

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

**OFFICE OF SPECIAL MASTERS**

**E-Filed: May 8, 2012**

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LUIS LOPEZ,

Petitioner,

v.

SECRETARY OF THE  
DEPARTMENT OF  
HEALTH AND HUMAN SERVICES,

Respondent.

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UNPUBLISHED

No. 09-434V

Chief Special Master  
Campbell-Smith

Award of Attorneys’ Fees and  
Costs; Amount to Which  
Respondent Does Not Object.

Martin J. Martinez, Martinez Law Office, Napa, CA, for petitioner.  
Ann D. Martin, U.S. Department of Justice, Washington, D.C., for respondent.

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

On July 2, 2009, Luis Lopez (“petitioner”) filed a petition seeking compensation under the National Vaccine Injury Compensation Program

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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 (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.

(“Vaccine Program”).<sup>2</sup>

In the petition, petitioner alleges that he received a tetanus-diphtheria-acellular-pertussis (“Tdap”) vaccine on July 10, 2008, and thereafter suffered from Guillain-Barré syndrome (“GBS”) and the residual effects of this condition for more than six months.

On March 8, 2012, the undersigned issued a decision based on the parties’ stipulation to damages. See Decision on Damages, Mar. 8, 2012.

On May 7, 2012, the parties filed a Joint Stipulation of Facts Concerning Attorneys’ Fees and Costs, to which the parties had agreed during informal discussions. See Stip. for Attorneys’ Fees and Costs.

The Vaccine Act permits an award of reasonable attorneys’ fees and costs. § 15(e). 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** the parties’ stipulation of facts for attorneys’ fees and costs.

The undersigned awards a total of **\$27,300.00** in attorneys’ fees and costs.<sup>3</sup> Stip. for Attorneys’ Fees and Costs at ¶ 4. In the absence of a motion for review filed pursuant to RCFC Appendix B, the clerk of the court **SHALL ENTER JUDGMENT** in petitioner’s favor in the amount of **\$27,000.00** for attorneys’ fees and costs, **payable jointly to petitioner and his attorney of record**, and **\$300.00** for petitioner’s costs, **payable solely to petitioner**.<sup>4</sup>

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<sup>2</sup> The National Vaccine Injury Compensation Program is set forth in Part 2 of the National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755, codified as amended, 42 U.S.C. §§ 300aa-1 to -34 (2006) (“Vaccine Act” or “Act”). All citations in this decision to individual sections of the Act are to 42 U.S.C.A. § 300aa.

<sup>3</sup> This award is intended to cover all legal expenses incurred in this matter and contemplates attorneys’ fees and costs in the amount of **\$27,000.00**, payable jointly to petitioner and his attorney of record. During informal discussions, petitioner agreed to amend the requested amount for attorneys’ fees and costs, to which respondent would not object. Stip. for Attorneys’ Fees and Costs at ¶ 3.

This award is also intended to cover all reimbursable out-of-pocket expenses pursuant to General Order No. 9 and contemplates reimbursable out-of-pocket costs of **\$300.00**, payable solely to petitioner.

<sup>4</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.

The judgment shall reflect that Martinez Law Office may collect **\$27,000.00** from petitioner. Petitioner may retain **\$300.00** for costs borne by petitioner.

**IT IS SO ORDERED.**

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



Respectfully submitted,

ATTORNEY OF RECORD FOR  
PETITIONER:

s/ Martin James Martinez  
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ATTORNEY OF RECORD FOR  
RESPONDENT:

s/ Ann D. Martin  
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DATED: May 7, 2012