

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

No. 08-759V  
Filed: February 16, 2011  
Unpublished

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PETRA MURRY, parent of	*	
TYLER PAIGE LACY, a minor	*	
	*	
Petitioner,	*	Stipulation; Tetanus/diphtheria
	*	vaccine, Td; Rheumatological
v.	*	injuries
	*	
SECRETARY OF THE DEPARTMENT	*	
OF HEALTH AND HUMAN SERVICES,	*	
	*	
Respondent.	*	

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

On February 16, 2011, the parties to the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioner alleges that her daughter suffered rheumatological injuries as a consequence of the tetanus/diphtheria (“Td”) vaccination she received on November 1, 2005. Petitioner further alleges that her daughter experienced the residual effects of her injury for more than six months. Respondent denies that the Td vaccine caused petitioner’s daughter’s alleged injuries, or any other injury or condition, and further denies petitioner’s daughter experienced the residual effects 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, petitioner is awarded a lump sum of \$4,331.84 in the form of a check payable jointly to petitioner, as guardian/conservator of Tyler’s estate, and the Department of Health Care Services, Recovery Section, MS 4720, PO Box 997425, Sacramento, CA 95899-7425, in satisfaction of the State of California Medicaid lien; petitioner is also awarded a lump sum of \$345,668.16**

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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.

**in the form of a check payable to petitioner, as guardian/conservator of Tyler's estate. See Stipulation, ¶ 8, filed February 16, 2011.**

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.



5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Tyler as a result of her condition.

6. Respondent denies that Tyler's alleged "rheumatological injuries" and residual effects were caused-in-fact by the Td vaccine and denies that Tyler experienced the residual effects of these injuries for more than six months. Respondent further denies that the Td vaccine caused Tyler any other injury or her current condition.

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 petitioner has 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 payments

- a. A lump sum of \$4,331.84 in the form of a check payable jointly to petitioner as guardian/conservator of Tyler's estate, and Department of Health Care Services, Recovery Section, MS 4720, P.O. Box 997425, Sacramento, CA 95899-7425, in satisfaction of the State of California Medicaid lien; and
- b. A lump sum of \$345,668.16 in the form of a check payable to petitioner as guardian/conservator of Tyler's estate. These amounts represent 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 petitioner has 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. Petitioner and her 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 paragraphs 8 and 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 Tyler 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. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian/conservator of Tyler's estate, under the laws of the State of California. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of Tyler's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of Tyler Paige Lacy 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 Tyler Paige Lacy, upon submission of written documentation of such appointment to the Secretary.

14. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and as legal representative Tyler, on behalf of herself, Tyler, and Tyler's heirs, executors,

administrators, successors or assigns, does 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 Tyler resulting from, or alleged to have resulted from, the Td vaccination administered on November 1, 2005, as alleged by petitioner in a petition for vaccine compensation filed on or about October 24, 2008, as amended on May 13, 2009, in the United States Court of Federal Claims as petition No. 08-0759V.

15. If Tyler 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 Td vaccine caused Tyler to suffer rheumatological injuries or any other injuries or that Tyler experienced the residual effects of these alleged injuries for more than six months.

19. All rights and obligations of petitioner hereunder shall apply equally to petitioner's heirs, executors, administrators, successors, and/or assigns, as legal representatives of Tyler Paige Lacy.

END OF STIPULATION

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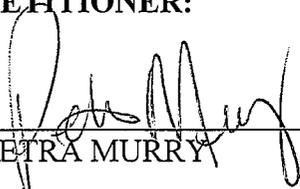
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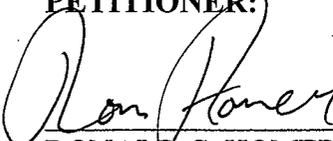
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Respectfully submitted,

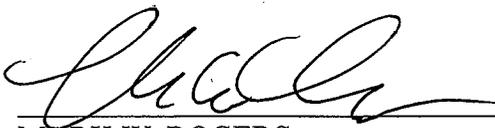
**PETITIONER:**

  
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PETRA MURRY

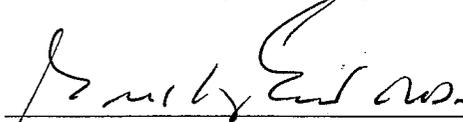
**ATTORNEY OF RECORD FOR  
PETITIONER:**

 by Joseph M. Pepper  
Rule 83.1(c)(2)  
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Dated: Feb. 16, 2011