

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

(Filed: September 21, 2007)

DO NOT PUBLISH

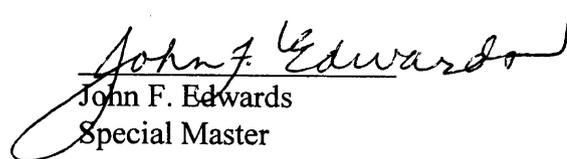
NANCIE ABSTON and JASON FAIRCHILD,)	
as legal representatives of the estate of their son,)	
ALEXANDER JAMES FAIRCHILD,)	
)	
Petitioners,)	
)	
v.)	No. 05-0673V
)	Stipulation
SECRETARY OF)	
HEALTH AND HUMAN SERVICES,)	
)	
Respondent.)	
)	

DECISION DIRECTING ENTRY OF JUDGMENT¹

On September 20, 2007, the parties filed a stipulation. The special master has reviewed thoroughly the stipulation. He adopts completely the stipulation. Therefore, in the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment based upon the stipulation in petitioners' favor. Under Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing the right to seek review. Then, under Vaccine Rule 12(a), petitioners may expedite payment by filing an election to accept the judgment.

¹ 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and 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.*

The clerk of court shall send petitioners' copy of this decision to petitioners by overnight express delivery.


John F. Edwards
Special Master

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

RECEIVED & FILED

SEP 20 2007

OSM
OFFICE OF THE CLERK
U.S. COURT OF FEDERAL CLAIMS

NANCIE ABSTON and JASON
FAIRCHILD, Legal
Representatives of the Estate
of ALEXANDER JAMES FAIRCHILD,

Petitioners,

v.

SECRETARY OF HEALTH
AND HUMAN SERVICES,

Respondent.

No. 05-673V
Special Master
John Edwards

STIPULATION

The parties hereby stipulate to the following matters:

1. 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") on behalf of the estate of their minor son, Alexander James Fairchild ("Alex"). The petition seeks compensation for Alex's death, allegedly related to his receipt of hepatitis B ("Hep. B"), pneumococcal conjugate ("PNU"), hemophilus influenzae type B ("Hib"), diphtheria-tetanus-acellular pertussis ("DTaP"), and inactivated polio ("IPV") vaccines, which are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).

2. The vaccines at issue in this matter were administered to Alex on March 8, 2005.

3. The vaccines were administered within the United States.

4. Petitioners allege that, as the result of the

administration of the vaccines at issue, Alex died on March 11, 2005.

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

6. Respondent denies that Alex's death was caused by the administration of the vaccines at issue as alleged by petitioners.

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 \$75,000.00 in the form of a check payable to petitioners as legal representatives of Alexander James Fairchild's estate.

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 paragraphs 8 and 9, petitioners, in their individual capacity and as legal representatives of Alex's estate, on behalf of themselves, Alex, and his 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 Alex resulting from, or alleged to have resulted from, the vaccines administered on March 8, 2005, as alleged by petitioners in a petition for vaccine compensation filed on or about June 20, 2005, in the United States Court of Federal Claims as petition No. 05-673V.

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 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.

14. All rights and obligations of petitioners hereunder shall apply equally to their successors and assigns as legal representatives of Alexander James Fairchild's estate.

END OF STIPULATION

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Respectfully submitted,

PETITIONERS:

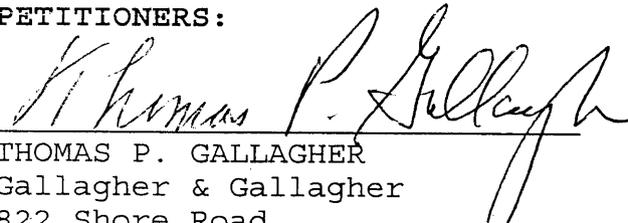


NANCIE ABSTON



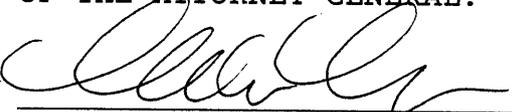
JASON FAIRCHILD

**ATTORNEY OF RECORD FOR
PETITIONERS:**



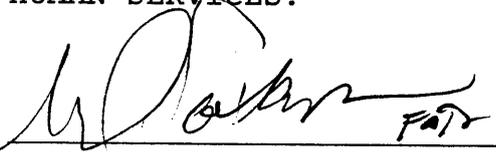
THOMAS P. GALLAGHER
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**AUTHORIZED REPRESENTATIVE
OF THE ATTORNEY GENERAL:**



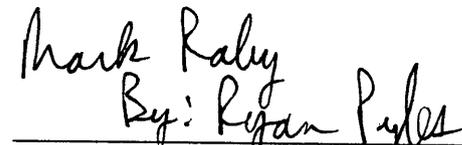
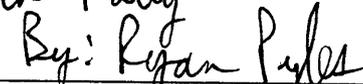
MARK W. ROGERS
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**AUTHORIZED REPRESENTATIVE OF
THE SECRETARY OF HEALTH AND
HUMAN SERVICES:**



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U.S. Department of Health
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**ATTORNEY OF RECORD FOR
RESPONDENT:**


By: 

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(202) 616-4111

Dated: September 20, 2007

CERTIFICATE OF SERVICE

I certify that on this 20th, day of September, 2007 a copy of the **NOTICE OF STIPULATION NOT TO SEEK REVIEW** was served, by first class mail, postage prepaid, on:

Thomas P. Gallagher, Esq.
Gallagher & Gallagher
822 Shore Road
Somers Point, NJ 08244

A handwritten signature in black ink, appearing to read 'T. Gallagher', written over a horizontal line.