

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: June 29, 2007)

DO NOT PUBLISH

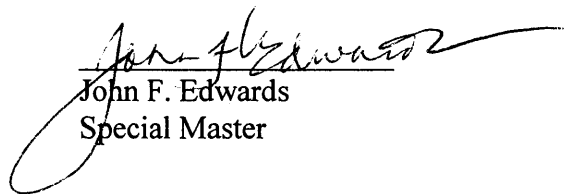
JAMES STARNES and HEATHER STARNES,)	
as parents of their minor son,)	
JAMES STARNES,)	
)	
Petitioners,)	
)	
v.)	No. 05-0185V
)	Stipulation
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

DECISION DIRECTING ENTRY OF JUDGMENT¹

On June 26, 2007, the parties filed a stipulation. The special master has reviewed thoroughly the stipulation. He adopts completely the stipulation. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment based upon the stipulation in petitioners' favor. Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review. Then, under Vaccine Rule 12(a), petitioners may expedite payment by filing an election to accept the judgment.

¹ 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of privacy." Vaccine Rule 18(b). Otherwise, "the entire decision" will be available to the public. *Id.*

The clerk of court shall send petitioners' copy of this decision to petitioners by overnight express delivery.


John F. Edwards
Special Master

4. Petitioners allege that James sustained transverse myelitis as a consequence of his vaccinations.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of James as a result of his condition.

6. Respondent denies that James suffered an injury actually caused by any of his vaccines, and denies that his current disabilities are sequelae of his alleged vaccine-related injury.

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 petitioners have 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 \$250,000.00 in the form of a check payable to petitioners as conservators of the estate of James Starnes. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).

9. The parties stipulate and agree that the Secretary of Health and Human Services and the United States of America are not responsible for the payment of any sums other than the amounts set forth in paragraph 8 herein and the amounts awarded

pursuant to paragraph 10 herein.

10. 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.

11. Payments made pursuant to paragraph 8 and any amounts awarded pursuant to paragraph 10 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 attorneys' fees and litigation costs, the money provided pursuant to this Stipulation, will be used solely for the benefit of James 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. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as conservators of James's estate under the laws of the State of Florida. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary

with documentation establishing their appointment as conservators of James's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as conservators of the estate of James Starnes 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 conservator(s) of the estate of James Starnes upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraph 8, petitioners, in their individual capacity and as legal representatives of James, on behalf of themselves, James, and his heirs, executors, administrators, successors or assigns, do forever and fully expressly release, acquit and discharge the Secretary of Health and Human Services and the United States of America from any and all actions, causes of action, agreements, judgments, claims, damages, loss of services, expenses and all demands of whatever kind or nature on account of, or in any way growing out of, any and all known or unknown personal injuries to or death of James resulting from, or alleged to have resulted from, the DTaP, HiB and Prevnar vaccinations administered on February 8, 2002, as alleged by petitioners in a petition for vaccine compensation filed on February 3, 2005, in the United States Court of Federal Claims as petition No. 05-185V.

15. If James should die prior to receiving the payment described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

16. 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 null and void at the sole discretion of either party.

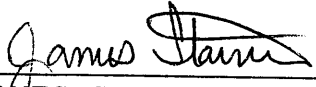
17. This Stipulation expresses a full and complete settlement of liability and damages claimed under the National Childhood Vaccine Injury Act of 1986, as amended, except as otherwise noted in paragraph 10 above. There is absolutely no agreement on the part of the parties hereto to make any payment or to do any act or thing other than is herein expressly stated and clearly agreed to.

18. All rights and obligations of petitioners hereunder shall apply equally to their successors and assigns as legal representatives of James Starnes.

END OF STIPULATION

Respectfully submitted,

PETITIONERS:

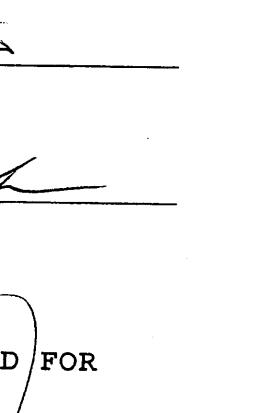


JAMES STARNES




HEATHER STARNES

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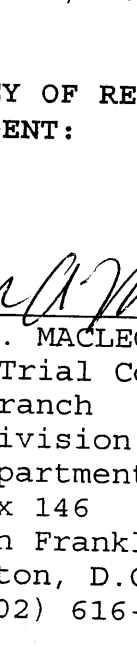
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Dated: 6/26/07