

# OFFICE OF SPECIAL MASTERS

(Filed: December 20, 2005)

ANTHONY ELBERT,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 05-0384V
	)	DO NOT PUBLISH
SECRETARY OF	)	
HEALTH AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

## DECISION ON ATTORNEY'S FEES AND COSTS<sup>1</sup>

Petitioner's former attorney of record, Sol P. Ajalat, Esq. (Mr. Ajalat), moves for \$17,482.44 in attorney's fees and in attorney's costs that he incurred while he represented petitioner, Anthony Elbert (Mr. Elbert), in proceedings under the National Vaccine Injury Compensation Program (Program).<sup>2</sup> See Motion for Attorney's Fees and Costs (Mr. Ajalat's Motion), filed November 15, 2005. Respondent objected informally to certain aspects of Mr. Ajalat's Motion. See Status Report, filed December 12, 2005. Mr Ajalat acceded apparently to respondent's objections, reducing to \$15,032.44 his request for attorney's fees and for attorney's costs. See *id.*

Mr. Elbert did not receive Program compensation. Nevertheless, the special master possesses discretion to award attorney's fees and attorney's costs. See § 300aa-15(e)(1). Based upon his experience, the special master determines that an award of \$15,032.44 for attorney's fees and for attorney's costs in this case is reasonable and appropriate.

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<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.*

<sup>2</sup> The statutory provisions governing the Vaccine Program are found in 42 U.S.C. §§ 300aa-10 *et seq.* For convenience, further reference will be to the relevant section of 42 U.S.C.

In the absence of a motion for review filed under RCFC Appendix B, the clerk of court shall enter judgment in Mr. Elbert's favor for \$15,032.44 in attorney's fees and in attorney's costs. *The check shall be payable jointly to Mr. Elbert and to Mr. Ajalat. The Secretary of the Department of Health and Human Services shall send the check to: Sol P. Ajalat, Esq., 5200 Lankershim Boulevard, Suite 850, North Hollywood, California 91601. The judgment shall provide that Mr. Ajalat may collect \$15,032.44 from Mr. Elbert.*

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

In addition, the clerk of court shall send a courtesy copy of this decision to:

Sol P. Ajalat, Esq.  
5200 Lankershim Boulevard  
Suite 850  
North Hollywood, California 91601

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John F. Edwards  
Special Master