

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: December 21, 2016)

No. 15-178V

* * * * *

UNPUBLISHED

BRITTANY GREEK, *as Parent,*
Guardian and Next Friend of
CTG, a minor,

Petitioner,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

* * * * *

Decision on Joint Stipulation;
Sensorineural Hearing Loss;
Measles-mumps-rubella
("MMR") Vaccine.

Erin Juzapavicus, Milam Howard et.al, Jacksonville, FL, for petitioner.
Adriana Teitel, US Department of Justice, Washington, DC, for respondent.

DECISION ON JOINT STIPULATION¹

Roth, Special Master:

On February 25, 2015, Brittany Greek ["petitioner"] filed a petition for compensation on behalf of her minor child, C.T.G., under the National Vaccine Injury Compensation Program.²

¹ Because this unpublished decision contains a reasoned explanation for the action in this case, I intend to post this decision on the United States Court of Federal Claims' website, in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, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2012)). In accordance with Vaccine Rule 18(b), a party has 14 days to identify and move to delete medical or other information, that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Further, consistent with the rule requirement, a motion for redaction must include a proposed redacted decision. If, upon review, I agree that the identified material fits within the requirements of that provision, I will delete such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all "§" references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

Petitioner alleges that C.T.G. developed bilateral sensorineural hearing loss (“SNHL”) as a result of receiving a measles-mumps-rubella (“MMR”) vaccination on February 29, 2012. *See* Stipulation, filed December 20, 2016, at ¶¶ 1-4. Respondent denies that the MMR immunization caused C.T.G.’s injury. Stipulation at ¶ 6.

Nevertheless, the parties have agreed to settle the case. On December 20, 2016, the parties filed a joint stipulation agreeing to settle this case and describing the settlement terms.

Respondent agrees to issue the following payments:

- (1) **A lump sum of \$2,317.72**, representing compensation for full satisfaction of the State of Florida Medicaid lien, **in the form of a check payable jointly to petitioner and:**

**Agency for Health Care Administration
Florida Medicaid Casualty Recovery Program
PO Box 12188
Tallahassee, FL 32317-2188**

Petitioner agrees to endorse this payment to Agency for Health Care Administration; and

- (2) **A lump sum of \$154,500.00 in the form of a check payable to petitioner, Brittany Greek, as guardian/conservator of C.T.G.’s estate.** This amount represents compensation for all remaining damages that would be available under 42 U.S.C. § 300aa-15(a).

I adopt the parties’ stipulation attached hereto, and award compensation in the amount and on the terms set forth therein. The clerk of the court is directed to enter judgment in accordance with this decision.³

IT IS SO ORDERED.

s/ Mindy Michaels Roth
Mindy Michaels Roth
Special Master

³ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by each party filing a notice renouncing the right to seek review.

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

BRITTANY GREEK,
as parent, guardian, and next friend of CTG,
a minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

No. 15-178V
Special Master Roth
ECF

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her son, CTG, Brittany Greek (“petitioner”) 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 CTG’s receipt of a Measles-Mumps-Rubella (“MMR”) vaccine, which vaccine is contained in the Vaccine Injury Table (the “Table”), 42 C.F.R. § 100.3(a).
2. CTG received his MMR vaccination on February 29, 2012.
3. The vaccine was administered within the United States.
4. Petitioner alleges that CTG sustained a vaccine-related injury diagnosed as bilateral sensorineural hearing loss (“SNHL”) that was caused-in-fact by the MMR vaccine. Petitioner further alleges that CTG experienced the residual effects of his injury for more than six months.
5. Petitioner represents that there has been no prior award or settlement of a civil action for damages as a result of CTG’s injury.

6. Respondent denies that CTG's alleged bilateral SNHL was caused-in-fact by his MMR vaccine. Respondent further denies that MMR vaccine caused CTG any other injury or his 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 payment of **\$2,317.72**, representing compensation for full satisfaction of the State of Florida Medicaid lien, in the form of a check payable jointly to petitioner and:

Agency for Health Care Administration
Florida Medicaid Casualty Recovery Program
PO Box 12188
Tallahassee, FL 32317-2188

Petitioner agrees to endorse this payment to Agency for Health Care Administration; and

- b. a lump sum of **\$154,500.00** in the form of a check payable to petitioner as guardian/conservator of CTG's estate. This amount represents compensation for all remaining 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. 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.

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 CTG 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 CTG's estate under the laws of the State of Florida. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of CTG's estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of the estate of CTG 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 CTG 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 of CTG, on behalf of herself, her 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 CTG resulting from, or alleged to have resulted from, the MMR vaccination administered on February 29, 2012, as alleged by petitioner in her petition for vaccine compensation filed on February 25, 2015, in the United States Court of Federal Claims as petition No. 15-178V.

15. If CTG 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

Respectfully submitted,


PETITIONER:


BRITTANY GREEK


**ATTORNEY OF RECORD FOR
PETITIONER:**


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Dated: 12/20/16