

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**E-Filed: August 14, 2012**

* * * * *	*	
DOMINGO MARTINEZ,	*	UNPUBLISHED
	*	
Petitioner,	*	No. 10-333V
	*	
v.	*	Chief Special Master
	*	Campbell-Smith
	*	
SECRETARY OF THE	*	
DEPARTMENT OF	*	Award of Attorneys' Fees and
HEALTH AND HUMAN SERVICES,	*	Costs; Amount to Which
	*	Respondent Does Not Object.
Respondent.	*	
	*	
* * * * *	*	

Isaiah Kalinowski, Maglio, Christopher & Toale, P.A., Washington, DC, for petitioner.

Althea Davis, U.S. Dep't of Justice, Washington, DC, for respondent.

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

On June 1, 2010, Domingo Martinez (“petitioner”) filed a petition, seeking compensation under the National Vaccine Injury Compensation Program (“Vaccine Program”).<sup>2</sup>

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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.

Petitioner alleges that as a result of an influenza (“flu”) vaccination he received on September 24, 2009, he thereafter suffered from Guillain-Barré Syndrome (“GBS”) and the residual effects of this injury for more than six months. Pet. at 1.

On January 30, 2012, the then-assigned special master issued a decision based on the parties’ stipulation as to damages. See Decision on Damages, Jan. 30, 2012.

Thereafter, petitioner informally provided respondent with his application for attorneys’ fees and costs. See Stip. ¶ 2.

On August 13, 2012, the parties filed a stipulation of facts concerning attorneys’ fees and costs, to which the parties had agreed during informal discussions.<sup>3</sup> Id. ¶ 3.

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 lack of objection to petitioner’s request, the undersigned **GRANTS** the parties’ stipulation of facts concerning attorneys’ fees and costs.

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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> During informal discussions, petitioner agreed to amend the requested amount for attorneys’ fees and costs, to which respondent would not object. Stip. ¶¶ 3-4.

The undersigned awards a total of **\$28,500.00** in attorneys' fees and costs.<sup>4</sup> Stip. ¶ 3(a). 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 **\$28,500.00** for attorneys' fees and costs.<sup>5</sup>

The judgment shall reflect that **Maglio, Christopher & Toale, P.A.** may collect **\$28,500.00** from petitioner.

**IT IS SO ORDERED.**

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

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<sup>4</sup> This award is intended to cover all legal expenses incurred in this matter and contemplates attorneys' fees and costs in the amount of **\$28,500.00, payable jointly to petitioner and petitioner's attorney of record.** Id. ¶¶ 3, 5.

Petitioner had no reimbursable out-of-pocket expenses pursuant to General Order No. 9. Id. ¶ 3(b).

<sup>5</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.

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

DOMINGO MARTINEZ,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 10-333V (ECF)
	)	Special Master Golkiewicz
	)	
SECRETARY OF HEALTH	)	
AND HUMAN SERVICES,	)	
	)	
Respondent.	)	

**STIPULATION OF FACT CONCERNING  
ATTORNEYS’ FEES AND COSTS**

It is hereby stipulated, by and between the parties, the following factual matters:

1. Isaiah R. Kalinowski, Esquire, is the attorney of record for petitioner in this matter.
2. Petitioner informally submitted his application for attorneys’ fees and costs (“Application”) related to this matter to respondent’s counsel for review.
3. In informal discussions, respondent raised certain objections to petitioner’s Application. As a result, petitioner has agreed to amend her Application to seek reimbursement for:
  - (a) attorneys’ fees and costs for his attorney, Isaiah R. Kalinowski, Esquire, in the amount of **\$28,500.00**; and,
  - (b) no out-of-pocket expenses for petitioner.<sup>1</sup>
4. Respondent does not object to the amended request.
5. The parties now request that the Court issue a decision awarding the attorneys’ fees and costs described in paragraph 3 of this Stipulation, directing payment in the form of a check payable jointly to petitioner and petitioner’s counsel.
6. Nothing in this Stipulation, including the amount set forth in paragraph 3, should be construed as an admission, concession, or waiver by either party as to any of

<sup>1</sup> Concurrent with the filing of this stipulation, petitioner will submit his statement pursuant to General Order No. 9.

the matters raised by petitioner's request for attorneys' fees and costs, including but not limited to the hourly rates requested, the number of hours requested, and other litigation-related costs.

Respectfully submitted,

Dated: August 13, 2012

By: s/Isaiah R. Kalinowski by /s Althea Walker Davis  
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Dated: August 13, 2012

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