

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 09-0628V

Filed: November 7, 2011

* * * * *

FRAN PETTIT, as the *
legal representative of her minor son, *
HOLDEN REX PETTIT, *
Petitioner, *

v. *

SECRETARY OF HEALTH *
AND HUMAN SERVICES, *
Respondent. *

* * * * *

UNPUBLISHED
Measles, Mumps, and Rubella
Vaccination; Thrombocytopenic
Purpura; Stipulated Award of
Damages; Stipulated Award of
Attorneys' Fees and Costs

Curtis Webb, Twin Falls, ID, for petitioner.

Lisa Watts, Washington, DC, for respondent.

DECISION¹

On September 25, 2009, Fran Pettit as the legal representative of her son, Holden Rex Pettit, (“petitioner”), filed a petition for compensation alleging that Holden suffered certain injuries as a result of receiving a vaccination. Among the injuries petitioner alleged that Holden had suffered as a result of receiving a measles, mumps, rubella vaccination was thrombocytopenic purpura. She sought an award under the National

¹ 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.

Vaccine Injury Compensation Program, National Vaccine Injury Compensation Program² (the Act or the Program). 42 U.S.C. §§ 300aa-1 to -34 (2006).

On November 7, 2011, counsel for both parties filed a stipulation, stating that a decision should be entered awarding compensation and that the parties had also reached an agreement regarding attorneys' fees and costs. The parties stipulated that petitioner shall receive the following compensation:

A lump sum of \$100,000.00 in the form of a **check payable to petitioner as guardian/conservator of Holden Rex Pettit's estate**. This amount represents compensation for all damages that would be available under 42 U.S.C. §300aa-15(a) to which petitioner would be entitled on Rex's behalf; and

A lump sum payment of 10,294.69, representing compensation for the reimbursement of the State of South Carolina Medicaid lien, **payable jointly to petitioner and the Department of Health and Human Services**, Attn: Reporting and Receivables, DHHS, P.O. Box 8297, Columbia, SC 29202-9189

Stipulation ¶ 8(a) and (b).

The parties further stipulated that they had reached the following agreement with respect to attorneys' fees:

A lump sum of \$42,276.19 in the form of a **check payable to petitioner and petitioner's attorney, Curtis Webb, Esquire**, for attorneys' fees and costs. In accordance with General Order No. 9, petitioner represents that she incurred no out-of-pocket expenses in proceeding on the petition.

Stipulation ¶8(c).

The undersigned approves the requested amount for petitioner's compensation. Accordingly, an award should be made in the form of a check payable to petitioner in the amount of \$100,000; and an additional check should be made payable jointly to petitioner and the Department of Health and Human Services, Attn: Reporting and Receivables, in the amount of \$10,294.69. 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

² 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 the Act). All citations in this decision to individual sections of the Vaccine Act are to 42 U.S.C.A. § 300aa.

the terms of the parties' stipulation.³

The undersigned also approves the requested amount for attorneys' fees and costs as reasonable. Accordingly, an award should be made in the form of a check payable jointly to petitioner and Mr. Curtis Webb in the amount of \$42,276.19. 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.⁴

IT IS SO ORDERED.

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

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

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment is expedited by the parties' joint filing of notice renouncing the right to seek review.