

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 03-2099V
(Not to be published)

*
JUSTIN MCEL RATH and *
JENNIFER MCEL RATH, parents of *
Shuana McElrath, a minor child, *
*
Petitioners, *
*
v. *
*
SECRETARY OF HEALTH AND *
HUMAN SERVICES *
*
Respondent. *

Filed: July 18, 2011

Decision on Attorneys’
Fees and Costs

DECISION¹ (ATTORNEY FEES AND COSTS)

In this case under the National Vaccine Injury Compensation Program,² I issued a decision on May 3, 2011, dismissing this case. On July 14, 2011, petitioners filed a stipulation of facts concerning attorneys’ fees and costs in this matter. That stipulation requests a total payment of \$3,475.02, representing all attorneys’ fees and costs. Petitioners represent that respondent does not oppose the amount requested. In lieu of filing a Vaccine General Order 9 statement, petitioners’ counsel agrees to reimburse petitioners any costs that petitioners personally incurred that are compensable under § 15(e)(1).

I find 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. §

¹ 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, § 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 trade secret or commercial or financial information and is privileged or confidential, or (2) that are medical files and 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.

² The applicable statutory provisions defining the program are found at 42 U.S.C. § 300aa-10 *et seq.* (2006). Hereafter, individual section references will be to 42 U.S.C. § 300aa.

300aa-15(b) and (e)(1). Further, the proposed amount seems reasonable and appropriate. **Accordingly, I hereby award the total of \$3,475.02 as a lump sum, in the form of a check payable jointly to petitioners, Justin McElrath and Jennifer McElrath, and petitioners' counsel, George G. Tankard.**

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.

IT IS SO ORDERED

/s/ George L. Hastings, Jr.
George L. Hastings, Jr.
Special Master