

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 10-90V

Filed: September 6, 2011

Unpublished

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JAMES E. SIPPRELL and DAWN A.	*	
SIPPRELL, as parents and legal representatives	*	
of their minor son, PARKER J. SIPPRELL,	*	
	*	Stipulation; Varicella vaccination;
Petitioners,	*	Shingles, recurrent shingles, post-
	*	herpetic neuralgia, scarring
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

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*Ramon Rodriguez, III, Rawls & McNelis, P.C., Richmond, VA., for Petitioner.*  
*Traci R. Patton, U.S. Department of Justice, Washington, D.C., for Respondent.*

### DECISION<sup>1</sup>

GOLKIEWICZ, Special Master.

On September 6, 2011, the parties to the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioners allege that their son suffered shingles as a consequence of the varicella vaccination he received on June 14, 2004. Petitioners further allege that their son developed recurrent shingles, post-herpetic neuralgia, and scarring as sequelae of his injury, and that he experienced residual effects of this injury for more than six months. Respondent denies that the varicella vaccine caused petitioners' son's recurrent shingles, post-herpetic neuralgia and scarring. Nonetheless, the parties agreed informally to resolve this matter. Stipulation, filed September 6, 2011.

The court hereby **ADOPTS** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. **Specifically, petitioners are**

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<sup>1</sup> The undersigned intends to post this decision on the website for the United States Court of Federal Claims, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002). **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). Otherwise, the entire decision will be available to the public. Id. Any motion for redaction must be filed by no later than fourteen (14) days after filing date of this filing.** Further, consistent with the statutory requirement, a motion for redaction must include a proposed redacted decision, order, ruling, etc.

**awarded a lump sum of \$103,750.00 in the form of a check payable to petitioners. See Stipulation, ¶ 8.**

The Clerk of the Court is directed to enter judgment accordingly.

**IT IS SO ORDERED.<sup>2</sup>**

s/ Gary J. Golkiewicz  
Gary J. Golkiewicz  
Special Master

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<sup>2</sup> This document constitutes a final “decision” in this case pursuant to 42 U.S.C. § 300aa-12(d)(3)(A). Unless a motion for review of this decision is filed within 30 days, the Clerk of the Court shall enter judgment in accord with this decision. Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.

THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

JAMES E. SIPPRELL and DAWN A.  
SIPPRELL, Legal Representatives of  
PARKER J. SIPPRELL a Minor,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 10-90V  
Special Master Golkiewicz  
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of their son, Parker J. Sipprell ("Parker"), petitioners 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 Parker's receipt of the Varicella vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. Parker received his Varicella immunization on June 14, 2004.
3. The vaccine was administered within the United States.
4. Petitioners allege that on or around March 18, 2007, Parker experienced the first symptom or onset of shingles, which petitioners allege was caused in fact by the Varicella vaccine. They further allege that he developed recurrent shingles, post-herpetic neuralgia, and scarring as sequelae of his injury, and that Parker experienced residual effects of this injury for

more than six months.

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

6. Respondent denies that the Varicella vaccine caused Parker's recurrent shingles, post-herpetic neuralgia, and scarring.

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 a lump sum of \$103,750.00 in the form of a check payable to petitioners. 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 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. Payments 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. 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 Parker 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 guardians/conservators of Parker's estate under the laws of the State of Pennsylvania. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardians/conservators of Parker's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians/conservators of the estate of Parker J. Sipprell 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 guardian/conservator of the estate of Parker J. Sipprell 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 Parker, on behalf of themselves, Parker, and his 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. § 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 Parker resulting from, or alleged to have resulted from, the Varicella vaccination administered on June 14, 2004, as alleged by petitioners in a petition for vaccine compensation filed on or about February 16, 2010, in the United States Court of Federal Claims as petition No. 10-90V.

15. If Parker should die prior to entry of judgment, this agreement shall be 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 voidable at the sole discretion of either party.

17. 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.

18. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the Varicella vaccine caused Parker's recurrent shingles, post-herpetic neuralgia, scarring, or current condition.

19. All rights and obligations of petitioners hereunder shall apply equally to petitioners' heirs, executors, administrators, successors, and/or assigns as legal representatives of Parker J. Sipprell.

END OF STIPULATION

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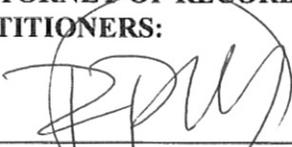
Respectfully submitted,

**PETITIONERS:**

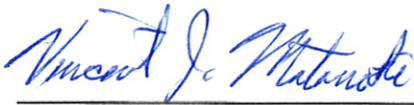
  
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JAMES E. SIPPRELL

  
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DAWN A. SIPPRELL

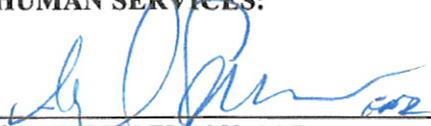
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Dated: Sept. 6, 2011