

OFFICE OF SPECIAL MASTERS

No. 05-529V

Filed: January 15, 2009

DO NOT PUBLISH

ANACELI TORRES a minor through her Guardian ad litem MARIA TORRES,)	
MARIA TORRES and, and RUDOLFO TORRES,)	
)	
Petitioners,)	
)	
v.)	
)	
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

Stipulation
Guillain Barre Syndrome;
Measles-Mumps-Rubella,
Diphtheria-Pertussis-Tetanus,
and Polio Vaccinations

Ravinder S. Bhalla, Law Offices of Ravinder S. Bhalla, Hoboken, NJ, for petitioner
Linda Renzi, U.S. Department of Justice, Washington, DC, for respondent

DECISION¹

GOLKIEWICZ, Chief Special Master.

On January 7, 2009, the parties to the above captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Anaceli Torres (Anaceli) received the measles-mumps-rubella (MMR), polio and diphtheria-pertussis-tetanus (DPT) vaccinations on May 15, 2002. Petitioners, as Guardian ad litem for

¹ The undersigned intends to post this decision on the United States Court of Federal Claims' 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 that (1) that is a 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.

Anaceli, alleged that she suffered from Guillian Barre Syndrome (GBS) as a result of one or more of the vaccinations she received on May 15, 2002, and that she continues to suffer from physical and cognitive deficits as a result of her vaccine related injuries. *Id.* at 1-2. Respondent denies that Anaceli suffered GBS as the result of her May 15, 2002 vaccinations. *Id.* at 2. Nonetheless, the parties have 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 \$105,000.00 in the form of a check payable to petitioners, as legal representatives of the estate of Anaceli Torres. The Clerk of the Court is directed to enter judgment accordingly.²

IT IS SO ORDERED.

Gary J. Golkiewicz
Chief Special Master

² 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.

ORIGINAL

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

FILED

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OSM
U.S. COURT OF
FEDERAL CLAIMS

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MARIA TORRES and RUDOLFO TORRES,)
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)
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No. 05-529V
Special Master
~~Moran~~ *Golk, ewicz*

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of their daughter, Anaceli Torres ("Anaceli"), 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 Anaceli's receipt of the measles-mumps-rubella ("MMR"), polio and diphtheria-pertussis-tetanus ("DPT") vaccines, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a)(I), (III) and (VII).
2. Anaceli received immunizations on May 15, 2002.
3. The vaccines were administered within the United States.
4. Petitioners allege that Anaceli developed the onset of Guillain-Barre Syndrome ("GBS") as a result of one or more of the

vaccinations, and that she continues to suffer from physical and cognitive deficits as a result of her vaccine-related injury.

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

6. Respondent denies that Anaceli suffered GBS as the result of any vaccinations she received on May 15, 2002.

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 \$105,000.00, payable to petitioners as legal representatives of the estate of Anaceli Torres, which 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. 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. 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 Anaceli 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).

12. 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 Anaceli's estate under the laws of New Jersey. No payment pursuant to this Stipulation shall be made to petitioners until petitioners provide the Secretary with documentation establishing their appointment as guardians/conservators of Anaceli's estate. If petitioners are not authorized by a court of competent jurisdiction to serve as guardians/conservators of the estate of Anaceli Torres 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 guardians/conservators of the

estate of Anaceli Torres upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacities and as legal representatives of Anaceli, on behalf of themselves, Anceli, and her 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 Anaceli resulting from, or alleged to have resulted from, vaccinations administered on May 15, 2002, as alleged by petitioners in a petition for vaccine compensation filed on or about May 5, 2005, in the United States Court of Federal Claims as petition No. 05-529V.

14. If Anaceli should die prior to petitioners 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.

15. 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.

16. 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 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.

17. All rights and obligations of petitioner hereunder shall apply equally to her successors and assigns as legal representatives of Anaceli Torres.

END OF STIPULATION