

**In the United States Court of Federal Claims**  
**OFFICE OF SPECIAL MASTERS**  
**E-Filed: July 24, 2012**

* * * * *	*	
JOSHUA SMITH,	*	UNPUBLISHED
Petitioner,	*	No. 10-486
v.	*	Chief Special Master
SECRETARY OF THE	*	Campbell-Smith
DEPARTMENT OF	*	Award of Attorneys' Fees and
HEALTH AND HUMAN SERVICES,	*	Costs; Amount to Which
Respondent.	*	Respondent Does Not Object
* * * * *	*	

Ronald Homer, Conway, Home & Chin-Caplan, P.C., Boston, MA, for petitioner.  
Lara Englund, U.S. Dep't of Justice, Washington, DC, for respondent.

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

On July 28, 2010, Joshua Smith (“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, 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 or about August 14, 2007, and thereafter suffered from optic neuritis.

On February 28, 2012, the undersigned issued a decision based on the parties’ stipulation to damages. See Decision on Damages, Feb. 28, 2012.

On July 10, 2012, petitioner’s counsel filed an application for attorneys’ fees and costs and a statement pursuant to General Order No. 9. See Pet’r’s App. for Attorneys’ Fees and Costs; Pet’r’s Statement Pursuant to Gen. Order. No. 9. Subsequently, on July 24, 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. of Fact Concerning Attorneys’ Fees and Costs at ¶ 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 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 **\$33,357.27** in attorneys’ fees and costs.<sup>3</sup> Stip. for Attorneys’ Fees and Costs at ¶ 5.

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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 **\$32,866.74**, payable jointly to petitioner and his attorney of record. Stip. of Fact Concerning Attorneys’ Fees and Costs at ¶ 3. During informal discussions, petitioner agreed to amend the requested amount for attorneys’ fees and costs, to which respondent would not object. Id.

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 **\$490.53**, payable solely to petitioner. Id. at ¶ 4.

In the absence of a motion for review filed pursuant to RCFC Appendix B,<sup>4</sup> the clerk of the court **SHALL ENTER JUDGMENT** in petitioner's favor in the amount of **\$32,866.74** for attorneys' fees and costs, **payable jointly to petitioner and his attorney of record**, and **\$490.53** for petitioner's costs, **payable solely to petitioner**.

The judgment shall reflect that **Conway, Home & Chin-Caplan, P.C.** may collect **\$32,866.74** from petitioner. Petitioner may retain **\$490.53** for costs borne by petitioner.

Finally, in light of the parties' stipulation of facts for attorneys' fees and costs and the issuance of this decision, the deadline established for the filing of respondent's **response** to petitioner's application for attorneys' fees and costs, **on or before July 27, 2012**, is **RENDERED MOOT**.

**IT IS SO ORDERED.**

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

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<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.

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

JOSHUA SMITH,	)	
	)	
Petitioner,	)	
	)	
v.	)	No. 10-486V
	)	Chief Special Master
SECRETARY OF	)	Patricia Campbell-Smith
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. Ronald C. Homer is the attorney of record for petitioner in this matter.
2. Petitioner submitted a request for attorneys' fees and costs on July 10, 2012.
3. In informal discussions, respondent raised objections to certain items in petitioner's request. Based on these discussions, petitioner has amended his request for attorneys' fees and costs in this matter to request reimbursement for attorneys' fees and costs in the amount of \$32,866.74.
4. Pursuant to General Order #9, petitioner advanced \$490.53 in reimbursable costs in pursuit of his claim.
5. The parties now request that a decision awarding final attorneys' fees and costs, totaling **\$33,357.27**, be issued.

Respectfully submitted,

s/ RONALD C. HOMER

RONALD C. HOMER

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s/ LARA A. ENGLUND

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DATED: July 24, 2012