

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

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THERESA PARRISH and TRACY MORENO, as co-independent administrators of THE ESTATE OF NORMA P. PARRISH AKA ARMANDINA PARRISH,

Petitioners,

v.

SECRETARY OF HEALTH AND HUMAN SERVICES,

Respondent.

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No. 14-324V  
Special Master Christian J. Moran

Filed: March 19, 2015

Stipulation; influenza (“flu”) vaccine; acute disseminated encephalomyelitis (“ADEM”); death.

Jeffrey S. Pop, Jeffrey S. Pop & Associates, Beverly Hills, CA, for Petitioners;  
Jennifer Reynaud, United States Dep’t of Justice, Washington, DC, for Respondent.

### UNPUBLISHED DECISION<sup>1</sup>

On March 16, 2015, respondent filed a joint stipulation concerning the petition for compensation filed by Jeanette Parrish, as the daughter of Norma P. Parrish, aka Armandina Parrish (“Mrs. Parrish”), on April 21, 2014.<sup>2</sup> The petition seeks compensation for injuries and death allegedly related to Mrs. Parrish’s receipt of an influenza (“flu”) vaccine, which is contained in the Vaccine Injury

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<sup>1</sup> The E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002), requires that the Court post this decision on its website. Pursuant to Vaccine Rule 18(b), the party has 14 days to file a motion proposing redaction of medical information or other information described in 42 U.S.C. § 300aa-12(d)(4). Any redactions ordered by the special master will appear in the document posted on the website.

<sup>2</sup> On December 10, 2014, the Court substituted Theresa Parrish and Tracy Moreno, Co-Independent Administrators of Mrs. Parrish’s estate, as petitioners.

Table (the “Table”), 42 C.F.R. §100.3(a), and which Mrs. Parrish received on September 14, 2012, caused Mrs. Parrish to suffer acute disseminated encephalomyelitis (“ADEM”). Mrs. Parrish passed away on December 21, 2012. Petitioners further alleges that Mrs. Parrish’s death was the sequela of her alleged vaccine-related injury. Petitioners represent that there has been no prior award or settlement of a civil action for damages on behalf of Mrs. Parrish as a result of her alleged condition or her death.

Respondent denies that the flu vaccine caused Mrs. Parrish’s alleged ADEM, any other injury, or her death.

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 lump sum of \$325,000.00 in the form of a check payable to petitioners, as Co-Independent Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish. This amount represents 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 14-324V according to this decision and the attached stipulation.<sup>3</sup>

Any questions may be directed to my law clerk, Mary Holmes, at (202) 357-6360.

**IT IS SO ORDERED.**

s/ Christian J. Moran  
Christian J. Moran  
Special Master

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<sup>3</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

THERESA PARRISH and TRACY  
MORENO, as Co-Independent Administrators  
of THE ESTATE OF NORMA P. PARRISH  
AKA ARMANDINA PARRISH,

Petitioners,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

No. 14-324V  
SPECIAL MASTER MORAN  
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. Jeanette Parrish, as the daughter of Norma P. Parrish, a.k.a. Armandina Parrish (“Mrs. Parrish”), deceased, filed a petition for vaccine compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. ' 300aa-10 to 34 (the “Vaccine Program”).<sup>1</sup> The petition seeks compensation for injuries and death allegedly related to Mrs. Parrish’s receipt of an influenza (“flu”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).
2. Mrs. Parrish received the flu vaccine on September 14, 2012.
3. The vaccine was administered within the United States.
4. Petitioners allege that as a result of receiving the flu vaccine, Mrs. Parrish suffered acute disseminated encephalomyelitis (“ADEM”). Mrs. Parrish passed away on December 21,

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<sup>1</sup> On December 10, 2014, the Court substituted Theresa Parrish and Tracy Moreno, Co-Independent Administrators of Mrs. Parrish’s estate, as petitioners.

2012. Petitioners further allege that Mrs. Parrish's death was the sequela of her alleged vaccine-related injury.

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

6. Respondent denies that the flu vaccine caused Mrs. Parrish's alleged ADEM, any other injury, or her death.

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 **\$325,000.00** in the form of a check payable to petitioners as Co-Independent Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish. 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 of this Stipulation, and any amount awarded pursuant to paragraph 9, 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 duly authorized to serve as Co-Independent-Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish, under the laws of the State of Texas. No payments pursuant to this Stipulation shall be made until petitioners provide the Secretary with documentation establishing their appointment as Co-Independent-Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish. If petitioners are not authorized by a court of competent jurisdiction to serve as Co-Independent-Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish, 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 legal representative of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish, upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraph 8, and any amount awarded pursuant to paragraph 9, petitioners, in their individual capacities, and as the Co-Independent-Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish, on behalf of Mrs. Parrish'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. § 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 Mrs. Parrish resulting from, or alleged to have resulted from, the flu vaccine administered on September 14, 2012, as alleged in a Petition filed on April 21, 2014, in the United States Court of Federal Claims as petition No. 14-324V.

14. If the special master fails to issue a decision in complete conformity with the terms of this Stipulation or if the United States 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 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 flu vaccine caused Mrs. Parrish's alleged ADEM, any other injury, or her death.

17. All rights and obligations of petitioners in their capacity as the Co-Independent-Administrators of the Estate of Norma P. Parrish, a.k.a. Armandina Parrish, shall apply equally

to petitioners' heirs, executors, administrators, successors, and/or assigns.

END OF STIPULATION

Respectfully submitted,

**PETITIONERS:**

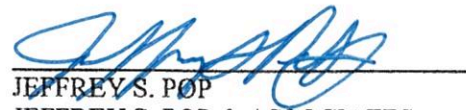


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THERESA PARRISH



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TRACY MORENO

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DATE: March 16, 2015