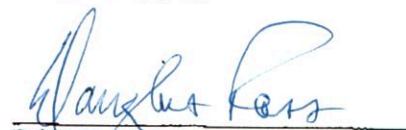
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P. 006

Respectfully submitted,

**PETITIONER:**  
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of the estate of Lavern Griffis**ATTORNEY OF RECORD FOR  
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