

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

No. 10-752V  
Filed: July 26, 2011  
Unpublished

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JOSE and MARIA IBARRA, as the legal \*  
representatives of the estate of SUSAN IBARRA, \*

Petitioners, \*

v. \*

SECRETARY OF THE DEPARTMENT \*  
OF HEALTH AND HUMAN SERVICES, \*

Respondent. \*

\*\*\*\*\*

Stipulation; Varicella vaccine;  
Human papillomavirus vaccine,  
HPV; Aplastic anemia; Death

*Curtis R. Webb, Twin Falls, ID, for Petitioner.*

*Ann Donohue Martin, U.S. Department of Justice, Washington, D.C., for Respondent.*

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

GOLKIEWICZ, Special Master.

On July 25, 2011, the parties to the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of compensation in this case. Petitioners allege that Susan Ibarra suffered aplastic anemia caused by the varicella vaccine, which was significantly aggravated by the HPV vaccine, and subsequently died as a result of the aplastic anemia. The vaccinee received the varicella vaccine on July 23, 2008, and the HPV vaccine on August 12, 2008. Respondent denies that the varicella vaccine caused the aplastic anemia and denies that the varicella and/or HPV vaccines caused this death. Nonetheless, the parties agreed informally to resolve this matter. Stipulation, filed July 25, 2011.

The court hereby **ADOPTS** the parties' said Stipulation, attached hereto, and awards compensation in the amount and on the terms set forth therein. **Specifically, petitioners are**

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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.**

awarded a lump sum of \$240,000.00 in the form of a check payable to petitioners. See Stipulation, ¶ 8, filed July 25, 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.



HPV vaccine. Petitioners further allege that Ms. Ibarra died as a result of her aplastic anemia on November 5, 2010, and that her death was caused by the varicella vaccine and the HPV vaccine.

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

6. Respondent denies that the varicella vaccine caused Ms. Ibarra's aplastic anemia, denies that the HPV vaccine significantly aggravated her aplastic anemia, and denies that the varicella vaccine and/or the HPV vaccine caused Ms. Ibarra's 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 \$240,000.00 in the form of a check payable to petitioners. 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. Petitioners represent that they presently are, or within 90 days of the date of judgment will become, duly authorized to serve as conservators of Ms. Ibarra's estate under the laws of the State of California.

12. In return for the payments described in paragraphs 8 and 9, petitioners, in their individual capacities and as legal representatives of Ms. Ibarra's estate, on behalf of themselves and Ms. Ibarra's heirs, executors, administrators, successors or assigns, do 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 Ms. Ibarra, resulting from, or alleged to have resulted from, the varicella vaccine administered on July 23, 2008, and/or the HPV vaccine administered on August 12, 2008, as alleged by petitioners in a petition for vaccine compensation filed on or about November 1, 2010, in the United States Court of Federal Claims as petition No. 10-752V.

13. 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.

14. 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.

15. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that the varicella vaccine and/or the HPV vaccine caused or significantly aggravated Ms. Ibarra's aplastic anemia or that the varicella vaccine and/or the HPV vaccine caused Ms. Ibarra's death.

16. All rights and obligations of petitioners hereunder shall apply equally to petitioners' heirs, executors, administrators, successors, and/or assigns as legal representatives of Ms. Ibarra's estate.

END OF STIPULATION

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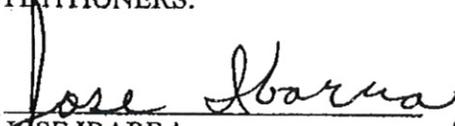
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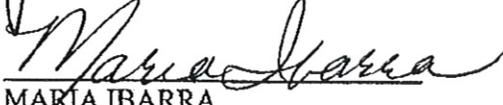
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Respectfully submitted,

PETITIONERS:

  
JOSE IBARRA

  
MARIA IBARRA

ATTORNEY OF RECORD FOR  
PETITIONERS:

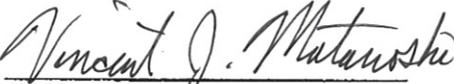
  
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Dated: July 25, 2011

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