

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

JEFF KAY and PAMELA KAY, *
Parents of MASON KAY, a Minor, * No. 08-607
* Special Master Christian J. Moran
Petitioners, *
* Filed: December 20, 2010
v. *
* Attorneys' fees and costs; award
SECRETARY OF HEALTH * in the amount to which respondent
AND HUMAN SERVICES, * has not objected
*
Respondent. *

UNPUBLISHED DECISION ON FEES AND COSTS¹

Andrew D. Downing, Esq., Rhodes, Hieronymus, et al., Tulsa, OK, for Petitioner;
Chrysovalantis P. Kefalas, Esq., U.S. Department of Justice, Washington, D.C., for Respondent.

Petitioners Jeff Kay and Pamela Kay, parents of Mason Kay, filed a final application for attorneys' fees and costs on December 13, 2010. The Court awards the amount to which respondent has not objected.

Petitioners claimed that the Diphtheria-Tetanus-acellular Pertussis ("DTaP"), Hemophilus influenza type b ("Hib"), inactivated Polio ("IP"), Prevnar, and Rotavirus vaccines caused an adverse reaction and received compensation based upon the parties' stipulation. Decision, filed November 5, 2010. Because petitioners received compensation, they are entitled to an award of attorneys' fees and costs. 42 U.S.C. § 300aa-15(e).

¹ Because this unpublished decision contains a reasoned explanation for the special master's action in this case, the special master intends to post it on the United States Court of Federal Claims's website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, 116 Stat. 2899, 2913 (Dec. 17, 2002).

All decisions of the special masters will be made available to the public unless they contain trade secrets or commercial or financial information that is privileged and confidential, or medical or similar information whose disclosure would clearly be an unwarranted invasion of privacy. When such a decision or designated substantive order is filed, the person submitting the information has 14 days to identify and to move to delete such information before the document's disclosure. If the special master agrees that the identified material fits within the categories listed above, the special master shall redact such material from public access. 42 U.S.C. § 300aa-12(d)(4)(B); Vaccine Rule 18(b).

Petitioners seek a total of **\$27,411.31** in attorneys' fees and costs for petitioner's counsel. Additionally, petitioners filed a statement of costs in compliance with General Order No. 9, stating that they incurred no litigation expenses while pursuing this claim. Respondent stated that she had no objection to this application for attorneys' fees and costs.

After reviewing the request, the court awards **\$27,411.31** in attorneys' fees and other litigation costs. This amount is in addition to the amount awarded in a decision filed June 22, 2009. The court thanks the parties for their cooperative efforts in resolving this matter.

The Clerk shall enter judgment accordingly.²

IT IS SO ORDERED.

S/ Christian J. Moran

Christian J. Moran
Special Master

² 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.