

Compensation Program (“Vaccine Program”).³

Petitioner alleges that as a result of Michael’s receipt of a measles-mumps-rubella (“MMR”) vaccine on January 24, 2007, he thereafter suffered disorientation, anaphylactic shock, complications of the digestive system, encephalitis, and violent convulsions. Pet. at ¶¶ 3-10. Petitioner further alleges that Michael developed irreversible brain damage and died on February 13, 2007, as a sequela of his injuries. Id.

Respondent denies that the MMR vaccine or any other vaccine caused Michael to suffer disorientation, anaphylactic shock, complications of the digestive system, encephalitis, violent convulsions, and irreversible brain damage. Stip. at ¶ 6. Respondent further denies that Michael’s death was the result of any vaccine. Id.

Nevertheless, on July 31, 2012, counsel for the parties filed a joint stipulation, which is attached to this decision, stating that a decision should be entered awarding compensation. The parties stipulated that petitioner should receive the following compensation payment:

A lump sum payment of \$50,000.00, in the form of a check payable to petitioner, as the guardian/conservator of Michael’s estate.

This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).⁴ Stip. at ¶ 8.

The undersigned finds the stipulation reasonable, adopts it as the decision of the court on damages, and approves the requested amount for petitioner’s compensation.

³ 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 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

⁴ The parties further stipulated that they had not yet reached an agreement with respect to attorneys’ fees and costs. Stip. at ¶ 9.

Accordingly, an award should be made in the form of a check payable to petitioner in the amount of **\$50,000.00**. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties' stipulation.⁵

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia Campbell-Smith
Chief Special Master

⁵ 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 THE SPECIAL MASTERS

BRIANNA JONES, Parent of Deceased)	
Minor, MICHAEL THOMAS MARTIN,)	
)	
Petitioner,)	
)	No. 09-132V
v.)	Chief Special Master
)	Campbell-Smith
)	ECF
SECRETARY OF HEALTH)	
AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her son, Michael Thomas Martin (“Michael”), petitioner Brianna Jones¹ 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 Michael’s receipt of the measles-mumps-rubella (“MMR”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3 (a).
2. Michael received the MMR-varicella; diphtheria-tetanus-acellular pertussis (“DTaP”); hepatitis B-hemophilus influenzae type b (“Hep B-Hib”); and pneumococcal conjugate (Prevnar) vaccinations on January 24, 2007.
3. The vaccines were administered within the United States.

¹ At the time the petition was filed, petitioner’s name was Brianna Samsal. The caption of the case was amended to reflect petitioner’s married name, Brianna Jones, by order dated December 5, 2011.

4. Petitioner alleges that Michael suffered disorientation, anaphylactic shock, complications of the digestive system, encephalitis, and violent convulsions as a result of the MMR vaccination that he received. She further alleges that Michael developed irreversible brain damage and died on February 13, 2007, as a sequela of his injuries.

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

6. Respondent denies that the MMR vaccine or any other vaccine caused Michael to suffer disorientation, anaphylactic shock, complications of the digestive system, encephalitis, violent convulsions and irreversible brain damage; and denies that Michael's death was a result of any vaccine.

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 \$50,000.00 in the form of a check payable to petitioner guardian/conservator of Michael T. Martin's estate. 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 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 she is, or within 90 days of the date of judgment will become, duly authorized to serve as the legal representative of Michael's estate under the laws of the State of California. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as legal representative of Michael's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as legal representative of the estate of Michael Thomas Martin 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 Michael Thomas Martin 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 her individual capacity and as legal representative of Michael, on behalf of herself, Michael, and 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 Michael resulting from, or alleged to have resulted from, the MMR, varicella, DTaP, Hep B, Hib, and pneumococcal conjugate vaccines administered on January 24, 2007, as alleged by petitioner in a petition for vaccine compensation filed on or about February 12, 2009, in the United States Court of Federal Claims as petition No. 09-132V.

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.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that Michael suffered disorientation, anaphylactic shock, complications of the digestive system, encephalitis, violent convulsions, irreversible brain damage or any other injury as a result of the MMR, varicella, DTaP, Hep B, Hib, or pneumococcal conjugate vaccines, or that the MMR, varicella, DTaP, Hep B, Hib, or

pneumococcal conjugate vaccines caused Michael's death.

16. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of the estate of Michael Thomas Martin.

END OF STIPULATION

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

Respectfully submitted,

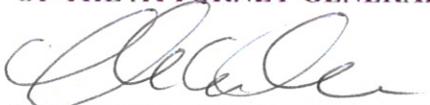
PETITIONER:


BRIANNA JONES

**ATTORNEY OF RECORD FOR
PETITIONER:**


PETER H. MEYERS, ESQ.
The George Washington University
Law School
Vaccine Injury Clinic
2000 G Street, N.W.
Washington, D.C. 20052
(202) 994-5793

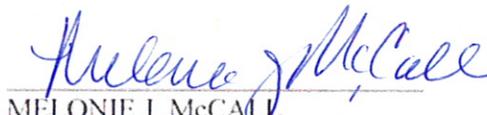
**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**


MARK W. ROGERS
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:**


GEOFFREY EVANS, M.D.
Director, Division of
Vaccine Injury Compensation
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:**


MELONIE J. McCALL
Trial Attorney
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
(202) 616-4098

Dated

7/31/12