

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

MARSHA CHAMPAGNE and *
TORY BELL, administrators of the estate*
of STEPHAN H.R. BELL, deceased, *

Petitioners, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *

Respondent. *

No. 07-751V
Special Master Christian J. Moran

Filed: January 4, 2012

Stipulation; measles-mumps-
rubella vaccine, varicella,
pneumococcal conjugate vaccine,
influenza, death.

UNPUBLISHED DECISION¹

Lawrence R. Cohan, Anapol, Schwartz, et al., Philadelphia, PA, for Petitioner;
Glenn A. MacLeod, U.S. Department of Justice, Washington, D.C., for Respondent.

On December 22, 2011, the parties filed a joint stipulation concerning the petition for
compensation filed by Marsha Champagne and Tory Bell, as administrators of the estate of
Stephan H.R. Bell ("Stephan"), on October 29, 2007. In their petition, the petitioners alleged
that the measles-mumps-rubella ("MMR") vaccine, varicella, pneumococcal conjugate vaccine
("PCV") and influenza ("flu") vaccinations, which are contained in the Vaccine Injury Table (the
"Table"), 42 C.F.R. §100.3(a), and which Stephan received on or about November 3, 2005,

¹ Because this unpublished decision contains a reasoned explanation for the special
master's action in this case, the special master intends to post it 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).

All decisions of the special masters will be made available to the public unless they
contain trade secrets or commercial or financial information that is privileged and confidential,
or medical or similar information whose disclosure would clearly be an unwarranted invasion of
privacy. When such a decision or designated substantive order is filed, the person submitting the
information has 14 days to identify and to move to delete such information before the
document's disclosure. If the special master agrees that the identified material fits within the
categories listed above, the special master shall redact such material from public access.
42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

caused Stephan's death, resulting from an encephalopathy and cardiopulmonary arrest on November 10, 2005.

Respondent denies that the MMR, PCV, flu and varicella vaccines caused Stephan to suffer an encephalopathy and cardiopulmonary arrest, and further denies that Stephan's death on November 10, 2005, was a sequelae of a vaccine-related injury.

Nevertheless, the parties agree to the joint stipulation, attached hereto as Appendix A. The undersigned finds said stipulation reasonable and adopts it as the decision of the Court in awarding damages, on the terms set forth therein.

Damages awarded in that stipulation include:

- A. A lump sum payment of \$125,000.00 in the form of a check payable to petitioners, as administrators of the estate of Stephan H.R. Bell, representing compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).**

In the absence of a motion for review filed pursuant to RCFC, Appendix B, the clerk is directed to enter judgment in case 7-751V according to this decision and the attached stipulation.

Any questions may be directed to my law clerk, Jennifer C. Chapman, at (202) 357-6358.
IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

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

MARSHA CHAMPAGNE and TORY BELL,
ADMINISTRATORS OF THE ESTATE OF
STEPHAN H.R. BELL, DECEASED,

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 07-751V
SPECIAL MASTER
CHRISTIAN J. MORAN

STIPULATION

The parties hereby stipulate to the following matters:

1. Petitioners, as Administrators of the Estate of Stephan H.R. Bell, ("Stephan"), filed a petition for vaccine injury 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 Stephan's receipt of Measles-Mumps-Rubella ("MMR"), varicella, pneumococcal conjugate vaccine ("PCV") and influenza ("flu") vaccinations, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).
2. Stephan received MMR, PCV, flu and varicella immunizations on or about November 3, 2005.
3. The vaccines were administered within the United States.
4. Petitioners claim that Stephan's death on November 10, 2005, resulted from an encephalopathy and cardiopulmonary arrest caused by one or more of his November 3, 2005

immunizations.

5. Petitioners represent that there has been no prior award or settlement of a civil action for damages on Stephan's behalf as a result of his alleged injury and death.

6. Respondent denies that the MMR, PCV, flu and varicella vaccines caused Stephan to suffer an encephalopathy and cardiopulmonary arrest, and further denies that Stephan's death on November 10, 2005, was a sequelae of a 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 \$125,000.00 in the form of a check payable to petitioners, as Administrators of the Estate of Stephan H.R. Bell, representing 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 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. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as personal representatives or administrators of Stephan H.R. Bell's estate under the laws of the State of New York.

13. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacity, and as Administrators of the Estate of Stephan H.R. Bell, deceased, and on behalf of Stephan's 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 Stephan H.R. Bell resulting from, or alleged to have resulted from, the MMR, PCV, flu and varicella vaccinations administered on or about November 3, 2005, as alleged by petitioners in a petition for vaccine compensation filed on

or about October 29, 2007, in the United States Court of Federal Claims as petition No. 07-751V.

14. 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.

15. 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.

16. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the MMR, PCV, flu and varicella vaccines caused Stephan to suffer an encephalopathy and cardiopulmonary arrest or contributed in any way to his death.

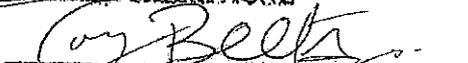
17. All rights and obligations of petitioners hereunder shall apply equally to petitioners' heirs, executors, administrators, successors, and/or assigns.

END OF STIPULATION

Respectfully submitted,

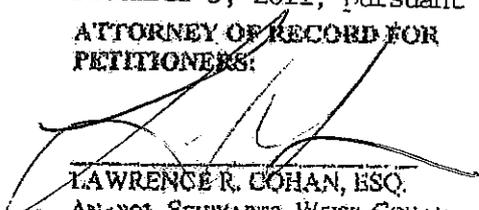
PETITIONERS:


MARSHA CHAMPAGNE



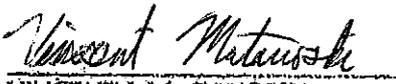
TORY BELL, Co-Administrator of the Estate of Stephan Handsome Ronald Bell, as decreed on December 5, 2011, pursuant to annexed Decree appointing Administrator

ATTORNEY OF RECORD FOR PETITIONERS:



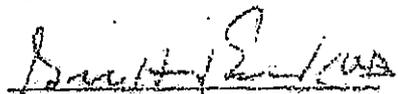
LAWRENCE R. COHAN, ESQ.
ANAPOL, SCHWARTZ, WEISS, COHAN,
FELDMAN & SMALLEY
1710 Spruce Street
Philadelphia, PA. 19103
Tel: (215) 790-4367
*Fax: (215) 735-2211

AUTHORIZED REPRESENTATIVE OF THE ATTORNEY GENERAL:



VINCENT J. MATANOSKI
Acting 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:



GLENN A. MACLEOD
Senior Trial Counsel
Torts Branch
Civil Division
U.S. Department of Justice
P.O. Box 146
Benjamin Franklin Station
Washington, DC 20044-0146
Tel: (202) 616-4122

Dated: 12/22/11

At a Surrogate's Court of the State of New York held in and for the County of Kings at 2 Johnson Street, Brooklyn, New York, on December 5, 2011.

**SURROGATE'S COURT: KINGS COUNTY
HON. MARGARITA LÓPEZ TORRES, SURROGATE**

Administration Proceeding

Estate of STEPHEN HANDSOME RONALD BELL

a/k/a STEPHAN H.R. BELL

Deceased.

Decree

Appointing Administrator

File No. 2011-3406/A
2011-3406

A petition having been filed by **Marsha Champagne a/k/a Marsha P. Champagne and Tory Bell** praying that administration of the goods, chattels and credits of the above-named decedent be granted to **Marsha Champagne and Tory Bell**; and all persons named in such petition required to be cited, having been duly cited to show cause why such relief should not be granted or having duly waived the issuance of such citation and consented thereto, and it appearing that **Marsha Champagne and Tory Bell** are in all respects competent to act as co-administrators of the estate of said deceased, and a

X bond having been dispensed with pursuant to SCPA § 801

and such representative(s) otherwise having qualified, therefore now, after due deliberation, with no one appearing in opposition thereto, it is

Ordered and Decreed, that Letters of Administration issue to

Marsha Champagne and Tory Bell

Ordered and Decreed, that the authority of such representative(s) be restricted in accordance with, and that letters issued contain the limitation, if any, which appears immediately below.

THE CO-ADMINISTRATORS ARE RESTRAINED FROM COLLECTING AND ADMINISTERING MORE THAN \$10,000.00 IN ASSETS BELONGING TO THE DECEDENT WITHOUT FURTHER ORDER OF THIS COURT.

AND SAID CO-ADMINISTRATORS ARE HEREBY RESTRAINED FROM COLLECTING ANY ASSETS DERIVED FROM A CAUSE OF ACTION UNTIL FURTHER COURT ORDER PURSUANT TO EPTL 5-4.6 AND UPON FILING A SATISFACTORY BOND OR SATISFACTORY SECURITY.

HON. MARGARITA LÓPEZ TORRES,
SURROGATE