

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**

No. 09-244V  
Filed: July 13, 2010

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JENNIFER HARDESTY and	*	
JEFFREY HARDESTY, parents and legal	*	
representatives of the minor child,	*	
JORDAN LEE HARDESTY,	*	Decision on Stipulation; Measles-
	*	Mumps-Rubella vaccine, MMR;
Petitioners,	*	Idiopathic Thrombocytopenia
	*	Purpura, ITP
v.	*	
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

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**DECISION**<sup>1</sup>

On July 12, 2010, 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 their son suffered idiopathic thrombocytopenia purpura (“ITP”), with the first symptom or manifestation of onset within the time period set forth in the Vaccine Injury Table, as a consequence of the Measles-Mumps-Rubella vaccination (“MMR”) he received on April 20, 2006. Petitioners further allege that their son experienced residual effects of this injury for more than six months. Respondent concedes petitioners’ son suffered the onset of ITP within the time period set forth in the Vaccine Injury Table, but denies he experienced the residual effects of this injury for more than six months. Nonetheless, the parties agreed informally to resolve this matter.

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 awarded a lump sum of \$16,500.00 in the form of a check payable to petitioners as guardians/conservators of their son’s estate.** See Stipulation, para. 8, filed July 12, 2010.

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<sup>1</sup>The undersigned intends to post this decision on the United States Court of Federal Claims’s website, 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.

The Clerk of the Court is directed to enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**

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

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<sup>2</sup> 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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS

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JENNIFER HARDESTY AND \*  
JEFFREY HARDESTY, PARENTS \*  
AND LEGAL REPRESENTATIVES OF \*  
THEIR MINOR CHILD, JORDAN LEE \*  
HARDESTY, \*

Petitioner, \*

v. \*

SECRETARY OF HEALTH AND \*  
HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

No. 09-244V  
SPECIAL MASTER  
GARY J. GOLKIEWICZ

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of their son, Jordan Lee Hardesty (“Jordan”), 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 Jordan’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. Jordan received his MMR immunization on April 20, 2006.
3. The vaccine was administered within the United States.
4. Petitioners allege that Jordan sustained the first symptom or manifestation of the onset of idiopathic thrombocytopenia purpura (“ITP”) within the time period set forth in the Table. They further allege that he developed low platelet counts as a result of his Table injury, and that Jordan 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 Jordan as a result of his condition.

6. Respondent concedes that Jordan suffered the onset ITP within the time period set forth in the Table, but denies that Jordan experienced the residual effects of this injury for more than six months.

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 \$16,500.00 in the form of a check payable to petitioners as guardians/conservators of Jordan'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 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 they have identified to respondent all known sources of payment for items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), including 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 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, and past unreimbursable expenses, the money provided pursuant to this Stipulation, will be used solely for the benefit of Jordan 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 Jordan's estate under the laws of the State of Kentucky. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as guardians/conservators of Jordan's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians/conservators of the estate of Jordan Lee Hardesty 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 Jordan Lee Hardesty upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraph 8 and 9, petitioners, in their individual capacity and as legal representatives of Jordan, on behalf of themselves, Jordan, 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. § 300 aa-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 Jordan resulting from, or alleged to have resulted from, the MMR vaccination administered on April 20, 2006, as alleged by petitioners in a petition for vaccine compensation filed on or about April 17, 2009, in the United States Court of Federal Claims as petition No. 09-244V.

15. If Jordan 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

