

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 01-067V

(E-Filed: February 6, 2013)

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CAMILLE TRACY, by her father and next
friend, WILLIAM TRACY,

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UNPUBLISHED

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Petitioner,

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Chief Special Master
Campbell-Smith

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v.

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Autism; Stipulation of Attorneys'
Fees and Costs

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SECRETARY OF HEALTH AND
HUMAN SERVICES,

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Respondent.

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Gregory David Kincaid, Hubbard, Ruzicka, Kreamer & Kincaid L.C., Olathe, KS, for
petitioner.

Heather Lynn Pearlman, United States Department of Justice, Washington, DC, for
respondent.

DECISION¹

On February 5, 2001, William Tracy (“petitioner”), filed a petition for
compensation on behalf of his daughter, Camille, alleging that she suffered certain
injuries as a result of receiving one or more vaccine(s) listed on the Vaccine Injury Table.

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 website of the
United States Court of Federal Claims in accordance with the E-Government Act of
2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44
U.S.C. § 3501 note (2006)). 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 sought an award under the National Vaccine Injury Compensation Program (the Act or the Program).²

On July 16, 2012, petitioner filed a Motion for a Decision Dismissing his Petition, acknowledging that he may not be able to meet his burden of proof. On July 17, 2012, the undersigned issued a dismissal decision for insufficient proof. Judgment entered on August 20, 2012.

Petitioner was represented by Ronald C. Homer of Conway, Homer & Chin-Caplan, P.C., Boston, MA from February 5, 2001 to November 26, 2001. Petitioner was represented by Gregory David Kincaid of Hubbard, Ruzicka, Kreamer & Kincaid L.C., Olathe, KS from March 15, 2002 to present.

On February 5, 2013, the parties filed a Stipulation of Facts Concerning Attorneys' Fees and Costs ("AFC Stipulation"). The stipulation indicates that during informal discussions between the parties, respondent raised several objections to certain aspects of petitioner's draft applications for attorneys' fees and costs. See AFC Stipulation at 1. Based on those discussions, petitioner's counsel amended the amount of his requested reimbursement. The parties are now in agreement and are requesting that a decision be issued awarding final attorneys' fees and costs totaling \$28,763.80 with \$12,948.92 in the form of a check payable to both petitioner and petitioner's counsel, Gregory David Kincaid, \$9,706.69 in the form of a check payable to both petitioner and petitioner's former counsel, Ronald C. Homer, and \$6,108.19³ in the form of a check payable to petitioner alone. Petitioner is entitled to reasonable attorneys' fees and costs pursuant to § 15(b), (e)(1).

The undersigned approves the requested amount for attorneys' fees and costs as reasonable. Accordingly:

- (1) An award should be made in the form of a check payable jointly to petitioner and petitioner's counsel, Gregory David Kincaid, for the amount of \$12,948.92; and
- (2) an award should be made in the form of a check payable jointly to petitioner and petitioner's former counsel, Ronald C. Homer, for the amount of \$9,706.69; and

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. § 300aa.

³ In accordance with General Order #9, petitioner's counsel represented that petitioner incurred \$6,108.19 in out-of-pocket expenses in pursuing his petition.

- (3) an award covering petitioner's reimbursable out-of-pocket costs, should be made in the form of a check payable only to petitioner, William Tracy, for the amount of \$6,108.19.

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

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.