

**In the United States Court of Federal Claims**

**OFFICE OF SPECIAL MASTERS**

No. 11-271V

**(E-Filed: September 21, 2012)**

VICTORIA CAPDEVILLE	)	
	)	
Petitioner,	)	UNPUBLISHED
	)	
v.	)	Attorneys' Fees and
	)	Costs; Reasonable
SECRETARY OF THE DEPARTMENT	)	Amount Requested
OF HEALTH AND HUMAN SERVICES,	)	to Which Respondent
	)	Did Not Object
Respondent.	)	
	)	

Joseph Warren Rausch, Metairie, LA, for petitioner.

Ann Donohue Martin, Washington, D.C., for respondent.

**ATTORNEYS' FEES AND COSTS DECISION<sup>1</sup>**

On May 2, 2011, Victoria Capdeville (petitioner), filed a petition seeking compensation under the National Vaccine Injury Compensation Program (the

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<sup>1</sup> Because this decision contains a reasoned explanation for the undersigned's action in this case, the undersigned intends to post this decision on the United States Court of Federal Claims' website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). 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.

Program).<sup>2</sup> Petitioner alleged that as a result of a series of Gardasil vaccines she received on May 7, 2007, July 6, 2007, and November 9, 2007, she suffered from shortness of breath, nausea, an inability to recognize people, slurred speech, and weakness. Pet. at 2. Petitioner claimed that the condition continued for several hours and that she has continued to suffer from syncope since May of 2008. *Id.*

On May 29, 2012, 2012, the undersigned issued a decision dismissing petitioner's claim for failure to prosecute. *See* Decision.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). On September 20, 2012, the parties' filed a stipulation of fact regarding final attorneys' fees and costs in the amount of \$5,000.00, to which respondent's counsel did not object. Based on the reasonableness of petitioner's request and respondent's counsel's lack of objection to petitioner's counsel's fee request, the undersigned **GRANTS** petitioner's motion for approval and payment of attorneys' fees and costs. Petitioner's counsel certifies that his client had incurred no out-of-pocket expenses per General Order No. 9.

The undersigned awards a total of \$5,000.00 in attorneys' fees and costs. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGEMENT** in petitioner's favor in the amount of \$5,000.00 in attorneys' fees and attorneys' costs. The judgment shall reflect that Joseph S. Rausch may collect \$5,000.00 from petitioner.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court is directed to enter judgment herewith.<sup>3</sup>

**IT IS SO ORDERED.**

s/Patricia E. Campbell-Smith  
Patricia E. Campbell-Smith  
Chief Special Master

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<sup>2</sup> The Program comprises Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3758, codified as amended, 42 U.S.C. §§ 300aa-10 et seq. (hereinafter "Vaccine Act" or "the Act"). Hereinafter, individual section references will be to 42 U.S.C. § 300aa of the Act.

<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.

