

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

Filed: September 19, 2013

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KATHLEEN HARVEY, and	*	UNPUBLISHED DECISION
MICHAEL HARVEY, parents of	*	
LUKE HARVEY, a minor	*	No. 05-237V
	*	
Petitioners,	*	Chief Special Master
	*	Campbell-Smith
	*	
v.	*	Autism; Attorneys' Fees and
	*	Costs; Reasonable Amount
SECRETARY OF HEALTH AND	*	Requested to Which Respondent
HUMAN SERVICES,	*	Does Not Object
Respondent.	*	

\* \* \* \* \*

Robert J. Krakow, New York, NY, for petitioners.  
Heather L. Pearlman, Washington, D.C., for respondent.

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

On February 22, 2005, Kathleen Harvey and Michael Harvey (“petitioners”) filed a petition on behalf of their minor child, Luke Harvey, 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, 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.

Program”).<sup>2</sup> Petitioners alleged that Luke suffered injuries as a result of receiving a vaccine or vaccines listed on the Vaccine Injury Table. On February 19, 2013, the undersigned issued a decision dismissing petitioners’ case for insufficient proof and failure to prosecute, and judgment was entered on March 25, 2013.

On September 19, 2013, petitioners filed an unopposed motion for attorneys’ fees and costs. According to petitioners’ counsel, respondent does not object to an amount of **\$7,598.00** in attorneys’ fees and costs. In lieu of filing a General Order #9, petitioners’ counsel represents that he will reimburse petitioners for any personal litigation costs compensable under the Vaccine Act from the award of attorneys’ fees and costs in this case. See Motion 1.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. 42 U.S.C. § 300 aa-15(e). Based on the reasonableness of petitioners’ request and respondent’s counsel’s lack of objection to petitioners’ counsel’s fee request, the undersigned **GRANTS** petitioners’ motion for approval and payment of attorneys’ fees and costs.

Accordingly, an award should be made in the form of a check in the amount of **\$7,598.00**, payable jointly to petitioners and the Law Office of Robert J. Krakow, for attorney and paralegal fees, and attorney costs.

In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in accordance with the terms of the parties’ stipulation.<sup>3</sup>

**IT IS SO ORDERED.**

s/Patricia E. Campbell-Smith  
Patricia 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.