

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(E-Filed: February 29, 2008)

VICTORIA ANN SHEPPARD, the Estate of,)	
by and through, TARRELL SHEPPARD)	
and LESLIE RICHARD)	
personal representatives,)	UNPUBLISHED
)	
Petitioners,)	No. 04-112V
)	
v.)	Stipulation
)	
SECRETARY OF THE DEPARTMENT OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	

DECISION¹

On behalf of their deceased daughter, Victoria Ann Sheppard (Victoria), petitioners, Tarrell Sheppard and Leslie Richard, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, National Vaccine Injury Compensation Program² (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2000 & Supp. II 2003). The petition seeks compensation for injuries allegedly related to Victoria’s receipt of the Diphtheria, Tetanus, Pertussis (DTap), Inactivated Polio Virus (IPV), Haemophilis influenzae Type B (HIB), and hepatitis B (Hep B) vaccines, which are contained in the Vaccine Injury Table (Table), 42 U.S.C. § 300aa-14(a)(I)-

¹ In accordance with Vaccine Rule 18(b), when a special master files a decision or substantive order with the Clerk of the Court, each party has 14 days within which to identify and move for the redaction of privileged or confidential information before the document’s public disclosure. Rules of the United States Court of Federal Claims (RCFC), Appendix B, Vaccine Rule 18(b).

² The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2000 & Supp. II 2003) (Vaccine Act or the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

(VIII); 42 C.F.R. § 100.3 (a)(I)-(VIII).

On February 26, 2008, counsel for both parties filed a stipulation, stating that a decision should be entered granting compensation. In particular, the parties stipulated that petitioner shall receive the following compensation:

A lump sum of \$ 125,000.00 in the form of a check payable to petitioners as personal representative of Victoria's estate. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).
Stipulation ¶ 8(a).

Under the statute governing the Program, and pursuant to the "Vaccine Rules" adopted by this court, the undersigned now enters a decision endorsing that filed stipulation. The Clerk of the Court shall enter judgment to authorize payment of the award. See § 300aa-12(d)(3)(A) and (e)(3); § 300aa-13(a); Vaccine Rules 10(a), 11(a).³

I have reviewed the filings in this case, and, based on my review, I conclude that the parties' stipulation appears to be an appropriate one. Accordingly, a Program award shall be made to petitioner in the amount of \$125,000.00.

In the absence of a timely-filed motion for review of this decision, the clerk shall enter judgment in accordance with the terms of the parties' stipulation.⁴

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith
Patricia E. Campbell-Smith
Special Master

³The "Vaccine Rules of the United States Court of Federal Claims" are found in Appendix B of the Rules of the United States Court of Federal Claims.

⁴Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

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

_____)	
The Estate of VICTORIA ANN)	
SHEPPARD, by and through)	
TARRELL SHEPPARD and)	
LESLIE RICHARD,)	
)	
Petitioner,)	
)	
v.)	No. 04-112V
)	Special Master Campbell-Smith
)	
SECRETARY OF HEALTH AND HUMAN)	
SERVICES,)	
)	
Respondent.)	
_____)	

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of their daughter, Victoria Ann Sheppard ("Victoria"), deceased, 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 Victoria's receipt of the Diptheria, Tetanus, Pertussis ("DTaP"), Inactivated Polio Virus ("IPV"), Haemophilis influenzae Type B ("HIB"), and Hepatitis B ("Hep B") vaccines, which are contained in the Vaccine Injury Table (the "Table"), 42 U.S.C. § 300aa-14(a) (I)-(VIII); 42 C.F.R. § 100.3 (a) (I)-(VIII).
2. Victoria received DTaP, IPV, HIB, and Hep B immunizations

on August 5, 2003.

3. The vaccine was administered within the United States.

4. Petitioners allege that Victoria sustained the first symptom or manifestation of the onset of an encephalopathy within the time period set forth in the Table. They further allege that Victoria's death was a sequelae of her Table injury.

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

6. Respondent denies that Victoria suffered the onset of an encephalopathy or other vaccine-related injury within the time period set forth in the Table, and denies that her death was a sequelae of her alleged Table 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 personal representative of Victoria'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. 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.

11. In return for the payments described in paragraph 8 and 9, petitioners, in their individual capacity and as legal representative of Victoria's estate on behalf of themselves, Victoria, and their 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 Victoria resulting from, or alleged to have resulted

from, the DTaP, IPV, HIB, and Hep B immunizations administered on August 5, 2003, as alleged by petitioners in a petition for vaccine compensation filed on or about February 18, 2004, in the United States Court of Federal Claims as petition No. 04-112V.

12. 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.

13. 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 11 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.

14. All rights and obligations of petitioners hereunder shall apply equally to their successors and assigns as legal representatives of the Estate of Victoria Ann Sheppard.

END OF STIPULATION

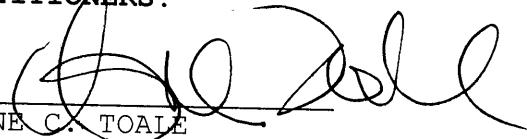
Respectfully submitted,

PETITIONERS:

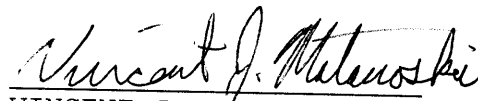

TARRELL SHEPPARD

 1/22/2008
LESLIE RICHARD

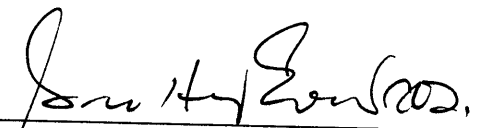
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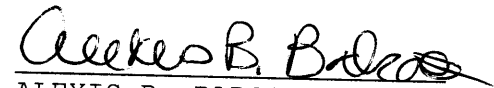
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Dated: 2/25/08