

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OFFICE OF SPECIAL MASTERS

(Filed: January 15, 2008)

DO NOT PUBLISH

\_\_\_\_\_ )  
 VANESSA HOLLINGSWORTH, )  
 as parent of her son, )  
 NICHOLAS CZABAN, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 SECRETARY OF )  
 HEALTH AND HUMAN SERVICES, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

No. 07-0262V  
Stipulation

**DECISION DIRECTING ENTRY OF JUDGMENT<sup>1</sup>**

On January 14, 2008, 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 petitioner’s 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), petitioner may expedite payment by filing an election to accept the judgment.

s/John F. Edwards  
John F. Edwards  
Special Master

<sup>1</sup> 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.*

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

_____	)	
VANESSA HOLLINGSWORTH,	)	
parent of NICHOLAS CZABAN,	)	
a minor,	)	
	)	
Petitioner,	)	
	)	No. 07-262V
v.	)	Special Master Edwards
	)	
SECRETARY OF HEALTH AND HUMAN	)	
SERVICES,	)	
	)	
Respondent.	)	
_____	)	

STIPULATION

The parties hereby stipulate to the following matters:

1. On behalf of her son, Nicholas Czaban ("Nicholas"), 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 Nicholas' receipt of the tetanus-diphtheria ("Td") vaccine, which vaccine is contained in the Vaccine Injury Table (the "Table"), 42 C.F.R. § 100.3(a).

2. Nicholas received a Td vaccination on August 4, 2005.

3. The vaccine was administered within the United States.

4. Nicholas developed thrombocytopenic purpura as a result of receiving the Td vaccination on August 4, 2005.

5. Nicholas suffered the residual effects or complications of his thrombocytopenic purpura for more than six months after the date of his vaccination.

6. Petitioner represents that there has been no prior award or settlement of a civil action for damages on behalf of Nicholas as a result of his condition.

7. Nicholas is entitled to compensation under the terms of the Vaccine Program. Therefore, 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 payment:

A lump sum of \$30,000.00 in the form of a check payable to petitioner as guardian of Nicholas Czaban's estate. 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 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 for attorneys' fees and costs, 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. 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.

11. The parties and their attorneys further agree and stipulate that the money provided pursuant to this Stipulation will be used solely for the benefit of Nicholas 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).

12. Petitioner represents that she presently is, or within 90 days of the date of judgment will become, duly authorized to serve as guardian of Nicholas' 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 of Nicholas' estate. If petitioner is not authorized by a court of competent jurisdiction to serve as guardian of the estate of Nicholas Czaban 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 of the estate of Nicholas Czaban upon submission of written documentation of such appointment to the Secretary.

13. In return for the payments described in paragraphs 8 and 9, petitioner, in her individual capacity and as legal representative of Nicholas, on behalf of herself, Nicholas, and his heirs, executors, administrators, successors or assigns, does 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 Nicholas resulting from, or alleged to have resulted from, the Td vaccination administered on August 4, 2005, as alleged by petitioner in a petition for vaccine compensation filed on or about April 26, 2007, in the United States Court of Federal Claims as petition No. 07-262V.

14. If Nicholas should die prior to the Secretary making any or all of the payments described in paragraph 8, this agreement shall be considered voidable upon proper notice to the Court on behalf of either or both of the parties.

15. 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.

16. 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.

17. All rights and obligations of petitioner hereunder shall apply equally to her successors and assigns as legal representatives of Nicholas Czaban.


END OF STIPULATION

Respectfully submitted,

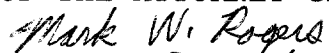

PETITIONER:

  
VANESSA HOLLINGSWORTH

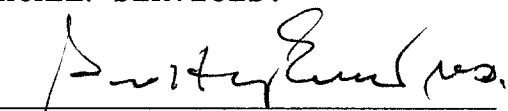
ATTORNEY OF RECORD FOR  
PETITIONER:

  
RONALD C. HOMER  
Conway, Homer & Chin-Caplan, PC  
16 Shawmut Street  
Boston, MA 02116  
(617) 695-1990

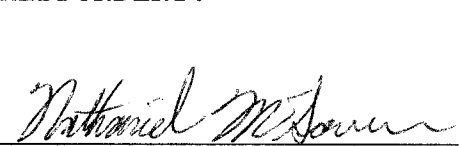
AUTHORIZED REPRESENTATIVE  
OF THE ATTORNEY GENERAL:

  
  
MARK W. ROGERS  
Deputy Director  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146

AUTHORIZED REPRESENTATIVE OF  
THE SECRETARY OF HEALTH AND  
HUMAN SERVICES:

  
GEOFFREY EVANS, M.D.  
Director, Division of  
Vaccine Injury Compensation  
Healthcare Systems Bureau  
U.S. Department of Health  
and Human Services  
5600 Fishers Lane  
Parklawn Building, Stop 11C-26  
Rockville, MD 20857

ATTORNEY OF RECORD FOR  
RESPONDENT:

  
NATHANIEL J. MCGOVERN  
Trial Attorney  
Torts Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 146  
Benjamin Franklin Station  
Washington, D.C. 20044-0146  
(202) 616-4357

Dated: January 14, 2008