



- A lump sum of \$14,564.63, in the form of a check payable to petitioner, representing compensation for all damages that would be available under 42 U.S.C. §300aa-15(a).
- A lump sum of \$4020.05, in the form of a check payable jointly to petitioner and

Georgia Department of Community Health  
P.O. Box 1984  
Atlanta, Georgia 30301,

which represents compensation for reimbursement of the State of Georgia Medicaid lien.

- A lump sum of \$6,415.31, in the form of a check payable jointly to petitioner and

Agency for Health Care Administration  
ACS Recovery Services  
P.O. Box 12188  
Tallahassee, Florida 32317-2188,

which represents compensation for reimbursement of the State of Florida Medicaid lien.

Under the statute governing the Program, as well as the “Vaccine Rules” adopted by this court, the special master must now enter a decision endorsing that stipulation, and the clerk must enter judgment, in order to authorize payment of the award. See § 300aa-12(d)(3)(A) and (e)(3); § 300aa-13(a); Vaccine Rules 10(a), 11(a).<sup>3</sup>

I have reviewed the file, and based on that review, I conclude that the parties’ stipulation appears to be an appropriate one. Accordingly, my decision is that a Program award shall be made to petitioner in the amounts set forth above. In the absence of a timely-filed motion for review of this Decision, the clerk shall enter judgment in accordance herewith.

**IT IS SO ORDERED.**

/s/ George L. Hastings, Jr.  
George L. Hastings, Jr.  
Special Master

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<sup>3</sup> The “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.

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

WINDY CLARK,  
as parent and natural guardian of,  
B.K.P.,

Petitioner,

v.

SECRETARY OF  
HEALTH AND HUMAN SERVICES,

Respondent.

No. 09-410V  
Special Master Hastings

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her son B.K.P. [REDACTED]

[REDACTED], 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 B.K.P.'s receipt of the diphtheria-tetanus-acellular pertussis, pneumococcal, polio virus, hepatitis B, hemophilus influenza type b, measles mumps rubella, and varicella vaccines, which vaccines are contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3 (a).

2. B.K.P. [REDACTED] received his immunizations on or about October 11, 2006, December 19, 2006, February 28, 2007, and September 14, 2007.

3. The vaccines were administered within the United States.

4. Petitioner alleges that B.K.P. [REDACTED] suffers from ataxia, hypotonia, choreiform

[REDACTED]

movement disorder, and developmental delays that were actually caused by his receipt of the vaccines. Petitioner alleges in the alternative that <sup>B.K.P.</sup> [REDACTED] sustained the first symptom or manifestation of the onset of his alleged injuries in the time period set forth in the Table.

5. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of <sup>B.K.P.</sup> [REDACTED] as a result of his condition.

6. Respondent denies that <sup>B.K.P.</sup> [REDACTED] suffered the onset of his alleged injuries within any time period set forth in the Table; denies that the vaccines, either singly or in combination, caused his alleged injuries; denies that <sup>B.K.P.</sup> [REDACTED] suffered ataxia, hypotonia, a choreiform movement disorder, developmental delays, or any other injury caused by his receipt of vaccines; and denies that his disabilities are sequelae of his alleged injuries.

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 of \$4,020.06, which amount represents reimbursement of the State of Georgia Medicaid lien, in the form of a check payable jointly to petitioner and

Georgia Department of Community Health  
P.O. Box 1984  
Atlanta, Georgia 30301

Petitioner agrees to endorse this check to the Georgia Department of Community Health; and

(b) A lump sum of 6,415.31, which amount represents reimbursement of the State of

Florida Medicaid lien, in the form of a check payable jointly to petitioner and

Agency for Health Care Administration  
ACS Recovery Services  
P.O. Box 12188  
Tallahassee, Florida 32317-2188

Petitioner agrees to endorse this check to the Florida Agency for Health Care Administration; and

(c) A lump sum of \$14,564.63 in the form of a check payable to petitioner. This amount represents compensation for all remaining damages that would be available under 42 U.S.C. §300aa-15(a).

9. As soon as practical 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 compensation to be provided pursuant to this Stipulation is not for any items or services for which the Program is not primarily liable under 42 U.S.C. § 300aa-15(g), to the extent that payment has been made or can reasonably be expected to be made under any 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 by entities that provide health services on a pre-paid basis.

11. The 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.

12. The parties and their attorneys further agree and stipulate that except for any award for attorneys' fees, litigation costs, and past unreimbursed expenses, the money provided

[REDACTED]

pursuant to this Stipulation will be used solely for the benefit of [REDACTED] B.K.P. 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 [REDACTED] B.K.P.'s estate under the laws of the State of Georgia. No payments pursuant to this Stipulation shall be made until petitioner provides the Secretary with documentation establishing her appointment as guardian/conservator of [REDACTED] B.K.P.'s estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian/conservator of [REDACTED] B.K.P.'s estate 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 [REDACTED] B.K.P. [REDACTED] 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 [REDACTED] B.K.P., on behalf of herself, [REDACTED] B.K.P. and his 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 [REDACTED] B.K.P. resulting from, or alleged to have resulted

[REDACTED]

from, the vaccinations administered on or about October 11, 2006, December 19, 2006, February 28, 2007, and September 14, 2007, as alleged by petitioner in a petition for vaccine compensation filed on or about June 23, 2009, in the United States Court of Federal Claims as petition No. 09-410V.

15. If <sup>B.V.P.</sup> [REDACTED] 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. 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, and further, that a change in the nature of the injury or condition or in the items of compensation sought, is not grounds to modify or revise this agreement.

18. This Stipulation shall not be construed as an admission by the United States or the Secretary of Health and Human Services that <sup>B.K.P.</sup> [REDACTED] suffered any injury within the time period set forth in the Table; that he suffered any injury that was caused by his vaccinations; or that his current disabilities are sequelae of his alleged injuries.

19. All rights and obligations of petitioner hereunder shall apply equally to

[REDACTED]

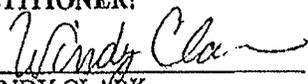
petitioner's heirs, executors, administrators, successors, and/or assigns as legal representatives of  
B.K.P.

[REDACTED]

END OF STIPULATION

Respectfully submitted,

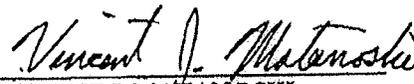
PETITIONER:

  
WINDY CLARK

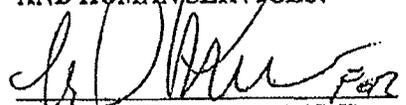
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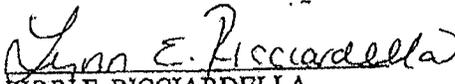
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Dated: December 4, 2012