

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 02-1380V

Filed: August 13, 2010

LAKESHA MITCHELL, Parent of TAIVIS
BYRON MITCHELL, a Minor,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

**Omnibus Autism Proceeding;
Attorneys' Fees and Costs**

Thomas Powers, Portland, OR, for petitioners.

Vo Johnson, United States Department of Justice, Washington, DC, for respondent.

ATTORNEYS' FEES AND COSTS DECISION¹

CAMPBELL-SMITH, Special Master

On April 26, 2010, the undersigned issued a decision denying entitlement to compensation and dismissing this case under the National Vaccine Injury Compensation Program.² On June 4, 2010, petitioner filed her application for attorney fees and costs in

¹ Vaccine Rule 18(b) provides that all of the decisions of the special masters will be made available to the public unless an issued decision contains trade secrets or commercial or financial information that is privileged or confidential, or the decision contains medical or similar information the disclosure of which clearly would constitute an unwarranted invasion of privacy. When a special master issues a decision or substantive order, the parties have 14 days within which to move for the redaction of privileged or confidential information before the document's public disclosure

² The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 et seq. (2006).

this matter.³ On July 12, 2010, petitioner made an oral motion to reduce her fees request, and respondent indicated that she would not object to the new requested amount.

The undersigned finds that this petition was brought in good faith and that there existed a reasonable basis for the claim. Therefore, an award for fees and costs is appropriate, pursuant to 42 U.S.C. § 300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, the undersigned awards a lump sum of \$6,335.36⁴ in the form of a check payable jointly to petitioner, Lakesha Nix, and petitioner's counsel, Williams Love O'Leary & Powers P.C., for petitioner's attorneys' fees and costs.**

In the absence of a timely-filed motion for review filed pursuant to Appendix B of the Rules of the U.S. Court of Federal Claims, the clerk of the court shall enter judgment in accordance herewith.⁵

IT IS SO ORDERED.

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

³ Petitioner also filed a statement on July 21, 2010 pursuant to General Order #9 averring she had incurred no costs in this matter.

⁴ This amount is intended to cover all legal expenses incurred in this matter. This award encompasses all charges by the attorney against a client, "advanced costs" as well as fees for legal services rendered. Furthermore, 42 U.S.C. § 300aa-15(e)(3) prevents an attorney from charging or collecting fees (including costs) that would be in addition to the amount awarded herein. See generally Beck v. Sec'y of Health and Human Servs., 924 F.2d 1029 (Fed. Cir.1991).

⁵ Entry of judgment can be expedited by each party's filing of a notice renouncing the right to seek review. See Vaccine Rule 11(a).