

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

Filed: March 28, 2011

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MARK PRUETT and ANGELA PRUETT,
Legal representatives of a minor child,

* PUBLISHED
* No. 07-0681

PAIGE PRUETT,

*

Petitioners,

*

v.

*

Attorneys' Fees and Costs;
Reasonable Amount Requested
to which Respondent Does Not
Object

SECRETARY OF HEALTH
AND HUMAN SERVICES,

*

Respondent.

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Jon James Puk, Omaha, NE, for petitioner.

Katherine Carr Esposito, Washington, DC, for respondent.

CAMPBELL-SMITH, Special Master

STIPULATED ATTORNEYS' FEES AND COSTS DECISION¹

On September 20, 2007, Mark and Angela Pruett (petitioners) filed a petition on behalf of their minor child, Paige Pruett (Paige) pursuant to the National Vaccine Injury

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.

Compensation Program² (the Act or the Program), 42 U.S.C. § 300aa-10 et seq. In the petition, petitioners allege that Paige suffered a post-immunization encephalopathy and seizure disorder three days after she received her diphtheria-tetanus-pertussis vaccine on September 20, 2004. Petitioners allege that Paige's encephalopathy and seizure disorder was caused in fact by the DTaP vaccination.

Based on the persuasive factors supporting petitioner's vaccine claim and respondent's election not to challenge petitioner's claim, the undersigned issued a decision finding that petitioner is entitled to compensation under the Vaccine Program on August 12, 2010, and awarding damages. See Decision Awarding Damages.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300 aa-15(e). On March 18, 2011, the parties filed a joint stipulation regarding attorneys' fees and costs indicating that petitioners' counsel had submitted a draft fee application requesting \$34,517.52, and that respondent's counsel did not object to an award of \$34,517.42 in attorneys' fees and costs. 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' joint stipulation regarding attorneys' fees and costs.³

The undersigned awards a total of \$34,517.52 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 petitioners' favor in the amount of \$34,517.52 in attorneys' fees and attorneys' costs.⁴ The judgment shall reflect that the Walentine, O'Toole, McQuillan & Gordon firm may collect \$34,517.52 from petitioners.

IT IS SO ORDERED.

s/Patricia Campbell-Smith
PATRICIA E. CAMPBELL-SMITH
Special Master

² Hereinafter, for ease of reference, all "section" references to the Vaccine Injury Compensation Act will be to the pertinent subdivision of 42 U.S.C. § 300aa (2006 ed.).

³ Pursuant to General Order No. 9, petitioners aver that they did not have any out-of-pocket expenses.

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.