

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 99-330V

Filed: November 28, 2011

KRISTIN JENNINGS, mother and natural	)	
guardian of DYLAN JENNINGS,	)	
	)	NOT TO BE PUBLISHED
Petitioner,	)	
	)	
v.	)	Stipulation; attorneys' fees and
	)	costs; personal litigation costs;
SECRETARY OF	)	award in the amount to which
HEALTH AND HUMAN SERVICES,	)	respondent does not object
	)	
Respondent.	)	

David L. Terzian, Rawls & McNelis P.C., Richmond, V.A., for Petitioner;  
Glenn A. MacLeod, United States Dep't of Justice, Washington, D.C., for Respondent.

### **DECISION ON FEES AND COSTS**<sup>1</sup>

**LORD**, Special Master.

On November 22, 2011, the parties in the above-captioned case filed a Stipulation memorializing their agreement as to the appropriate amount of attorneys' fees and costs in this case. After informal discussions with Respondent, Petitioner requests a total award of \$156,000.00 in attorneys' fees and costs. In accordance with General Order #9, Petitioner's counsel represents that Petitioner incurred \$29,000.00 in reimbursable personal litigation costs. Respondent does not object to this request. Id.

The Vaccine Act permits an award of reasonable attorneys' fees and costs. 42 U.S.C. § 300aa-15(e). After reviewing the request, the court finds the stipulated amount of \$156,000.00 in attorneys' fees and costs and \$29,000.00 in Petitioner's out-of-pocket expenses to be reasonable. Based on the request's reasonableness, the undersigned **GRANTS** the parties' request as outlined in the Stipulation.

Accordingly, pursuant to Vaccine Rule 13, Petitioner is awarded a total of **\$185,000.00** in attorneys' fees and costs and out-of-pocket litigation costs. The judgment shall reflect that Petitioner is awarded fees and costs as follows:

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<sup>1</sup> In accordance with Vaccine Rule 18(b), petitioner has 14 days to file a proper motion seeking redaction of medical or other information that satisfies the criteria in 42 U.S.C. § 300aa-12(d)(4)(B). Redactions ordered by the special master, if any, will appear in the document as posted on the United States Court of Federal Claims' website.

- (1) A lump sum of \$137,000.00 in the form of a check payable jointly to Petitioner and Petitioner's counsel, David L. Terzian, Rawls, McNelis & Mitchell, P.C., for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e); and**
- (2) A lump sum of \$19,000.00 in the form of a check payable jointly to Petitioner and Petitioner's former counsel, Clifford J. Shoemaker, Shoemaker & Associates, for attorneys' fees and costs available under 42 U.S.C. § 300aa-15(e); and**
- (3) A lump sum of \$29,000.00 in the form of a check payable to Petitioner only for personal litigation costs.**

The court thanks the parties for their cooperative efforts in resolving this matter. In the absence of a motion for review filed pursuant to RCFC, Appendix B, the Clerk is directed to enter judgment accordingly.<sup>2</sup>

**IT IS SO ORDERED.**

s/ Dee Lord  
Dee Lord  
Special Master

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<sup>2</sup> Pursuant to Vaccine Rule 11(a), the parties can expedite entry of judgment by each party filing a notice renouncing the right to seek review by a United States Court of Federal Claims judge.